DEFINING THE NONPROFIT SECTOR: 
INDIA

Siddhartha Sen 
Morgan State University
Baltimore, Maryland, USA

1993
Suggested form of citation:

DEFINING THE NONPROFIT SECTOR: INDIA

Introduction

India's complexity as a country lies in its religious, political, ethnic, social, and cultural diversity, as well as in its long history of civilization. Therefore, defining the nonprofit sector in India is a difficult task because no single underlying theme or pattern can characterize the development of the nonprofit sector. Hence, this chapter uses a historical perspective as an analytical tool to describe definitions -- both conceptual and legal -- that are then related to the structural/operational definition of the nonprofit sector suggested by Salamon and Anheier (1992). The sector and the various terms used to describe it are analyzed in the context of the broader political economy at various periods of history to uncover underlying themes that are useful to understand its present and past role.

It is useful to divide the development of modern voluntarism and the Indian nonprofit sector into four periods: the mid to late colonial period (1810s to 1947); the early post-independence period (1947 to the late 1950s); the period between 1960 and 1980; and the more recent past since then. Each period is characterized by a number of distinct themes or patterns that are important to understand the development of the nonprofit sector in India:

- The dominant themes of the late colonial period included patronage received by the Church-based nonprofit organizations (NPO) to intervene in the social and religious life of the indigenous population; demands made on the colonial state by the Hindu elite for social and religious reform; socio-religious movements and organizations formed by other religions; introduction of a political content in voluntary work by the turn of the century; and emergence of new forms of communal, religious, and separatist movements and organizations.

- The salient pattern in the early post-independence period was the emergence of a large number of Gandhian NPOs. This is attributable to the initiative taken by the newly independent Indian state to promote NPOs in development work. It can also be viewed as an alternative reward given to the followers of the Gandhian movement who did not or could not join the government. The period is also characterized by the existence of

---

1 Siddhartha Sen is an Assistant Professor in the Department of Urban Planning, Morgan State University, Baltimore, Maryland.

2 The first settled cultures can be dated back to the end of fourth millennium (Basham, 1968).

3 Note that there is a need to distinguish between the term "NPO" and terms such as "voluntarism," "philanthropy" or "charity." The term NPO refers to organizations, whereas the other terms refer to individual efforts or collective social efforts, although they exhibited some organizational permanence (see Salamon and Anheier (1992) for clarification of this concept).
religion-based NPOs (both Christian and non-Christian) primarily involved in relief work.

- Many new trends appeared in the 1960s and 1970s of which the most distinct were the emergence of "welfare-oriented" NPOs in the 1960s and "empowerment-oriented" NPOs in the 1970s. The emergence of both groups is related to the socio-economic and political context of India at that time and is discussed in detail in the next section of the chapter.

- The patterns of the 1980s and 1990s are the formation of non-governmental organizations (NGO) and resurgence of separatist and fundamentalist movements and organizations. These new trends are also related to the political and economic forces in the country during this period of history and are discussed later in detail.

---

4 The terms "empowerment," "modernization," and "welfare" are often used in the chapter to describe various types of NPOs. It is derived from the literature which identifies three types of NPOs in terms of their project orientation (see Brodhead, 1987; Drabek, 1987; Elliot, 1987; Landim, 1987; Korten, 1987). Three types of NPOs are defined using project orientation as the principle variable. First, there are NPOs with a welfare orientation which provide famine or flood relief, child sponsorship, etc. Second, there are NPOs with a modernization or developmental orientation. These NPOs support development projects that enable the poor to provide for their own basic needs. Third, there are NPOs with an empowerment or conscientisation orientation. These NPOs see poverty as the result of political process and are committed to train communities to enter these processes to bring about social change. It is not uncommon to have more than one orientation within the same NPO.

5 The term NGO is defined in a later section of the paper.
**Historical Development**

Voluntarism has long been an integral part of the Indian society, dating back to 1,500 BC when it was mentioned in the *Rig Vedas*. Voluntarism was the main source of welfare and development except for those few empires with a well developed public welfare system. The role of the political regimes was mainly restricted to promoting moral, aesthetic, and spiritual progress of the civilization, in addition to enduring exploitation by the monarch, the aristocracy, and government officials. Naturally, voluntarism played an important role in social and economic development of the civilization. It operated in the fields of education, medicine, cultural promotion and in crises such as droughts, floods, epidemics, foreign invasions, and pilferage by robbers and criminals. The disadvantaged and the poor were taken care of by social mechanisms outside the state -- through the joint family, caste, solidarity of colleagues, guilds, and individual religious philanthropy. The joint family was, perhaps, the largest source of social security and support in times of distress, followed by the caste solidarity, individual philanthropy, religious philanthropy, and trade guilds. Individual and religious philanthropy were interrelated. The relationship between individual philanthropy and religion is explained by the mandates regarding charity laid down by the predominant religions -- Hinduism and Islam -- as well as other religions: Buddhism, Jainism, Zorastrianism (Dadrawala, 1991), and Sikhism.

---

6 This section draws from an earlier publication by the author (Sen, 1992). For other historical accounts, see for example: Baig, 1985; Inamder, 1987; Seth, 1982; Tandon, 1988; Seth and Sethi, 1991; PRIA, 1991.

7 Ancient Aryan Religious Scripture composed between 1,500 B.C. and 1,000 B.C. Although the first settled cultures can be dated back to the end of fourth millennium, the earliest history of voluntarism can be traced back only to the *Rig Vedas* (see Dadrawala, 1991). Since the nature of philanthropy did not change with the advent of Muslims around late 1100s, the entire period can be classified as the pre-colonial period. Although the period starts around 1,500 B.C., it is likely that voluntarism became more widespread with the emergence of republics and kingdoms after 600 B.C. The description of the pre-colonial period is based on Inamder's (1987) work, and to a certain extent on the general history of India (see Basham, 1968; Thapar, 1968; and Spear, 1961), unless otherwise stated.

8 Among the Hindu empires these were the Maurya Empire (circa, 324 B.C. to 183 B.C.) and the Gupta Empire (circa, 320 A.D. to 550 A.D.). The Muslim rulers formed empires with a lesser degree of social welfare. The two major exceptions were the benevolent regimes of Shersha (circa, 1537 A.D. to 1544 A.D.) and Akbar (circa, 1544 A.D. to 1605 A.D.), which saw the existence of government welfareism. In this context, note that Shersha did not establish his rule over a large section of the subcontinent until 1539 A.D.
The Mid- to Late Colonial Period (1810s - 1947): The Era of Church, National Bourgeoisie, Gandhian Philanthropy, and Separatist Movements

The first voluntary efforts in social development were initiated by Christian missionaries in the early 1810s (Pande, 1967; Terry, 1983; Baig, 1985; Bhattacharya, 1987; Inamder, 1987; Tandon, 1988). Although their principal objective was propagating Christianity, they started to build schools, colleges, dispensaries, and orphanages around the 1810s and 1820s (Natarajan, 1962; Singh, 1968). Parallel to their efforts in the urban areas, Christian missionaries formed rural colonies from the 1860s until the 1940s with an emphasis on modernization and, to a certain extent, empowerment (Pande, 1967; Terry, 1983). The modernization efforts focused on self-help, and the establishment of cooperative credit societies, health care, and training facilities, whereas the empowerment component consisted of adult literacy classes and the establishment of panchayats (local village councils) to solve local problems.

Toward the mid- to late 1820s, that example was emulated by modern Indian elite, who became social reformers. Local middle class Hindus in Bengal, especially in Calcutta, who studied in the missionary schools and were influenced by Western thought, began similar efforts from the mid-1820s under the leadership of the social reformer Raja Ram Mohan Roy (Natarajan, 1962). Besides building schools, colleges, dispensaries, and hospitals, the national bourgeoisie was also concerned with social reform, especially the abolition of child marriage and polygamy, the improvement of the social status of women, the promotion of women's education, and remarriage of widows. By 1840s this form of voluntarism had spread to Western India, around Bombay (Singh, 1968) and by the end of the century had taken deep roots in the Indian society (Inamder, 1987; Natarajan, 1962; Seth, 1982; Singh, 1968). From the 1870s, institutions such the Brahmo Samaj, Arya Samaj, Ramkrishna Mission, Satyahodhak Samaj, and Indian National Social Conference began to emerge from these social movements (PRIA, 1991). According to our assessment, the most important organizational offshoot of the nineteenth century reform movement and subsequent national consciousness was the establishment of the Indian National Congress in 1885. Liberal minded British officials and businessmen assisted the modern Indian elite in establishing the Congress which became the official platform for expressing growing national consciousness (Kochanek, 1974; D'Cruz, 1988; PRIA, 1991).

---

9 The word Samaj means an association where people abide by certain unwritten rules, beliefs and norms of human behavior. In this context, note that Raja Ram Mohan Roy had formed the Atmiya Shaba (the word Shaba means a gathering of “men” to discuss and debate on issues) as early as 1815 in Calcutta. The Sabha later allied with the Christian Unitarians and formed the Unitarian Committee in 1821. The eroding Hindu base led to the establishment of Brahmin Sabha in 1828 which subsequently became the Brahmo Samaj. Other examples of Sabhas and Samajs formed in this period include the Manohar Dharam Sabha of Gujarat, Paramhans Sabha, Prathana Sabha, Kalyanommayak Samaj, and The Hindu Dharm Sabha in Maharsthra.
Socio-religious movements and organizations were also formed by other religions during this period. For example, two religious movements, the *Nirankari* and the *Namdhari*, emerged among the Sikhs in the 1860s and 1870s. Although both movements had little impact upon the masses, the followers of such movements started social reform organizations, such as *Singh Sabha* in 1873 in Amritsar. Although the primary objectives of the first *Sabha* were purely sacramental, later *Singh Sabhas* established schools, colleges, orphanages, Sikh archives, and Sikh historical societies.

The three main Islamic movements of late 1800s, the *Deoband*, *Firangi Mahal*, and *Aligarh* movements, emerged for three main reasons: to protect Islamic interests from the Western educated Hindus who were rapidly gaining the indigenous elite status; as a reaction to Christian missionary criticism of Islam; and as a response to British cultural and political hegemony. Started as educational movements with a strong commitment of loyalty towards the British, they acquired a political content at a later phase, leading to the formation in 1886 of the Muhammadan Educational Conference to discuss the problems of Indian Muslims and promote national brotherhood among them. The Muslim League was launched in 1906 at the annual meeting of the Educational Conference in Dacca. The League's objective was to lobby for Muslim political rights. Initially the League's intention was to maintain the integration of India, and members considered the organization as a parallel organization of the "Hindu" Congress. From 1937 onward, the League changed its role and was instrumental in the formation of Pakistan. Other institutions that emerged from these movements include *Jamiat-al-Ansar*, *Majlis-a-Islah*, and *Anjuman-e-Khuddam-e-ka'aba*.

The 1870s also saw the emergence of dormant caste associations (Rudolph and Rudolph, 1967; Verma, 1979) such as *Kurmi Mahasabha* and *Nadar Mahajan Sangam*. These associations were formed mainly by lower castes' elite to promote their social and political mobility.

The mid- to late 1800s saw the emergence of business associations to protect indigenous and British industrial and commercial interests. The Calcutta Chamber of Commerce was formed in 1834, followed by the formation of Madras and Bombay Chambers of Commerce in 1836. European

---

10 Discussion on Sikh associations and Sikh movements in the entire chapter is based on Juergensmeyer (1979), Kapur (1986), and Madan (1991), unless otherwise stated.

11 The tenth *guru* instructed all the true male followers to adopt a common surname, Singh (lion), to avoid caste distinction and establish solidarity among the followers.

12 Discussions on Islamic movements and institutions in the entire chapter is based on the work of Rashid (1977), Minault (1982), Jalal (1985), D'Cruz (1988), Hasan (1990), and Ahmad (1991), unless otherwise stated.

13 The word *Mahasabha* means a grand gathering of "men."

14 The word *Sangam* means association.

15 This section is based on the work of Rungta (1970), Kochanek (1974), an interview, and brochures (FICCI, 1988; ASSOCHAM, n.d.), unless otherwise stated.
trading houses were the principal members of these Chambers and, as such, represented the interests and opinions of European commerce and industry. The example was followed by Indians who formed their own associations fifty years later. The Bengal National Chamber, organized in 1887, was the first Indian chamber. Very soon a host of other chambers were formed by Indians to represent their own business and trading interests. Some of these associations were formed to represent business interests of particular castes, ethnic and religious groups. Indian associations, however, began have a stronger voice after World War I, when the Indian industrialists began to make more demands on the colonial state. For example, the Federation of Indian Chambers of Commerce and Industry (FICCI) is an apex body that was set up in 1927 to promote Indian business and industrial interests. The FICCI and some its members were also supportive of the Congress in their National liberation movement and even supported the Congress financially. FICCI was set up seven years after the formation of a British and European apex body -- the Associated Chambers of Commerce. The organization continued to represent British and other foreign business interests until the late 1960s when it was "Indianized" because of pressure from a group of Bombay industrialists. Today the association mainly represents Indian business interests and is known as Associated Chambers of Commerce and Industry of India (ASSOCHAM).

Dormant forms of trade unions began to appear in late 1800s. The Bombay Millhands Association was established in Bombay in 1890 by mill workers. Although the association did not have a constitution, formal memberships, or funds, it organized meetings and represented workers' demands to the viceroy and various committees. More formal forms of trade unions began to appear at the turn of the century (Vaidya, 1985).

In the late 1800s, the English formed a number of organizations for the promotion of professions, arts, culture and research. Typical examples include the Calcutta Phrenological Society, Society for Promotion of Industrial Arts, Bombay Branch of the Royal Asiatic Society, and Bombay Natural History Society. The membership in these organizations was often restricted to Europeans only.

The voluntary movement received the maximum impetus and incentive from Gandhi, who believed that voluntary action was the only path to India's development. Gandhi's concept of development included all aspects of life: social, political, economic, cultural, and spiritual (Chaturvedi, 1987). His notion of rural development was constructing self-supporting, self-governing, and self-reliant village communities where everyone's needs were satisfied and everyone lived in harmony and cooperation. To achieve this goal, Gandhi introduced a "constructive program" to achieve egalitarianism in Indian society by introducing basic education and sanitation,

---

16 The trading houses were private British partnership concerns dealing with various types of trades and businesses: indigo and coastal trade, ship and house owning, farming, manufacturing, banking, bill-brokering, etc. It is to be noted, however, that some Indian firms joined the Calcutta Chamber of Commerce. The Bombay chamber was a joint endeavor of British and Parsi trading companies.

Besides rural development, Gandhi called upon volunteers of the Congress Party to participate in India's independence movement. The volunteers in turn cooperated with Gandhi in mobilizing the masses to achieve political autonomy from the British through passive resistance.

The first effort of mass mobilization of the Muslims began with the Khilafat movement (1919-1924) to unite the fragmented Muslim community by using religious and cultural symbols -- mainly the Khilafa and the Khilafat. Although there was a variety of motivations among the leadership, the section that was making an effort to mobilize the community endeavored to assemble a Pan-Indian Muslim constituency for Muslim participation in the Indian Nationalist movement. The most important organizational offshoots of the movement were the Bombay Khilafat Committee, the All India Khilafat Committee, and a religio-political institution, the Jamiat al-Ulama-e-Hind -- an all India organization of the ulama.

The Hindu-Muslim entente and the alliance of the Westernized Muslim leadership, ulama, and Hindu leadership during the Khilafat movement was short lived. By 1924, the movement collapsed, and new forms of communal and religious movements and organizations began to appear along with the Nationalist movement led by Gandhi and the Congress. The most important of these were the Hindu Suddhi (re-conversion to Hinduism) and Sanghahtan (unification) movements and the Muslim Tabligh (propagation) and Tanjim (organization) movements.

The Suddhi movement was launched by the Arya Samaj in retaliation to the Muslim conversion that was taking place in the early 1920s. Its aim was to proselytize fallen Hindus (recently converted Hindus) and borderline Muslims (those that retained many Hindu customs); and to abolish untouchability by converting to Arya Samaj tenets. The Sanghahtan movement aimed at unifying the Hindu community with a political self-consciousness. The organization which nourished the movement was All-India Hindu Mahasabha. The organization also nourished the growth of a fundamentalist Hindu organization, Rashtriya Swayam Serak Sangh (RSS), the National Corps of Volunteers.

The Muslim Tabligh and Tanjim movements and their organizational offshoots were a part of reaction to the Hindu right wing movements and organizations. It called for an organization of Muslim volunteer corps, charitable institutions and even Muslim banks. The most important organizational offshoot of the movements is the Tablighi Jamat, founded in 1926. Today there are

---

18 In traditional Hindu culture and religion, the members of the higher castes would not touch those of the lower castes or eat food prepared or touched by the lower castes, as they were considered "untouchables."

19 The word Khilafat means the line of succession to the Prophet Muhammad.

20 Khilafa is the successor to the Prophet Muhammad as the head of the Muslim Community.

21 The work ulama includes Muslim theologians, jurists, and religious teachers.

22 Discussions on Hindu religious movements and organizations in the entire chapter are based on Minault (1982), D'Cruz (1988), and Gold (1991), unless otherwise stated.
thousands of followers and missions of *Tablighi Jamat* all over the world, although no formal membership counting or registration has been undertaken.23

The Sikhs also started similar movements at the turn of the century. The organizations that nourished these movements and those that emerged from them include the Chief Khalsa Diwan, the Shiromani Gurdwara Prabandhak Committee (SGPC), and the Akali Dal.24

*Underlying Themes.* In addition to the various types of voluntarism discussed, five major themes characterize the period: patronage received by the Church-based NPOs to intervene in social and religious life of the indigenous population; demands made on the colonial state by the Hindu elite for social and religious reform; socio-religious movements and organizations formed by other religious; introduction of a political content within voluntary work by the turn of the century; and emergence of new forms of communal, religious, and separatist movements and organizations.25 The church-based NPOs received patronage from the colonial state to intervene in the social and religious life of the indigenous population. Such intervention was, perhaps, a blessing in disguise. The local elite in Bengal who studied in schools and colleges established by the missionaries started the social reform movements which subsequently became associated with anti-colonial resistance. The indigenous NPOs were formed to make demands on the state for issue-based social and religious reform. The major shift in the organization of voluntary work was through Gandhi's voluntarism. It emphasized empowerment and transformation of the society and acquired a political context, instead of the issue-based voluntarism of the nineteenth century. Other themes include the demands made by various classes on the colonial state and promotion of professions, arts, culture and research by European elite. The demands were made by various classes to further their social, political or economic interests as exhibited by the formation of business and caste associations. The promotion of professions, arts, culture and research by the European elite was a result of leisure time available to this class combined with their interest in such activities.

**The Early Post-Independence Period (1947 to the late 1950s): The Era of Religion-Based and Gandhian NPOs**

Two types of NPOs were predominant in this period of history: Gandhian NPOs and religion-based NPOs (including both Christian and non-Christian NPOs). Concurrent with these trends, older types of NPOs continued to exist in the sector.

The primary activities of the Gandhian NPOs in this period were development and empowerment, while those of religion-based NPOs were welfare and empowerment. During this period, Gandhian NPOs were also requested to train government officials employed in development projects. For example, the Ministry of Community Development involved Gandhian NPOs to

---

23 Although the *Tablighi Jamat* has generally been classified as a grass-roots movement, we contend that there is some organizational character and permanence exhibited by the movement’s local organizations.

24 A fundamentalist organization which subsequently became a political party.

25 Also see Seth and Sethi (1991) in this context.
organize and conduct training programs for its extension workers. Another example is the training of health workers undertaken by Gandhian NPOs at the request of the Ministry of Health (Muttalib, 1987; Tandon, 1988). The development orientation of Gandhian NPOs were reflected in their principle projects which included promotion of agricultural and animal husbandry programs, Khadi (hand-woven cloth) and village industries, cooperative dairies, poultry and fishery units, etc. The empowerment orientation is reflected in the establishment of educational institutions.

The welfare component of most religion-based NPOs in this period is reflected in their effort to provide relief for refugees and flood and famine victims; and provision of health and nutrition services for the poor. The empowerment component is reflected in their educational activities.

The primary motive of the religion-based NPOs was religious philanthropy, while those of the post-independence Gandhians that formed NPOs was to ensure a secure financial future (Sethi, 1988). Kothari (1986) writes that Gandhi's constructive program was continued by NPOs headed by Gandhians with financial assistance from the state. He suggests that Gandhians who did not or could not join the ruling party or the government worked closely with the government to set up handicrafts and village industries, rural development agencies, credit cooperatives, and educational institutions.

Underlying Themes. The emergence of a large number of Gandhian NPOs is, perhaps, attributable to the initiative taken by the newly independent Indian state in promoting NPOs in development work. For example, the government took the initiative to form the Central Social Welfare Board (CSWB) in 1953 to promote and fund NPOs, setting aside 30 million rupees (approximate 1990 value = 410 million rupees or US $22 million) for funding them (Paul Chowdhury, 1987; Inamder, 1987). Paul Chowdhury states that planners under the leadership of Jawharlal Nehru and voluntary social worker Durgabai Deshmuk felt that social work should be left to the voluntary sector with the state providing technical and financial support. In the following year, the CSWB created the State Social Welfare Advisory Boards (SSWAB) for the purpose of strengthening existing NPOs and establishing new ones in the project areas that did not yet have them (Jagganadham, 1987). The CSWB was the first instance when the NPOs began to obtain access to funds for implementing projects. According to Chaturvedi (1987), the creation of CSWB and the SSWABs gave a new lease on life to the stagnating Gandhian NPOs. Seth and Sethi (1991) view the close relationship and dependence of the Gandhian NPOs on the state as a demise of a vibrant sector of Gandhian organizations. This can, however, be seen as an alternative reward given to the Gandhians who did not or could not join the party that they helped to gain state power.

The 1960s and 1970s: Increased Differentiation

The types of NPOs that existed in this period include: welfare-oriented NPOs; indigenous NGOs formed by international NGOs and welfare wings of churches (WCO); NGOs formed by the middle class professionals; NPOs known as non-party political formations or action groups; community based organizations (CBO) formed by the poor with help of other types of NPOs or the
local government; corporate philanthropy; and developmental NGOs formed by the Indian government. Concurrent with these newer trends, the older types of NPOs continued to exist in the sector.

The welfare-oriented NPOs that emerged in the 1960s and to a certain extent in the early 1970s were mainly involved in providing relief to victims of disasters such as famines, floods, and cyclones. Indigenous NPOs formed in the mid-1960s by International NGOs were primarily development-oriented with an element of empowerment. The NGOs formed by the middle class professionals in the late 1960s and early 1970s were capable of a high degree of specialization in development work while including empowerment. The NPOs known as action groups or non-party political formations began to emerge in late 1960s and their numbers began to grow after mid-1970s. The primary emphasis of these NPOs was empowerment, although some of them mixed empowerment with development. CBOs that were formed in the early and mid-1970s undertook various developmental and empowerment-oriented projects. Corporate philanthropy consisted of development programs in rural areas (Franda, 1983; Terry, 1983). The NGOs formed by the government were also development-oriented (Franda, 1983; Kothari, 1986).

The founders of NPOs in 1960s and 1970s had different motivations. The welfare-oriented NPOs, NGOs formed by the middle-class and action groups, were most likely products of the socio-economic and political conditions of this period. These are discussed in detail in the next subsection. International NGOs formed Indian NGOs out of a compassion for the poor in the developing world. CBOs were formed by the poor who felt a need to serve their community, often with outside intervention from the local state or NPO assistance. Corporate philanthropy emerged because of tax incentives provided by the state, while the state sponsored NGOs were formed to develop appropriate technology.

Underlying Themes. The emergence of a large number of the welfare-oriented NPOs in the 1960s and to a certain extent the early 1970s is attributable to two factors (Franda, 1983; Terry, 1983; Fernandes, 1986). First, there was a need for relief work because of the regular occurrence of disasters such as famines, floods, and cyclones in this period of Indian history. The need for relief work was further exacerbated by the Bangladesh War, in 1971, which led to a massive influx of refugees into India. Second, Western Funding for relief work increased considerably during this period of history.

Emergence of NGOs in the late 1960s and early 1970s was conceivably due to the lack of jobs among the educated youth (for good analyses of a lack of jobs, see: Kaul, 1972; Sharma and Apte, 1976), as well as growing dissatisfaction with the existing institutional arrangements in India. The action groups that emerged at that time were formed by six groups of people:

27 Discussions on action groups in the entire chapter is based on Baxi (1986); Fernandes (1981, 1983, 1985, 1986); Fernandes and Lobo (1986); Sethi (1984); Sethi and Kothari (1984); Volken (1985); Karat (1984); Roy (1984); and interviews with NPO officials, unless otherwise stated.
• educated middle class and lower middle class youth, dissatisfied with the model of development adopted by the state and politics of leftist parties.

• officials of existing NPOs who were involved in the modernization projects in the 1960s, but who became disillusioned because such projects had little effect in alleviating poverty.

• younger followers of the Sarvodaya movement which focused on voluntary redistribution of land (Ostergaard and Currell, 1971; Franda, 1983). The movement reached its peak in the mid-1970s, but lost its momentum in the late 1970s. The younger followers who formed these groups were not only disillusioned with the disintegration of the movement, but also with the factional in-fighting within the party (Janata Party) that they had helped to win the 1977 elections.

• former members of the Naxalite movement, which disintegrated in the early 1970s. The Naxalite movement was a revolutionary Maoist-Leninist armed movement started in the late 1960s. Mrs. Gandhi’s administration was able to suppress the movement with the help of the army and police by the mid-1970s. Most Naxalites were jailed or imprisoned, while some went underground. The Janata government, however, released all of these political prisoners. Some of these released prisoners and other ex-Naxalites, disillusioned with the fragmentation of their movement, formed action groups.

• new left academics influenced by Western Marxist thought during this period of time. These intellectuals mainly formed documentation and research centers. These centers provided advice and training to the action groups working with the poor, undertook participatory research, and documented the experiences of action groups.

• Indian Christians influenced by liberation theology. Most of these groups were also involved in research, documentation and publication, besides working with the poor and training other action groups.

The 1980s and 1990s: The Predominance of NGOs and the Era of Separatist and Fundamentalist Movements and Organizations

Although the predominant organizational form was the NGOs, the period saw the resurgence of separatist and fundamentalist movements (e.g., the Sikh movement, the Kasmiri movement, the Nepali movement, the Naga movement, and the Hindu fundamentalist movement) and organizations that were either their offshoots or the ones that nourished them.
Underlying Themes

NGOs

The emergence of NGOs as the predominant form of NPO is mainly attributable to the government's stricter control of the sector and promotion of "apolitical NPOs," disintegration of the action groups, and the professionalization of the NPO sector offering viable employment opportunities for young professionals. Among the above factors, we discuss the government's stricter control of the sector and promotion of "apolitical NPOs" in detail.

The government's control of the nonprofit sector began to increase when the Janata Party went out of power in 1980 and the Congress Party (Indira) was reelected. Sympathetic Indian scholars and NPO officials have often claimed that the new government appointed a major commission of inquiry, the Kudal Commission, in retaliation against the support given to Jayaprakash Narayan by the NPOs (Fernandes, 1986; Jain, 1986). The commission was set up to inquire about the working of the Gandhi Peace Foundation, an Umbrella Organization of NPOs. The commission made allegations about missing funds against 945 Gandhian NPOs. Roy (1988) claims that the Kudal Commission was a result of a conflict between two sets of Gandhians. The commission was dissolved in 1986-87 when a younger group of NGO officials was successful in their campaign to end the commission.

A section of Indian academia and NPO officials also claim that, besides the creation of the Kudal commission, the Indian state has instituted other policies to increase its control on the NPO sector (Fernandes, 1986; Jain, 1986; Kothari, 1986; Sen, 1986; Tandon, 1986). The Foreign Contributions (Regulation) Act of 1976, the Financial Act of 1983, removal of tax exemptions from all income-generating activities of NPOs, a proposed National Council and State Councils for rural voluntary agencies in 1986, and a Code of Ethics for NPOs joining those councils are seen as the state's increased control on the NPO sector.

The Foreign Contributions (Regulation) Act of 1976 was enacted in the Parliament to maintain surveillance of NPOs that received foreign funds (Fernandes, 1986). An amendment was passed in 1985 making it obligatory for all NPOs receiving foreign funds to register themselves with the home ministry, get a Foreign Contributions account number, receive all donations into that account, and notify the ministry of the number. The act empowers the state to ban any organization from receiving foreign contributions, should the state consider the organization to be a political instead of a neutral NPO. According to a government official, the act was introduced to keep surveillance on fundamentally religious, separatist, and extremist groups that were receiving foreign funds.

The Financial Act of 1983 limits the funds that NPOs may receive from industries. This act removed income tax exemptions that were previously given to industries for donations to rural development projects undertaken by NPOs (Kothari, 1986). Around the same time, all tax exemptions from income-generating activities of NPOs were also removed. It is claimed that the Financial Act of 1983 resulted in the reduction of industrial philanthropy which was active in the
1970s, although there is no evidence to substantiate this claim. In fact, Dadrawala (1992) refers to a 1981 study which indicated that 600 industrial houses had contributed Rs 1.5 billion (approximate 1990 value = Rs 3 billion or US $170 million) for rural development in that year. Dadrawala also refers to a 1984 Ford Foundation study of a sample of 36 companies in Bombay, which found that they had spent Rs 85.6 million (approximate 1990 value = Rs 135 million or US $7.5 million) on their own developmental projects and donations to other agencies. Finally, he points out that a workshop on "Corporate Social Accountability in India" held in May 1989 estimated that the annual contribution by business was Rs 4 billion (approximate 1990 value = Rs 4.316 billion or US $239 million).

The National and State Councils for rural NPOs was a proposed umbrella organization that such NPOs could join (Kothari, 1986). The Code of Ethics consisted of 19 rules by which NPOs joining the council had to abide (Deshpande, 1986). The proposed Council(s) and Code of Ethics were, however, not adopted due to initiatives and lobbying undertaken by certain NPO officials. It should be noted that the Council(s) and Code of Ethics was proposed by a prominent NGO official who was an adviser on NPOs to the central government at that time. This very act of success indicates that the claim made by the NPO sector that the state has increased its control over the sector is an overstatement.

The Congress Party government did not withhold support for non-political NPOs. This is evident from several factors. First, by late 1980s NPOs could acquire more financial resources directly from the Indian government and para-governmental bodies such as the Council for Advancement of People's Action and Rural Technology (CAPART) (Tandon, 1988). Second, Central government funding is available to NPOs working in the fields of providing drinking water, preventing deforestation, social and economic advancement for women and children, health care, adult education and literacy, and rural housing. Third, the seventh five-year plan set aside 2.5 billion rupees (approximate 1990 value = 3.8 billion rupees or US $200 million) for NPOs (Sethi, 1988). Fourth, the new Draft National Housing policy (NHP)28 of 1990 encourages NPOs to get actively involved in provision of housing for the poor -- a relatively uncommon field of NGO activity (Ministry of Housing and Urban Development, 1990). Clearly, the Congress Party (Indira) that ruled India throughout the 1980s was supportive of NPOs as long as they adhered to development. The fieldwork also revealed that empowerment that was not radical in nature was also tolerated by the government. The only type of voluntarism disapproved by the government was the use of the voluntary sector by opposition parties or extremist groups to carry out political objectives. The government has not, however, been able to control such activities because organizations close to or affiliated with political parties continue to register as NPOs and use the funds to promote partisan gains.

---

28 There were several drafts of this policy of which the latest one available with the author is the 1990 draft.

29 Forming NPOs to promote partisan gains is very common among two parties: the Bharitya Janata Party (BJP) and the Communist Party of India (Marxist) (CPI(M)).
Separatist Movements

In this section, we discuss Sikh separatism, Kashmiri separatism, and Hindu fundamentalism as illustrative examples of separatist and fundamentalist movements.

The origins of Sikh separatism date back to the pre-independence period when the Sikhs demanded a separate State. Although a formal memorandum demanding a Sikh majority State was presented by the Sikh members of the Punjab Legislative Assembly to the Constituent Assembly, which was framing the Indian Constitution, the demand was rejected. By 1952 the Akali Dal launched a campaign for a separate State on linguistic lines taking advantage of similar demands that were being placed in other parts of the country at that time. However, after years of agitation and campaigning, the Indian Cabinet accepted the Akali proposal in 1966. Subsequently, the predominantly Hindu and Hindi speaking southern areas were formed into a new State, Haryana, while other Hindi speaking parts were merged into the neighboring State of Himachal Pradesh. Encouraged by this success, Akali Dal passed another resolution in 1983 that bolstered further separatist demands. In 1981, Sikh fundamentalists launched a "holy war" against the central government that ended in the seizure of the Golden Temple, a Sikh Shrine in the Punjab State, by the Indian army in 1984. This seizure and the massacre of Sikhs after Mrs. Gandhi's assassination further exacerbated Sikh fundamentalism and caused the revival of several traditional Sikh institutions such as the Sarbat Khalas (a general gathering of the Sikhs called by jathedar (manager) of the Golden Temple). Today there are a number of fundamentalist and extremist groups in Punjab. Many of them have links with organizations such as the All India Sikh Students Federation, but are organized under their own names such as the Khalistan Commando Force or the Bhindranwale Tigers.

Kashmir, accessed to India out of a Pakistani threat of invasion, has always maintained a separatist tendency. The death of the charismatic leader Sheikh Abdullah in 1982 created a further political vacuum which was filled by fundamentalist organizations such as Jammat i Islami. The situation was further exacerbated by the rigging of the 1987 State elections by Congress. The coalition government that came to power after the election lacked popular legitimacy, increasing Kashmiri distrust against the center. As a result, grievances could only be voiced through separatism. There are three main umbrella groups that are involved in insurgency in Kashmir. The first is composed of pro-Pakistani Islamic fundamentalists. Some of the organizations allied to this group are Jammat i Islami, the Muslim Students Federation, Hezb-i-Islami, and Islami-Jammiat-Tulba. The second group is linked to the Jammu and Kashmir Liberation Front (JKLF). Some of the organizations allied to this group are Mahaz-i-Azadi, the Kashmir Students Liberation Front, and the Kashmir Muzahidden Liberation front. The group and its organizations

30 Note that here the word "State" refers to political and territorial units. India is divided into political and territorial units known as States and Union Territories. There are 22 such States and nine Union Territories in India. Whenever capitalized, the term will refer to these political and territorial units.

31 The discussion on Kashmir is based on D'Cruz (1988), Amhad (1991), Thomas (1992), and Ganguly (1992).
demand a separate state. The third group, which is also pro-Pakistani, is mainly represented by an organization known as the Jammu and Kashmir People's League.

The recent surge of Hindu fundamentalism has been lead by the BJP which came to forefront of politics after the 1989 elections. The 1980s also saw a resurgence and flourishing of Hindu fundamental organizations. For example, the membership of RSS grew by 80% between 1979 and 1989. Other groups that became visible during this period include The Great Hindu Assembly, National Defence Committee, Bajrang Dal, The Forum for Hindu Awakening, and Vishwa Hindu Parisad. Most of these groups gain their support and encouragement from parties like BJP or Shiv Sena or older organizations such as RSS. Even at the time of preparing this chapter, many of these groups were instigating communal violence over a controversial Mosque in Ayodah. The mosque was built by Babar, the Mugal emperor, on a site that is claimed to be the birthplace of the Hindu god, Ram. The fundamentalists led by BJP have been trying to tear down the mosque and build a temple since early 1980s. Although they were recently successful in razing the mosque, it triggered unprecedented communal violence all over India.

### Terms and Concepts: Conceptual and Legal

This section discusses first the conceptual definitions and then the legal definitions, in order to illustrate the differences between the two.

#### Conceptual Definitions

According to the literature (Seth, 1982; Franda, 1983; Sethi, 1984; Sethi and Kothari, 1984; Roy, 1984; Fernandes and Lobo, 1986; Jain, 1986; Kothari, 1986; PRIA, 1987; Seth and Sethi, 1991) and my observations and interviews (from May 1988 to June 1988, and June 1992 to August 1992), the terms used to refer to the NPOs in India are: voluntary associations; voluntary organizations; voluntary agencies; philanthropic organizations; welfare organizations; action groups; non-party political groups; non-party political formations; social action groups; people's groups; women's organizations; non-party, nongovernmental organizations; subaltern organizations; nongovernmental organizations; government-organized NGOs; church organizations; Christian groups; religious groups; and community-based organizations (CBO). The most commonly used acronym in India is VOLAG (Voluntary Agency), which is unique to India. Terms that seem common in other countries such as nonprofit sector, charitable sector, independent sector, tax exempt sector, associational sector or economie sociale (see Salamon and Anheier, 1992) are uncommon in India. The sector is generally referred to as the voluntary sector or the nongovernmental sector.

Voluntary associations and related terms are traditional "Indian English" terms. In Hindi, the national language, NPOs are referred to as Seshcha Sevi Sangasthas/ Sanghatanas. Such terms as...
action groups; non-party political groups; non-party political formations; social action groups; non-party, nongovernmental organizations; subaltern organizations; and government-organized NGOs have been coined by Indian scholars and individuals involved in the sector (Seth, 1982; Sethi, 1984; Sethi and Kothari, 1984; Roy, 1984; Fernandes and Lobo, 1986; Jain, 1986, Kothari, 1986, Seth and Sethi, 1991).

With the exception of the term government-organized NGOs (which was coined to describe NPOs formed by the government for developmental purposes, e.g., National Diary Development Board and CAPART), all the above terms refer to empowerment-oriented NPOs that emerged from the 1960s onwards. It was argued that these groups had the potential to bring about socialist transformation in India, outside a communist party centered revolution. Subsequently, a section of Indian academia and NPO officials (refer to the citations above) coined such terms as action groups; non-party political groups; non-party political formations; social action groups; non-party, nongovernmental organizations; and subaltern organizations. Among these, the term non-party political formations (NPPF) was used most frequently because it symbolized the notion that socialist change could be brought about without a party.

The view was challenged by the Communist Party of India -- Marxist (see Karat, 1984; Roy, 1985) on the grounds of the Doctrine of Vanguard Party. This had substantial implications for treatment of NPPFs, which were viewed as expressions of false consciousness.

The term NGO is a "catch all" phrase which fails to capture the wide array of institutions which share common features with such organizations (see Salamon and Anheier, 1992, in this context). NGOs are generally formed by professionals from the middle class to serve the poor and have salaried employees (Padron, 1987; May, 1989). As pointed out by Salamon and Anheier (1992) the term NGO has changed over time. Today, NGOs are defined as humanitarian organizations and are recognized as having "NGO status" by intergovernmental organizations such as the United Nations (UN) or European Community (EC), by NGOs in developed countries, or by national governments (Borghese, 1987; May, 1989). It is, however, difficult to single out Indian NGOs because there is no accepted mechanism for recognizing whether or not a particular organization has NGO status. Generally, large and medium sized developmental and empowerment-oriented NPOs which receive foreign funds are categorized as NGOs in India. NPOs formed by the government also fall under this category. Officials of many of these NPOs would, however, like to be classified as action groups, non party political formations or voluntary agencies. According to a popular NGO -- Society for Participatory Research in Asia -- the term "NGO" is a negative and non-explanatory label because it includes private sector formations, development corporations, welfare boards, etc. According to this NGO, the term "voluntary development organizations" should be used rather than NGO to define developmental organizations. There is no general consensus about the time of emergence of the term in India.

34 According to that doctrine, the working class has a false consciousness resulting from influences of bourgeois cultural and political institutions. Because of that, the role of the party is similar to that of a therapist -- it is supposed to assist the working class in attaining true class consciousness.

35 According to interviews, the dates varied from 1950s to 1980s.
The terms church organizations, Christian groups, religious groups, and CBOs are also found in the literature. The church organizations are generally the welfare wing of churches which have a legal status. Christian groups refer either to WCOs or to action groups formed by Christians. The word religious groups includes more traditional religious NPOs such as the Ramakrishna Mission as well as radical Hindu groups such as the Ananda Marg. CBOs are defined as organizations formed by members of the low-income community, most of whom offer their services voluntarily, although it is becoming increasingly common to have salaried employees.

There is a considerable difference between the legal and conceptual definitions of the sector in India. Although other types of organizations (e.g., a religious trust, a business association, or a cultural association) can classify as legal nonprofit entities, Indian academia and officials of the above types of organizations do not consider such organizations as NPOs. There seems to be a general consensus that in order to qualify as a "voluntary organization," an organization must be development-oriented. All other types of NPOs are seen as serving narrow interests of particular social classes, narrow causes, or even self-interests. For example, religious trusts are seen as serving narrow religious interests and not viewed as voluntary organizations. Private schools and hospitals with a nonprofit status are not seen as a part of the voluntary sector because they serve narrow interests. It is also claimed that such institutions are used as vehicles to get tax benefits for the elite who own them. To use another example, business associations such as the ASSOCHAM and FICCI are not seen as voluntary organizations because they serve the interests of the industrialists.

Legal Definitions

Legally, five types of NPOs have a nonprofit status in India. These are: a society registered under the Societies Registration Act of 1860; a trust registered under the Indian Trusts Act of 1882; a cooperative under the Cooperatives Societies Act of 1904; a trade union under the Trade Union Act of 1926; and a company under Section 25 of the Companies Act of 1956. The following sections discuss these acts in detail.

The Societies Registration Act(s)

The Central Act of 1860 was to enable the registration of literary, scientific, and charitable societies. Later on amendments were made to the act by various States, to broaden the types of

---

36 With the exception of welfare wings of churches or Hindu religious organizations such as the Ram Krishna Mission which mix welfare with development in their project orientation.

37 Note that not all schools and hospitals have a nonprofit status.

38 The legal description draws on PRIA (1987, 1989, 1990), unless otherwise stated. Note that some NPOs register under the Partnership Act of 1932. This act does not give an organization a nonprofit status, but the rates of taxation are low. Under the Income Tax Act of 1961, the taxable income of a partnership firm is between 3% and 24% of its business profit.
organizations that could be registered under the act. In Bihar for example, promotion of industry and agriculture has been added to allow organizations that undertake these activities to register under the act. To cite another example, in Uttar Pradesh, organizations that promote Khadi, village industry, and rural development can also register under the act. Although the types of NPOs that can register under the act varies from State to State, generally the types of organizations that can register under the act include development/empowerment-oriented NPOs; clubs; cultural and literary societies; profession associations; educational institutions; and scientific and medical institutions.

According to the main provisions of the act, seven persons who subscribe to a Memorandum of Association can register a society. A set of rules and regulations governing the society must also be filed with the Registrar of Societies. The Registrar ensures that the various provisions of the act have been met with and that no other society is registered with the similar name before granting a certificate of registration. According the Central Act, a society is required to submit a list of the members of the managing body, after the annual general meeting. The rules of each State may have additional requirements. The membership of a society is open to those who ascribe to its aims and objectives. A fee may be charged for the membership. A society can sue and be sued. The liability of its members is, however, limited because no judgement can be enforced against their private assets.

Two advantages of a society are its democratic organizational nature and flexibility in making amendments to rules and regulations. The democratic organizational nature arises from a society's periodical election of a governing body accountable to its general members. The flexibility arises from its capacity to change rules as an internal process. The act was initially formulated to provide

---

39 Most of the State Acts are structured around the Central Act and contain the same provisions. The major difference is in terms of additional sections, additional rules, and constraints that have been brought about by different States and Union Territories.

40 Government sponsored NPOs have also been registered under the Act. Typical examples are CAPART, National Labor Institute, and National Diary Development Board.

41 The Memorandum of Association should include: the name of the society; its objectives; the names, addresses, and occupations of those members subscribing to it and those who are the members of its governing body. The members of the governing body are also entrusted with the management of the society.

42 These rules and regulations should contain the name and address of the registered office of the society; manner, criteria, and procedure for enrolling and removing various categories of members; rights, obligations, and period of membership for the members; criteria, manner, and procedure of forming the governing body; manner in which meetings are conducted; notice period for such meetings; designation, manner of election, and removal of its office bearers; the powers and rights of members; procedure for conducting the annual general body meetings or special meetings; accounts and audit procedures; manner in which the objectives, rules, and regulations of the society can be changed; and other provisions that are required by State act.

43 Although the law allows for democratization, the author contends from his observations that this democratic process is not applicable to certain NPOs, especially NGOs which have a charismatic leader.

44 In some states (e.g., Karnataka, Madhya Pradesh, Tamil Nadu, and West Bengal), the Registrar of Societies can amend rules of a society.
services to beneficiaries who were not its members, creating problems for modern day organizations. Modern NPOs members are often themselves society members which leads to legal complications. For example, the Registrars in the State of Andhra Pradesh and the Union Territory of Delhi have been lobbying for a declaration that the activities of a society should not benefit its members. Another problem is payment of salaries to society members who work as staff. Although payment of salaries to society members has been accepted by Registrars of most States and Union Territories, some States such as Tamil Nadu do not allow this. Another problem arising from members working as staff is the possible loss of tax exemption status under the Income Tax Act of 1961.

The Trust Act(s)

There are two basic types of trusts in India -- public and private. Although there is no central law for forming public trusts, such institutions can be registered under the Registration Act. A private trust is governed by the Indian Trust Act of 1882. The law provides for creating a trust to manage property for private, religious, public, and charitable use. According to the act, the trustees are required to manage the trust and are liable for breach of trust. The private property and assets of trustees can be confiscated to recover loss or a breach of trust. Trustees can not withdraw their responsibilities unless they resign or retire. They are not allowed to use the trust for their private personal profit or benefit, but can charge expenses for managing a trust. The act also allows the trust to approach the court to seek information about the management and functioning of the trust. A trust receives almost the same status as a society under the Income Tax Act of 1961. Most trusts are religious, charitable, communal, and educational, although some development- and empowerment-oriented NPOs have used the act to form organizations.

Other legislation governing trusts in India include the Charitable Endowments Act of 1890; the Charitable and Religious Trust Act of 1920; Section 92 of the Code of Civil Procedure; and the Official Trustee Act of 1913. The Charitable Endowments Act of 1890 provides for vesting and administration of property held by the trust for charitable purposes and appointing an officer of the government for the purposes of managing and administering the property of the trust. The Charitable and Religious Trusts Act of 1920 provides for the administration of such trusts; approaching the court to seek advice on managing the trust; and auditing and examining the trust under Section 92 of the Code of Civil Procedure. Section 92 of the Code of Civil Procedure provides several aspects

---

45 Although this is not a general rule, some income tax officers view a society as a taxable one, if most of the members of the governing body are also the paid staff.

46 Trusts are synonymous with foundations.

47 The act states that a trust is "an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another or of another and the owner" (PRIA, 1987:8). The person who declares the "confidence" is the author of the trust, while the person who accepts the "confidence" is called the trustee.

48 See Dadrawala, 1991. See also Consumer Education and Research Center (1991). Educational trusts includes research institutions and those that fund such institutions or education in general. Communal Trusts are formed for the benefit a particular community or caste.
related to breach of trust. These include appointment and removal of a trustee; vesting of property in a trust; directing the trustee to deliver the possession of any property; directing accounts and enquiries, etc. The law also allows alteration of the original purpose of a religious or charitable trust. The Official Trustee Act of 1913 outlines the rights and obligations of trustees.

In addition to the above laws, there is a Bombay Public Trust Act of 1950 applicable to the States of Maharashtra and Gujarat. Under this act, a public trust is defined as a trust either for religious or charitable purposes, or for both, and includes religious or charitable societies registered under the Societies Registration Act of 1860. In Maharashtra and Gujarat, a registered society created for a charitable purpose must also register under the Bombay Public Trust Act, making the procedure bureaucratic.

Except for the Bombay Trust Act, the Indian Trust Act has three advantages: it is extremely flexible and government interference is minimal; it does not specify the number of trustees; and the mode of creating the legal entity is very simple. There are three problems associated with a trust. First, a trustee cannot enjoy any benefits from the trust, causing problems for trustees who become staff members. Second, the closed nature of the organizational structure does not allow the removal of an appointed member. Third, the liabilities of the trustees require careful management.

The Cooperative Act(s)

The first Cooperative Act was introduced in 1904 and has been subsequently modified in several States since then. Each State and Union territory has its own laws, and institutions registered as cooperatives are expected to abide by these laws. Generally, the government has more control over the cooperatives. In some States, the registrar has the right to conduct elections, audit accounts through its own department, inspect and conduct enquiries, dissolve elected committees, nominate its own officials, etc.

The Delhi Cooperative Societies Act of 1972 serves as a good illustrative example because several provisions are similar to those in other States. According to the act, an organization formed with the objective of promoting the economic interests of its members may be registered as cooperative, provided it adheres to cooperative principles. These principles include voluntary membership, democratic system, limited interest, equitable distribution, cooperative education, and mutual cooperation. Voluntary membership implies that membership should be available to all those who are willing to accept it, irrespective of that person's social, political, and religious beliefs or racial origins. Democratic system is defined as one in which the administrators are elected or appointed democratically and all members participate in decision making. Limited interest implies that share capital should receive a strictly limited rate of interest, if any. Equitable distribution implies that economic results should be shared equally among all members. Cooperative education mandates that education about principles and techniques of cooperation should be provided to members, officers, and employees and to the general population. Mutual cooperation is defined as cooperation with other cooperatives at local, national, and international levels.

49 See also Reddy (1986).
In order to form such an organization, ten persons from different families need to make an application. The general body of the cooperative is the final authority in managing the institution. Annual auditing, general meetings, and accounting are required. Regular election of committees is also a required legal aspect. Any change in the by-laws of a cooperative must be filed with the Registrar and prior permission must be obtained to make these changes. According to the act, a cooperative society can transfer its liabilities and assets to other such societies or divide itself into two or more societies. The Registrar and b of the members of the cooperative must, however, approve of such a decision. At the same time the Registrar has the power to direct amalgamation, division or re-organization of a cooperative in public interest. Agricultural cooperatives must reserve half of the membership for scheduled castes. In cooperatives where central government shares capital, up to a of the persons in the managing committee can be nominated by the government. The registrar has also the right to supersede elected committees, order fresh elections, or appoint one or more administrators who are paid remunerations from the funds of the committee. The act limits net yearly profit to 5%, which must be utilized for a cooperative's educational purposes. Finally, the act prohibits a cooperative from providing loans to persons other than its members.

The main disadvantage of cooperatives is the excessive governmental control. It has been claimed that the government has used cooperative societies to catch votes, as well as for sources of funds for party workers. The rural elite has also been able to control such societies. Some empowerment-oriented NPOs have, however, creatively used the law for registration.

The Trade Union Act

The Trade Union Act of 1926 provides for registration of trade unions. The act defines a trade union as a temporary or permanent institution, formed for regulating the relations between workers and employers, between workers, or between employers. The act also allows for a federation of two or more unions. Under the act, any seven persons can apply to register a trade union. Any person above the age of 15 may become a trade union member. Every application must be made with a copy of the rules and regulations (Constitution and By-laws) of the trade union. This includes names, occupations, and addresses of the members making the application; the address of the head office; the name of the trade union; and the titles, names, ages, addresses, and occupations of the officers of the trade union. In addition, the Constitution and By-laws should include the objectives, purposes for which general funds will be applied, adequate facilities which need to be inspected by officials and members for inspection, admission of ordinary members, their membership fee, the number of non-worker officials on the executive committee, the conditions under which members are entitled to benefits, the manner in which the members of the executive committee and other officials are appointed and removed, safe custody of the funds, annual audit and adequate facilities to inspect account books by officials and the members, and manner in which the trade union may be dissolved. A registered trade union is required to submit to the Registrar annual income and expenditure statements; any changes in Constitution, By-laws, and appointment of officials or addresses of the union.

---

50 Lower castes in India.

51 At least half of the executive committee must be workers.
A trade union is different from other types of legal NPOs in two distinct ways. First, the general fund of a trade union may be used for remunerating its staff, legal procedures, and educational activities, and for the welfare of its members. Second, a trade union may legally have separate funds for promoting civil and political interests of its members. The trade union may receive funds from its members for the above purposes, but a member who does not contribute to the political fund may not be excluded from any benefits. No legal proceedings can be held against any trade union, or its officers or members, for any action taken to further a trade dispute.

The greatest advantage of a trade union is its capacity for collective bargaining. The second advantage is that it can employ staff. The main disadvantage of a trade union is that it can receive foreign funds only after prior approval of the central government under the Foreign Contributions (Regulations) Act. Generally, trade unions are highly politicized institutions in India and belong to a political party. There are of course certain exceptions among the States. For example, the State of Maharashtra has a long history of "apolitical" trade unions. Some NGOs have, however, used the law in a skillful fashion to register.

Section 25 of the Companies Act of 1956

Although the Companies Act of 1956 was intended for profit making entities, it is possible to obtain the nonprofit status under Section 25 of this act. A company may obtain nonprofit status if it fulfills the following conditions: the Memorandum of Association of the Company makes it expressly nonprofit; the income of the company is solely applied for promotion of charitable objectives; and the members do not get any dividends or other profits. Such companies are known as charitable companies and can hold property for charitable purposes. In such cases, this must be stated in the Memorandum of Association and the central government has to grant a license. The registration procedure for a company is elaborate and requires the submission of a printed Memorandum of Association and Articles of the Association to the Register of Companies. Such companies can have directors who are the trustees. They can manage the company and get reimbursement for management, but cannot accept remuneration or share a profit, which creates problems of employing staff. Another disadvantage is the cumbersome and bureaucratic reporting procedure under the act. There seems to be little advantage in registering as an NPO under the act, although some business associations do resort to it.

Tax Laws Regarding NPOs and Donations to NPOs

Laws regarding charitable giving and nonprofit status of organizations are covered under sections 10, 11, 12, 13 and 80 G of the Income Tax Act of 1961. Section 80G specifies that any donation paid to an organization which has an 80G exemption gives the donor the benefit of 50% tax deduction on the donated amount. To qualify for deductions, donations must not be less than Rs

---

52 This section is based on PRIA (1990).
53 The benefit of section 80G goes to the donor and not to the NPO, unless it gets an 80G exemption.
250 (approximate 1990 value = Rs 2,300 or US $128).54 The maximum amount that can be donated to a charitable organization cannot be more than Rs 500,000 (approximate 1990 value = Rs 4.5 million or US $250,000) or 10% of the total income of the organization (whichever is less). Clearly, organizations with an 80G exemption are likely to attract most donations. To get an 80G exemption, organizations must secure tax exemption status under the mandates laid down by Sections 10 through 13 of the Income Tax Act of 1961. According to these sections, voluntary organizations are defined as "religious and charitable" organizations (PRIA, 1990:163). These two types of organizations are further sub-classified into organizations that are totally exempt from income tax and those that can acquire income tax exemptions. Organizations that are totally exempt from income tax are:

- University/College or other educational institutions existing solely for educational purposes.
- Hospitals or any medical institutes existing solely for medical treatment to suffering persons and not for profit.
- Any associations or organizations existing solely for the encouragement of games like cricket, hockey, football, etc.
- Any such organization existing solely for the protection or encouragement of Khadi and Village industries (and should be registered with the Khadi and Village Industries Commission)."


The law further states that "such organizations are totally exempted from Income tax if they continue working on their objectives and utilize their income for those objects only" (PRIA, 1990:163).

Organizations that are not included in the preceding list, but are "charitable" in nature can acquire the exemption. Under Section 2 (15) of the Income Tax Act of 1961 the term "charitable purpose" includes "relief of the poor, education, medical relief, and advancement of any other object of public utility not involving the carrying on of any activity for profit" (PRIA, 1990:164). Each of these concepts is defined below.

Relief of the Poor. NPOs that are generally working to help the poor can qualify for this status. Relief of the poor includes providing food, getting them married, and giving them gifts. Gifts for the relief of the poor can take three forms: direct distribution of money; indirect distribution of money through establishment of institutions such as a home for the destitute; and supporting NPOs

54 Although all rupee figures have been converted to 1990 values, the government has not built in inflation and increased these figures to present values.
that are helping the poor. To qualify for tax exemption, the NPOs that receive support must be public in nature.

**Education.** Education is defined as "systematic instruction, schooling, or training given to the young in preparation for the work of life" (PRIA, 1990:164). Thus, mainly institutions such as schools, colleges, and universities can acquire this status. Other activities that qualify as educational include vocational training, providing scholarships, running libraries, and non-formal schools.

**Medical Relief.** Any organization that is formed with the objective of providing medical relief, nursing, and medical facilities for the poor can qualify under this status. The organization can at the same time cater to needs of other social classes, provided that it does not affect the "charitability" of the organization. The services offered, however, must be available to the general public.

**General Public Utility.** The concept of general public utility is an open one and difficult to define. It includes any activity that is carried out for the benefit of the public in general and not strictly for any particular group of people. For example, digging wells and ponds, construction or maintenance of community centers, or establishment of cultural societies will fall under the realm of public utility. In addition, organizations must fulfill the following conditions to acquire exemptions:

- Property from which income is generated should be held under a trust;
- Property should belong to a charitable organization;
- Trusts formed after April 1, 1962, cannot be for the benefit of any particular caste or community, or utilize any part of its income for the benefit of the trustees;
- The part of the income that is entitled for exemption must be used and/or accumulated for charitable purposes;
- Accumulated income can be applied only in India;
- Income of trusts involved in business activity are calculated on the basis of Section 11 (4A) of the income Tax Act of 1961.\(^{55}\)

---

\(^{55}\) According to section 11 (4A), no tax exemption is available to any charitable trust unless it fulfills the following conditions (PRIA, 1990:167): "the business is carried on by a Trust for public religious purposes and the business consists of printing or publication of books or is a kind notified by the government, or; the business is carried on by the institution wholly for charitable purposes and the work in connection with business is mainly carried on by the beneficiaries of the institution; and separate books of accounts are maintained by the trust." The above conditions were imposed in 1983. It should be noted that if an NPO is publishing educational books and other printed material related to their work and making a profit, it will be taxed. Religious publications are, however, exempted from tax.
• Trusts that want income tax exemption should register under Section 12 (A) with the Income Tax commissioner within one year of their formation;

• Trusts that have an annual income of Rs 25,000 (approximate 1990 value = Rs 230,000 or US $12,000) and above and should have an annual audit;

• Trusts are required to invest their accumulated income with nationalized banks or government undertaking; and

• Trusts are required to apply 75% of their total income of the year for charitable purposes during the same year.\footnote{If a trust is unable to apply 75\% of its total income for charitable purposes, then the balance can be set aside for specified application within the next ten years under section 11(12) of the Income Tax Act. A notice should, however, be sent to the income tax officer on Form 10 of the Income Tax Act within four months or by June 30, whichever is later. Errors on Form 10 may lead to taxation at the rate of 62.25\%.}

### Applying the Structural/Operational Definition

As pointed out by Salamon and Anheier (1992), the structural/operational definition avoids many of the pitfalls of other types of definitions (e.g., the legal or the economic definition). This is especially true for India because of the long and complex history of NPOs, and differences between the various legal and conceptual definitions. The following section examines the usefulness of each of the five key features of the structural/operational definitions and their applicability in the Indian context.

**Formal.** The criterion of formal organization is useful in India because of the "looseness" of definitions in India. From this viewpoint, the earliest institutions that took the premodern organizational form were the guilds of the pre-colonial period. If we apply this criterion, the organizations (e.g., the Brahmo Samaj, Arya Samaj, Ramkrishna Mission, Satyahodhak Samaj, Indian National Social Conference) that emerged from the voluntaristic efforts of the eighteenth century Hindu elite can be included in the nonprofit sector. Similarly, organizations that emerged from other socio-religious movements (e.g., the Singh Sabhas, Jamiat-al-Ansar or Anjuman-e-Khuddam-e-Ka'aba) fall under the sector. The constructive work organizations or Ashrams that emerged from Gandhian voluntarism at the turn of the century can also be placed in the category of nonprofit sector. By similar logic, we can include organizational offshoots of more recent social movements -- tribal movements, women's movements, environmental movements, Jayaprakash's movement, Naxalite movement, the Sikh and the Kashmiri movements -- in the nonprofit sector (e.g., Khalistan Commando Force, the Bhindranwale Tigers, Mahaz-i-Azadi, or the Kashmiri Students Liberation Front). We can also include organizations that nourished such movements (e.g., Gurdwara, SGPC, the Chief Kahlsa Diwan, or Jammat-i-Islami).
Another important feature of this particular criterion is that it allows for inclusion of business associations, professional associations, associations for the promotion of arts and culture, and even fundamental religio-political organizations to be included under the NPO category, which are otherwise excluded from the sector given conceptual definitions in India. The problem has been discussed by Salmon and Anheier (1992), who point out that the structural/operational definition allows us to capture a wider array of organizations which share common features with development-oriented NGOs. As we shall see, employing the "voluntary" criterion also allows us to increase the array of NPOs under the sector.

Private. This criterion is also important in India because the government has formed and financed NGOs for developmental purposes, the National Diary Development Board and CAPART being typical examples. Often the boards of directors for such NPOs include government officials. For our purposes, such institutions should be treated outside the nonprofit sector to the extent that they are created, financed and controlled by the state, but included, to the extent that they are self-governing. In this way, these are quite similar to "para state" institutions in Britain. The cooperatives will also be another borderline case because of the government's strong financial and administrative control over the sector. As discussed earlier, according to the Delhi Cooperative Societies Act (which is similar to Acts in other States and Union Territories), cooperatives in which the central government shares capital may have up to a of its managing committee nominated by the government. The borderline nature of cooperatives is further illustrated in the discussion on the "self-governing" criterion.

Self-governing. This concept is useful because it helps us single out types of NPOs that are borderline cases, i.e., cooperatives and trade unions. Once again the Delhi Cooperative Societies Act serves as a good example. In this case, the Registrar, a government official, has the power to amalgamate, divide, or re-organize a cooperative in public interest. In cooperatives where central government contributes to the share capital, the Registrar also has the right to supersede elected committees, order fresh elections, or appoint one or more administrators who are paid remunerations from the funds of the committee. Finally, the act requires that agricultural cooperatives must reserve half of the membership for the scheduled castes, thereby violating the "self-governing" criterion. Similarly, most unions follow the mandates of a party and are not self-governing from this point of view, making them borderline cases. Again if we were to apply the analytical scheme applied by Salamon and Anheier (1992) in their effort to analyze the applicability of the structural/operational definition in Brazil, we would have to include trade unions in this sector, given the "highly charged political atmosphere" in a developing society and because they help build a civil society outside the state.

Non-profit-distributing. The tax system and removal of all income-generating activities of NPOs in India clearly demonstrates that the government has virtually ensured that NPOs are non-profit-distributing (see subsection "Legal Definitions" and "Tax Laws Regarding NPOs and Donation to NPOs"). In this way, unlike in many developing countries, most community-based

---

57 In this context, note that the Indian central state leaves more space for civil society to form outside it. This is discussed in detail in the concluding section.
development organizations are not able to distribute profits to their constituents. Again the very laws which have imposed strict control also have their loopholes which create borderline cases. As NPO officials have often complained, the elite often form educational, research or similar organizations to get tax benefits. Thus such organizations exist for "indirect profit motives," making them borderline cases.

Voluntary. This concept is useful in India because of the various types of NPOs that exist in the country. Thus, business organizations, associations for arts, culture and professions, and religio-political organizations, and so on can be termed as NPOs. Although many scholars and NPO officials are reluctant to include such organizations within the sector, the structural/operational definition allows us capture a wider array of organizations which share common features with development-oriented NGOs. At the same time we have to be cautious and consider institutions created by the elite for tax benefits as borderline cases because hidden motives lie behind the voluntary nature of such NPOs.

In summary, the nonprofit sector in India includes religio-political institutions, institutions that have emerged from or nourished social movements, NGOs, CBOs, welfare wings of religious organizations, business associations, cultural associations, scientific associations, associations for promotion of sports or arts, caste associations, and traditional voluntary agencies according to the structural/operational definition. By implication it excludes social and political movements and political parties. Borderline cases include cooperatives, trade unions, government organized NPOs, and NPOs formed by the rich to get tax benefits.

Conclusion

Clearly, the conceptual and legal definitions vary considerably in India. Such a difference in definitions is explained by the long history of the political and social context of the sector. Although modern organizational forms began to emerge around the 1870s in the form of reform institutions such the Brahmo Samaj or the Arya Samaj, an element of political and social content remained even in these institutions because they emerged from social movements of the eighteenth century. Despite the recent reduction of political context, the notion of voluntarism is essentially romantic. It is not perceived as an organizational effort, but rather as a self-initiative and social commitment. It is not uncommon for scholars in India to classify social movements -- tribal movements, women's movements, environmental movements -- as part of the voluntary sector. Thus, we see the objection to even the word "sector" in India among scholars and NPO officials. This is in direct contrast with

58 There are of course a few exceptions, such as Self Employed Women's Association (SEWA), in Ahmedabad. This NGO has skillfully worked around the law to distribute profits to its constituent members. It has simultaneously registered as a trade union and a cooperative. The trade union is used as an association of women's workers for empowering them and the cooperative for economically gainful projects.
the state's perception which sees the voluntary sector as a partner in its developmental effort. The structural/operational definition, however, allows us to distinguish between borderline cases and NPOs. It also allows us to include a wider array of organizations in the sector. Clearly, the structural/operation definition is useful in making cross-national comparisons, which neither the legal nor the conceptual definition permit. To use Salamon and Anheier's (1992) terms, it helps us overcome the "terminological tangle" or "amorphousness" of the definitions employed in depicting the sector.

In summary, the discussion presented suggests that Indian central state leaves more space for the formation of civil society outside the state. One factor that facilitates the formation of civil society outside the state is the presence of a free press. The state, however, is not a monolithic entity. As shown in this chapter, regional variations can be observed in terms of laws and regulations regarding NPOs. Finally, we want to conclude with a comment on the failure of the state to separate itself, as well as politics, from religion. Although this failure has allowed the civil society to grow outside, especially among minorities, it has also fuelled fundamentalism as exhibited by the recent resurgence of Hindu fundamentalism, and the Kashmiri and Sikh separatism.

---

59 Note that, like many scholars and officials of the development oriented sub-sector, the state's definition is also narrow. Interestingly enough it has created laws that allow for the existence of a wider variety of NPOs.
References


Vaidya, Shanta A. *Trade Union Organizations in Maharashtra: A Study of Trade Unions in Maharashtra State*. Bombay: Research and Training Programme (Hind Mazdoor Sabha) and Manibehn Kara Institute, 1985.
