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Defining the Nonprofit Sector: Switzerland

by

Prof. Dr. Bernd Helmig
Christoph Bärlocher, lic. rer. pol.
Ass-Prof. Dr. Georg von Schnurbein

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Lester M. Salamon, Director

DEFINING THE NONPROFIT SECTOR:

SWITZERLAND

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Prof. Dr. Bernd Helmig
Christoph Bärlocher, lic. rer. pol.
and
Ass-Prof. Dr. Georg von Schnurbein

The CNP Project in Switzerland

Research team:

Prof. Dr. Bernd Helmig, VMI – University of Fribourg, University of Mannheim (Germany)
lic. rer. pol. Christoph Bärlocher, VMI – University of Fribourg
Prof. Dr. Markus Gmür, VMI – University of Fribourg
Dr. Hans Lichtsteiner, VMI – University of Fribourg
Prof. Dr. Robert Purtschert, VMI - University of Fribourg
Ass.-Prof. Dr. Georg von Schnurbein - University of Basel
lic. rer. pol. Martin Blickenstorfer, VMI – University of Fribourg
BA in soc. sc. Stefan Bächtold, VMI – University of Fribourg
Prof. Dr. Monica Budowski, University of Fribourg
Prof. Dr. Michael Nollert, University of Fribourg
Prof. Dr. Dominique Jakob, University of Zurich
Dr. Bernard Degen, University of Basel
Prof. Dr. Josef Mooser, University of Basel

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JOHNS HOPKINS
UNIVERSITY

Center for Civil Society Studies
Institute for Policy Studies
The Johns Hopkins University
3400 N. Charles Street
Baltimore, Maryland 21218-2688
USA



Competence in Nonprofit Management
Institute for Research on Management of Associations,
Foundations and Cooperatives (VMI)
University of Fribourg/Switzerland

Verbandsmanagement Institut (VMI)
Universität Fribourg
Postfach 1559
1701 Fribourg
0041(0)26 – 300 84 00
0041(0)26 – 300 97 55

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Preface

This is one in a series of working papers produced under the Johns Hopkins Comparative Nonprofit Sector Project (CNP), a collaborative effort by scholars around the world to understand the scope, structure, financing, and role of the nonprofit sector using a common framework and approach. Begun in 1991 in 13 countries, the project continues to expand, currently encompassing more than 40 countries.

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

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

The production of these Working Papers owes much to the devoted efforts of our project staff. The present paper benefited greatly from the contributions of Senior Research Associate Wojciech Sokolowski and the editorial work of CNP Project Coordinator Megan Haddock and Project Assistant Chelsea Newhouse. On behalf of the project's core staff, I also want to express our deep gratitude to our project colleagues around the world and to the many sponsors of the project listed at the end of this paper.

The views and opinions expressed in these papers are those of the authors and do not necessarily represent the views or opinions of the institutions with which they are affiliated, the Johns Hopkins University, its Institute for Policy Studies and Center for Civil Society Studies, or any of their officers or supporters, or the series' editors.

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

Lester M. Salamon
Project Director



ABBREVIATIONS

BV	Federal Constitution (Bundesverfassung)
CNP	Johns Hopkins Comparative Nonprofit Sector Project
CVP	Christian Democratic People's Party (Christlich Soziale Partei)
DBG	Swiss Federal Act on Direct Federal Taxation (Bundesgesetz über die direkte Bundessteuer)
FDP	Free Democratic Party (Freisinnig Demokratische Partei)
FIFA	Fédération Internationale de Football Association
ICRC	International Committee of the Red Cross
ICNPO	International Classification of Nonprofit Organizations
IOC	International Olympic Committee
KVG	Health insurance act (Krankenversicherung)
NGOs	Nongovernmental Organizations
NPOs	Nonprofit Organizations
OR	Swiss Code of Obligations/Company Law (Obligationenrecht)
POs	Profit Organizations
SNF	Swiss National Science Foundation (Schweizer Nationalfonds)
SP	Social Democratic Party (Sozialdemokratische Partei)
StHG	Federal Act on the Harmonization of Direct Cantonal and Communal Taxes (Bundesgesetz über die Harmonisierung der direkten Steuern)
SVP	Swiss People's Party (Schweizerische Volkspartei)
UEFA	Union of European Football Associations
WWF	World Wildlife Fund
ZGB	Swiss Civil Code (Zivilgesetzbuch)

Defining the Nonprofit Sector: Switzerland

Dr. Bernd Helmig¹
Christoph Bärlocher²
Dr. Georg von Schnurbein³

I. INTRODUCTION

Elements such as independence, individual responsibility and self-help are social cornerstones which are deeply rooted in the mind of the Swiss population and have thus shaped Switzerland's entire social system. Over the centuries, these factors have led to the development of a large and significant Third Sector alongside the state (Lichtsteiner, et al., 2008). The term "Third Sector" encompasses all nonprofit organizations (NPOs) existing between state and private firms, which are, in principle, sustained by private parties and do not pursue profit-oriented goals (Etzioni 1973, Levitt 1973).

Because of the heterogeneous nature of the organizations in the Third Sector, it is seldom considered as an institutional sector. This is not only due to the difference in sheer size between large economic associations and small environmentalist groups, but also to the large scope of activities ranging from sports to advocacy to humanitarian aid abroad (Helmig, et al., 2006).

As a result, a number of different and diverging terms are used for NPOs in practice and science. In a scientific context, the considered discipline plays a crucial role for the choice of the different terms, whereas the public at large mainly considers social organizations as NPOs because they are usually associated with altruism, public utility and voluntarism (Wagner 2008).

Thus, for all NPOs, there are several terms used to describe these organizations or the entire sector in Switzerland: associations sector, intermediary organizations, public utility organizations, non-business organizations, non-governmental organizations (NGOs), social sector or voluntary sector (Helmig, et al., 2007).

The present contribution attempts to describe and sort these terms for the reader, to define conclusively Switzerland's Third Sector through a conceptual and historical analysis and to place it in a context. In the second section of this paper, the Swiss NPOs will be compared and defined according to the internationally accepted structural-operational definition of the Johns Hopkins Comparative Nonprofit Sector Project (CNP; Salamon, et al., 1992). The third section presents the NPOs' major developments over different periods in time in a brief historical overview in order to understand how the Third Sector has come to present itself the way it is described in section four. Section five deals with Swiss society and politics and their respective influence on NPOs. In conclusion, the most important results are summarized and an outlook ventured on which aspects will be relevant for the Third Sector in the future.

¹ Dr. Bernd Helmig is the Chair of Business Administration, Public & Nonprofit Management, University of Mannheim (Germany). He is the former Director of the Institute for Management on Associations, Foundations and Cooperatives at the University of Fribourg (Switzerland) and is the Project-Leader for the Swiss Country Report of the CNP.

² Christoph Bärlocher, PhD student at the Institute for Management on Associations, Foundations and Cooperatives (University of Fribourg/Switzerland) is the Project Coordinator for the Swiss Country Report of the CNP.

³ Dr. Georg von Schnurbein is Assistant Professor at the University of Basel. He is member of the Swiss CNP research team.

II. DEFINING THE NONPROFIT SECTOR

a) Structural-operational definition

The present section analyzes to what extent the structural-operational definition by Salamon and Anheier (1992) corresponds to the circumstances in Switzerland. This definition relies on the following five criteria in order to unambiguously characterize a NPO and to distinguish it from the State and market-oriented organizations: organized, private, self-governing, non-profit-distributing, and voluntary.

In Switzerland, all organizations which can be characterized as privately governed social systems residing between state and market-driven private firms which are not profit-driven are considered as NPOs. These institutions are focused on specific missions, such as the fulfillment of social needs, promotion and/or representation/influencing of interests for their own members (self-help) or third parties (Schwarz, et al., 2005).

Based on this similar understanding of the terminology, there are no significant aberrations from the CNP's structural-operational definition, which will serve as the basis for analyzing Swiss NPOs in the context of this paper. There are, however, certain Swiss peculiarities to be explained in the following discussion of the five criteria of the structural operational definition.

Organized

According to this criterion, an organization should be considered a part of the nonprofit sector if it has some institutional reality to it, even if it is not legally incorporated. The ways in which institutional reality can be demonstrated include: some degree of internal organizational structure, relative persistence of goals, structures, and activities as well as meaningful organizational boundaries. The purpose of this criterion is to indisputably delimit NPOs from the informal household sector (family, neighborly help, etc.; Salamon, et al., 1992).

In Switzerland, this ought to apply to most NPOs. Due to the relatively liberal legislation on associations – an association can be founded quickly and without the government's authorization –, most "movements" easily obtain a legal framework by founding an association. The association is the typical legal form⁴ for NPOs in Switzerland and protects its members from personal liability for outside claims, serves the organization's self-conception and bindingly regulates internal processes.

Private

This characteristic ensures that nonprofit organizations are not part of the government apparatus and have an institutional identity separate from that of the state (Salamon, et al., 1992).

Swiss law makes a clear distinction between civil and public law and so the demarcation between institutions of the Third Sector and the public authorities is clear and unequivocal in most cases. However, as the state can also operate in a form subject to private law, there are some instances where it is difficult to clearly assign such organizations to the Third Sector as defined by the CNP (Münch, et al., 2005).

⁴ Cf. Part IV.

The state operates certain foundations under public law and often outsources government functions to such foundations. One of the best known of these foundations is the cultural foundation “Pro Helvetia”, which promotes cultural and artistic activities in Switzerland (Purtschert, et al., 2003).

Similarly, the example of the not-for-profit incorporated company shows that it is not always clear whether an institution can be assigned to the Third Sector or not. The introduction on January 1996 of the KVG, the new health insurance act, triggered changes throughout the hospital system. Public hospitals came under pressure to operate more efficiently and reduce costs (Hplus 2008). As a result, public hospitals started to make themselves legally independent in order to achieve an underlying structural efficiency, increase operating autonomy and be able to make their own decisions (Heller, et al., 2001). Aargau was one of the first cantons to restructure its cantonal hospital. As its legal form, it selected a not-for-profit incorporated company retaining 100 percent of the shares in its own hands (Kantonsspital Aarau 2006). The hospital is now operated under private law but is owned 100 percent by the state and remains under the latter's influence. In such instances, a not-for-profit incorporated company cannot be included in the Third Sector.

The situation is further complicated because the issue of ownership is not always as clear as the case described above. For example, the Zurich Zoo is also a not-for-profit incorporated company. The canton and the city of Zurich each own 12.5 percent of the shares. The remaining shares are owned by more than 5,000 private individuals (Zoo Zürich 2006). It is open to debate whether this percentage of public ownership is sufficient for it be classed as under the influence of the state and so it is excluded from the survey.

As these examples demonstrate, a clear and unequivocal allocation of the organization in question to the Third Sector cannot be guaranteed by differentiating solely between private and public law. Therefore, in addition to the governing bodies, it makes sense to consider the organizations' controlling committees such as the board of directors and board of trustees. It is necessary to identify the body with the power of decision and competency in each case in order to differentiate between private or public institutions based on the present criterion.

Self-governing

A significant degree of autonomy in controlling internal activities is an essential characteristic of this criterion. This criterion does not present major problems in terms of NPO classification. For example, Switzerland has company child care facilities that are dependent on the parent company and therefore cannot be included as NPOs. Similarly, national corporate statistics identify units which are not sufficiently autonomous in organizational terms (Mangold 2000).

Due to the federalist system in Switzerland, many associations on a national level have branches in the cantons or communes (political parties, associations, labor unions). Although these branches normally have the same basic orientation and goals, they are not governed by the central governing body. The branches primarily make their decisions autonomously and elect their own bodies. As a result, the present criterion also applies to such organizations.

The institutions allocated to the Third Sector are basically independent, make their own decisions and are not integral part of a large corporation or firm.

Non-profit-distributing

Based on this criterion, nonprofit institutions can be demarcated from profit organizations (POs). Although NPOs may generate profits, they may not distribute these profits to their members, owners or part-owners (Salamon, et al., 1992).

As opposed to a joint-stock company, in the case of an NPO constituted as a foundation or association, legislation does not allow for a profit distribution to its owners. In addition, it stipulates that unless otherwise agreed, the assets are to be awarded to the public good (art. 57), should a legal entity be dissolved. Because of the appropriation of their funds, it is not possible for foundations to distribute money to their part-owners. The non-distribution-constraint further results directly from the predominance of a factual goal⁵ in NPOs. In these organizations, as opposed to POs which seek a return on investment from which the part-owners benefit, profits are generally not distributed. As a consequence, the criterion of non-profit-distribution is applicable to the Swiss nonprofit sector (Helmig, et al., 2006e).

Only cooperatives require a closer look, as in their basic form – following the idea of self-help – they intend to generate a (financial) benefit for their members by choosing a common course of action. In addition, cooperatives permit the distribution of such financial benefits (dividends, repayments, etc.) to members. However, this is only the case if explicitly stipulated in the bylaws (Bundeskanzlei 2008a, art. 859 para. 1). The basic form of cooperatives in Switzerland can thus be considered as a NPO.

In Switzerland, there are indeed cooperative institutions which act in the interest of the common good, e.g. cooperatives for the construction of social housing. In this context, they assume a sociopolitical function since state support for housing is almost non-existent in Switzerland (Purtschert 2005; Christen 2005).

As a result, and unlike other participating countries, cooperatives must be considered individually and can thus not be excluded altogether from the Third Sector. Furthermore, cooperatives in Switzerland have influenced the development of the Swiss political system and differ somewhat from cooperatives in neighboring countries through their tradition and their importance (Purtschert 2005). In addition, cooperatives can be tax-exempted by the state if the criteria for a public utility organization as defined by the respective authorities apply.⁶

In order to respect the CNP's definition, large cooperatives (such as Coop, Migros, Raiffeisen, etc.) with a comparatively clear profit orientation cannot be allocated to the NPO sector. The allocation of cooperatives to the Third Sector must therefore be assessed individually depending on the case and the sector. This aspect will be treated in more detail in chapter four.

⁵ The organization lays its main focus on the mission and tries to achieve certain (mainly non-economical) goals.

⁶ Cf. Part 1b on legal issues.

Voluntary

According to this criterion, NPOs must involve a meaningful degree of voluntary participation. This is manifested in either voluntary labor in the organization, in optional membership or in financing through “voluntary income” such as income from household or corporate donations (Salamon, et al., 1992).

If one considers the classic legal forms for NPOs⁷, the organizations of the Third Sector also meet this criterion. In the modern context⁸, in none of the organizational forms is an individual compelled – be it by birth, status, etc. – to hold office or to work in the organization against his or her will. In fact, organizations are borne by voluntary contributions, donations and voluntary work.

We can summarize by asserting that the structural-operational definition with its five criteria enables a very plausible classification and outline of the heterogeneous Swiss NPO-landscape.

b) Legal issues (Jakob, et al., 2008)⁹

Swiss law consists of various legal norms enacted at various levels. A distinction is made between the three levels: Federation, Cantons and Communes. Within their jurisdiction, the three levels may issue their own legislation. As a result, there are federal, cantonal and communal laws in Switzerland. The competencies of each level are defined in the constitution (Bundesverfassung, BV) which contains all fundamental statutory provisions. In Switzerland, the constitution precedes all other laws in the hierarchy of norms. For example, article three of the constitution states that the cantons, if not limited by the constitution, are sovereign entities and exert all rights which aren't assigned to the federation. For instance, responsibility for the school system is determined by cantonal laws which results in individual education regulations in each canton (Helmig, et al., 2007).

The Swiss legal system must be considered in the context of the civil law tradition prevalent in continental Europe. The main characteristic is the prevalence of written laws as a legal source: the courts must adhere to the legal texts and the intention of the legislators. This is due to the fact that the legislature is basically considered to be the only legal source. The courts apply and interpret the laws, and in case of legal gaps, make decisions according to the rule that they would enforce as legislators (art. 1 para. 2 ZGB). In Switzerland's hierarchy of norms, the Federal Constitution ranks higher than the laws. Nonprofit organizations are primarily governed by the Civil Code (Zivilgesetzbuch, ZGB - the Law on Associations and Foundations) and the Code of Obligations (Obligationenrecht, OR - the Law on Companies and Cooperative Societies). In addition, mainly in connection with the Donation and Charity Law, tax laws such as the Federal Law pertaining to the direct federal taxes (DBG, Direktes Bundessteuergesetz), the Federal Law pertaining to the harmonization of direct taxes of the cantons and municipalities (StHG, Steuerharmonisierungsgesetz), and other federal and cantonal tax laws are relevant.

⁷ Cf. Part IV.

⁸ This was not always the case in the course of history. For details, cf. Part III.

⁹ The following details are based primarily on the Memorandum “Nonprofit Law in Switzerland” by Jakob, Huber and Rauber (2008) which was written in the context of the CNP. Literature used by the authors Jakob/Huber/Rauber and further additions by the authors of the present article are cited directly.

In contrast to other legal systems, a dogmatically strict separation is made between an organization's form under the civil law¹⁰ and its tax status. The legal form (e.g. association or foundation) is based merely on civil law criteria. Thus, a foundation does not qualify as a foundation based on charitable activities and its compliance with certain (tax) criteria but rather because of it fulfills the requirements applicable to establishing the selected legal form. The tax law comes into play only on a secondary level to determine whether the selected legal form is a nonprofit entity and thus eligible for tax privileges (i.e. it receives the nonprofit status for tax purposes). However, tax legislation does not provide for an actual nonprofit status or a specific legal form.

The practice of tax laws on public benefit is of prime importance, as the legislation on tax exemption of public benefit organizations as well as on endowments and donations is rather rudimentary (Koller 2007). In order to benefit from a tax concession, an organization must be of public benefit and pursue a tax-exempt activity of public interest or for the benefit of third parties. There must be an open circle of beneficiaries and the principle of altruism must apply. If the organization only provides some services that are of public benefit, it may be granted partial exemption from taxes. However, the aim pursued by the organization may not be focused on the economic objectives of the individual or the members. Thus, organizations that pursue ideal or social aims or whose primary aims are in the personal or economic interests of their members are mostly not tax-exempted (Wipfli 2001).

The third parameter is that (financial) resources devoted to the tax-exempt purpose are and must remain irrevocably tied to that purpose (Wipfli 2001). This means that assets may not be extracted and returned to the donor or founder – even if the organization is liquidated. Finally, the legal entity is required by law to implement the proposed altruistic aims in practice. In other words, a foundation may not include a nonprofit aim in its deed of foundation but then distribute profits or financial resources in practice (Wipfli 2001).

Being recognized as an organization of public benefit has a direct influence on donations to NPOs. Federal and cantonal tax laws allow deduction of donations from income subject to taxation (for natural persons) and from earnings (for organizations). The extent of such deductions differs between cantons and the federation. Monetary contributions as well as contributions in kind of CHF 100.00 or more per fiscal year made by natural persons are deductible from the income. The maximum deductible is 20 percent of the taxable income decreased by certain expenditures.

c) Use of the term civil society sector in Switzerland

Unlike other countries, where the term “civil society organization” is used more commonly, the terms “NPO” and “public benefit organization” have prevailed in Switzerland. The reason for the prevalence of the latter term lies in the fact that commitment and donations to these organizations may be treated preferentially when it comes to taxes (Nollert, et al., 2008).

Although the term is used relatively infrequently in Switzerland, the concept of the civil society is certainly understood and in essence has two meanings. Firstly, it denotes an element in society, which is distinct from the

¹⁰ Cf. Part IV.

state, the economy and private sphere. It is regarded as a public sphere and is made up of numerous groupings more or less independent from the state with different levels and forms (e.g. initiatives, associations, federations) of organization. The term social movements is used to denote elements of these organizations: in common parlance, the terms NGOs, NPOs or Third Sector are used synonymously with civil society (organizations). An essential feature of civil society are the individual and collective freedoms (e.g. freedom of assembly and association) that democracies grant to members of civil society.

Secondly, the term civil society denotes a trend in a society's development, which could be described as progress in civilization and increasing democratization. When discussing this trend, the term "society of citizens" is often used with the same meaning. Moreover, there is frequently a blurring of the boundaries between the description and explanation of the trend on the one hand and demands for it to be encouraged on the other hand, i.e. the term civil society becomes a political term in a sense of more democracy.

The term "citizen involvement" refers to two activities which are reflected in both meanings of the term civil society: the collective involvement of citizens to solve small or large problems that cannot be resolved adequately by state, market or family ("lending a hand") and secondly to exert political influence on the state and the market ("codetermination"). To that extent, civil society as a concept is primarily anchored in the field of sociology (Helmig, et al., 2008).

III. HISTORICAL BACKGROUND – THE HISTORY OF NPOs IN SWITZERLAND (Degen 2008)¹¹

Forerunners of today's NPOs

The development of modern Switzerland and with it the country's Third Sector is closely linked to Switzerland's centuries-old struggle against powerful neighbors. Instead of becoming a monarchy, Switzerland developed into a loose confederation of states during the 13th century. Its oligarchic leadership and confederate state structure prevented the development of even a distant or personalized image of the state in the minds of the population (Helmig, et al., 2007). The importance of Swiss nobility had already declined by the end of the Middle Ages, giving the middle classes and the churches a dominant role early on.

As in Germany, the forerunners of the modern organizational forms now found in Switzerland's Third Sector are visible in the country's medieval structures, e.g. guilds, foundations, cooperatives, corporations¹² and brotherhoods. Foundations belong to the oldest still existing organizational forms of civil commitment (Purtschert 2003). The Middle Ages witnessed the appearance of family, religious and charitable foundations.

¹¹ The following details are based mainly on Memorandum "Historical Background – The history of NPOs in Switzerland" by Degen (2008) which was written in the context of the CNP. Literature used by the author Degen and further additions by the authors of the present article are cited directly.

¹² Corporations were originally founded to coordinate the laborious operations in agriculture, such as the coordination of sowing and harvesting deadlines in three-field crop rotation or the sharing of pastures, woods, alps or watercourses (Stadler 2004).

In particular, religious foundations have existed for centuries. The earliest religious foundations – with their roots in the principle of Christian charity – had charitable purposes. Their assets often consisted of buildings, real estate or forests. These restricted special funds and their return enabled the construction and/or support of hospitals, almshouses and orphanages. However, in addition to these religious welfare charities, we also find charitable foundations subject to secular law¹³ in the Middle Ages. They are the basis of the classic foundation that still exists today (Riemer 1981). One of the best known foundations from this era is the Inselspital in Berne, which is now one of the most important hospitals in Switzerland. Founded in 1354 through the last will and testament of Anna Seiler, it provided a hospital for 13 “bedridden persons” and was a purely secular organization (Boschung 2004).

The origin of modern NPOs in the Age of Enlightenment

During the Age of Enlightenment new ideas regarding the coexistence of man began to spread, two of which in particular proved to be important with respect to the NPOs. Firstly, an increasingly clear distinction between the realms of economy, state, church and society was made, creating a domain for independent organizations. Secondly, the new image of humanity condemned classification by estate and promoted equal status, creating an intellectual environment for a new type of organization. Two types rose to the fore, the societies and the freemasonry. The societies were supported by local and regional elites aiming for the reform of unsatisfactory conditions. The societies thus took over a “transitional role between traditional corporations and a democratic mass organization” (Erne 1996). Five types of societies can be distinguished (Erne 1988): scientific societies which dealt with one or more disciplines, e.g. with natural sciences, medicine or theology. Educational societies – the best-known form was the reading society – propagated education, for instance by holding discussions, publishing periodicals or establishing libraries. Public-benefit-organizations committed themselves to practical reform, for instance the promotion of the school system or aid for the poor. Economic societies tried to link theoretical knowledge with practical improvements, predominantly in agriculture, less frequently in trades. Finally, political societies were concerned with the study of historical sources but also with republican civic education.

Freemasonry, which first appeared in Swiss territory in Geneva in 1736, was not directed at the public but inwards. Its members belonged to different status groups (noblemen, patricians and commoners) who practiced a highly ritualized friendship in regular gatherings.

Helvetic Revolution and Mediation

In 1798 a universal Swiss state emerged from the Helvetic Revolution for the first time. Like in France, it built on liberal constitutional law with equal status for citizens, a written constitution, the separation of powers into executive, legislature and judiciary, the election of the legislature by the citizens as a whole, a parliament meeting publicly, a collectively responsible executive and, in 1802, the first referendum in Swiss history. The Helvetic Republic, however, had a significant disadvantage compared to the French Republic. It was unable to build on an existing polity; it had to bring 13 sovereign states and other areas with different status under one roof. Furthermore, it lacked nationwide administration and tax collection structures, a Swiss army and experience with collective control of upcoming problems. Thus, the 13 sovereign states relied on French protection. When the French troops pulled out in 1802, the Helvetic Republic broke down. In 1803 the Act of Mediation came about

¹³ Not connected to the church.

under French direction, which granted the cantons more sovereignty and largely abolished or disempowered the central authorities.

Despite its short life, the Helvetic Republic had a dramatic impact on corporate bodies of all kinds. For a start, the revolution tore open deep rifts in society which divided even relatively democratic organizations. Most societies therefore adjourned their activities or discontinued them altogether. Corporations, guilds and similar corporate bodies lost their importance for good.

In 1791, the French National Assembly enacted the Le Chapelier Law (Loi Le Chapelier), which prohibited the confraternity of people of the same estate or profession. No intermediate organizations were permitted to act between the individual interests of the citizen and the state's public interest. The majority of corporations were thus transformed into hometown communities (Bürgergemeinden) in the wake of municipality reform. These corporate bodies administered certain assets, primarily real estate or woodlands, on behalf of their members. With these hometown communities, a corporate body subject to public law was created, which took on some of the tasks that were fulfilled by NPOs elsewhere. Even today, several retirement and nursing homes are still owned by hometown communities.

The guilds were deprived of their professional authorities in favor of free access to the trades, thereby losing their economic basis. As a result, many guilds disappeared entirely. Some live on today as purely social organizations, however.

New NPOs developed as a consequence of the general deprivation following battles with the Austrians, Russians and French on Swiss territory. Relief organizations were founded in Basel, Zurich, Berne and elsewhere. Simultaneously, following the appearance of the first nation state, the Helvetic Republic, and because the Mediation provided for stronger national ties, organizations operating on a nationwide level emerged.

The times of Liberalism until approximately 1880

Following the defeat of Napoleon's armies, France ceased to act as a protecting power in late 1813 and the Act of Mediation was lifted. The Congress of Vienna of the Great Powers in 1815 put an end to the subsequent domestic spats by affirming the cantonal borders, which had emerged during the revolution, and by making several further territorial rearrangements. Therewith, the political map of Switzerland obtained its present-day form. Like in the rest of Europe, Restoration ensued, in the course of which the cantons gained additional rights and the old elites regained a lot of their former power.

When a new wave of revolutions shook Europe in 1830, the Swiss Liberals came to power and enforced universal male suffrage in 11 cantons and parliamentary democracy. Today's Confederation was founded on the basis of a unitary constitution in 1848. One year earlier, the liberal protestant cantons defeated the conservative catholic cantons in the "Sonderbund"-War which is why the constitution was drafted according to the victorious side's liberal perception of the future nation. The liberals dominated federal policy until 1891 with an absolute majority. Other political streams and parties either developed over time (democrats, labor movements) or were not represented strongly enough on the national level (Catholics). In this open and free environment, the first modern organizations of civil society emerged (Kriesi 1995).

The undoubtedly most flourishing NPOs in the 19th century were the associations which penetrated all sections of society, especially social security and the newly developing sports.

Industrialization and social fracture (1874-1919)

The constitution was revised in 1874 following the “Kulturkampf”, the clash of cultures between liberal radicals and conservative Catholics. This had far-reaching consequences, particularly for the Catholic Church (e.g. bishoprics could only be established by the state). Increasing industrialization and the birth of the working class brought about further social fractures. The economy was in crisis and this led to state intervention, which in turn gave trade and industry associations a genuine *raison d'être* as they were brought into negotiations designed to protect the economy (Armingeon 2001). In 1874, the Federal Constitution was amended introducing a degree of direct democracy (optional referenda on legislative proposals). This change was of particular importance to the development of Swiss civil society.

Social hardship among both the rural population and urban workers resulted in the formation of political and social organizations to support and facilitate self-help for these sectors of society. For example, consumer associations and cooperatives (Co-op in 1890) made food available at reasonable prices and the Raiffeisenbanken (rural cooperative banks, in 1899) provided farmers with small loans. Similarly, religious organizations such as Caritas (in 1901) sought to combat the misery experienced by the lower social orders. Associations for the education of the poor took on a special status within the common public interest. Public-benefit organizations were also active in other areas, for instance the support of paroled convicts, the education and support of deaf-mute and blind people and, as of 1860, the protection of animals.

On the political side, the class war led to the creation of the first Social Democratic Party in 1870, and in 1880, to the formation of the Swiss Federation of Trade Unions. Individual sectors of the economy started to organize themselves, e.g., the Gewerbeverband (Trade Association in 1879) and the Schweizerischer Bauernverband (Swiss Farmers' Union in 1897/1908). Professional associations gained considerable importance, eventually positioned to determine standards and tariffs in their area.

Neutrality and cosmopolitanism (1919-1990)

In the 20th century, Swiss foreign policy was dominated by the country's neutrality and its domestic policy by strong federalism. The internal functioning of the country was characterized by its four languages as well as confessional, geographic, regional and wealth-related divides; however these divides were not linear and new coalitions formed constantly (Linder 1999). In this respect, nonprofit organizations were and are important vessels for social discourse and mutual understanding. The political importance of associations increased further in 1937, when an economic clause was added to the constitution giving associations a constitutional right to participate in the pre-parliamentary legislative process – political parties were only granted this same constitutional right in 2001. This change brought an end to the class war and integrated social democracy into government policy. In addition, the organization of both society and state became corporatist (Armingeon 2001).

Because of its policy of external neutrality, Switzerland largely escaped the ravages of the two World Wars and as a consequence, many organizations in the Third Sector can look back on a long history without major changes

imposed from outside. The global spread of the ICRC and the formation of the League of Nations in Geneva in 1925 are reasons why so many organizations in all areas of society decided to settle in Switzerland. The World Wildlife Fund (WWF) was set up as a foundation in Switzerland in 1961. Lausanne developed as the hub for sports politics after the Olympic Committee (IOC) located there in 1915. Other sports organizations such as the International Football Association (FIFA) and the European Football Association (UEFA) have their headquarters in Switzerland.

In social, cultural and educational spheres, the principle of subsidiarity¹⁴ produced a close interconnection between public bodies and nonprofit organizations. However, in contrast to other corporatist countries such as Germany, this interconnection is less centralist due to Switzerland's greater degree of federalism (Linder 1999). In addition, the state itself formed nonprofit organizations to outsource certain functions, e.g. the Swiss National Science Foundation (SNF, research) and the Pro Helvetia foundation (culture).

Switzerland in a changed environment (1990 to the present day)

The collapse of the Eastern Bloc and German unification in 1989 triggered changes in Switzerland in general as well as in its Third Sector. A changed relationship with the state – characterized by New Public Management and a need for reductions in state spending – also led to major changes in NPOs' structures. At the same time, the civil society was rediscovered as state welfare systems found themselves in increasing difficulty. Since the mid-1990s, Switzerland has experienced a foundations boom (Helmig, et al., 2006c; Purtschert, et al., 2006).

Associations in all sectors of society have been forced to reexamine their structures, and the result has been mergers and increased cooperation between groups in different areas of activities and regions. In 2000, the two main trade associations merged to form Economiesuisse and in 2004, several trade unions combined to form Unia, which is now the largest union in Switzerland (203,000 members). In the social sphere, cantonal associations and other social organizations now work together or have merged.

These developments, coupled with a constant lack of resources, have increased professionalism in the Third Sector and significantly increased the amount of self-regulation. The first European Governance Code for foundations was established in Switzerland in 2005 (Hofstetter, et al., 2005) and this was followed by the first Code for humanitarian aid organizations in 2006.

To sum up: the Third Sector in Switzerland plays an important role in society and enjoys a high level of acceptance, in large part because of its continuity and stability. Several prominent organizations such as the "Gemeinschaft für das Gute und Gemeinnützige Basel" (Association for the Common Good, founded in 1777) and the "Schweizerische Gesellschaft für Gemeinnützigkeit" (Swiss Association for Public Benefit, 1810) can look back on a history of approximately 200 years (Helmig, et al., 2007).

¹⁴ Cf. Part V.

Table 1: Nonprofit Sector Realities, as demonstrated by the case of Switzerland

ICNPO Group	Nonprofit organizations in Switzerland	Organizations not likely to be part of the nonprofit sector in Switzerland
1. Culture and recreation	<ul style="list-style-type: none"> • Many arts groups and organizations (ballet, dance, theater) • Most sports groups (especially at the club level) • Many museums and galleries • Service Clubs (e.g., Lions, Rotary) • Some libraries • Some zoos and wildlife parks 	<ul style="list-style-type: none"> • The large arts activities undertaken by individual artists and commercial enterprises • Commercial sports business (corporations) • Museums and galleries owned by the (local) government • Nearly all newspapers, radio and TV broadcasters (commercial or state owned) • Many theaters, film and video productions
2. Education and research	<ul style="list-style-type: none"> • Some early childhood services • Some elementary and secondary schools (minority) • Vocational education (by trade organizations) • Adult or community education can be provided by third sector organizations (for example evening colleges) • Some research, which is undertaken by NPO 	<ul style="list-style-type: none"> • Most elementary and secondary schools are public • Public universities and polytechnics (Universities of Applied Sciences) • Adult or community education run by public and private firms • Research mostly undertaken by government bodies and private firms (such as Pharmacy and Medicine)
3. Health	<ul style="list-style-type: none"> • Private and church nonprofit hospitals • Private nonprofit nursing homes • Blood services are provided by the third sector (nonprofit corporation) • Organizations addressing drug and alcohol abuse. • Outpatient treatment for ill patients • A few emergency services • Air rescue services, water rescue services, Swiss alpine rescue 	<ul style="list-style-type: none"> • Public hospitals and nursing homes • Profit oriented hospitals • Firefighting and ambulance services, first aid and emergency medical response teams are mostly public. • Government has the primary responsibility for the mentally ill • Community health centers are run by government
4. Social services	<ul style="list-style-type: none"> • Children's services, child care and protection – in correspondence with government and private firms • Organizations in disability support • Organizations for the elderly (homes) • Partially: employment services • Youth work (e.g., boy scouts) • Partially family support organizations • Specialized nonprofits provide transportation services to elderly and those who lack access to public transit 	<ul style="list-style-type: none"> • Government and commercial providers of social services (e.g., Government employment services)
5. Environmental / animal pro-	<ul style="list-style-type: none"> • Most environment groups (e.g., Greenpeace, WWF, Pro Natura) 	<ul style="list-style-type: none"> • Government agencies with environmental responsibilities

tection	<ul style="list-style-type: none"> • Animal protection groups 	
6. Development and housing	<ul style="list-style-type: none"> • Direct provision of housing by the third sector • Social housing • Nonprofits are also present in employment and training for vocational rehabilitation (overlaps with group 4) • Private nonprofit Employment agencies • Most tourist offices 	<ul style="list-style-type: none"> • “Local government housing” • Building societies (for-profit entities)
7. Civic and advocacy groups	<ul style="list-style-type: none"> • Organizations representing various interests (e.g., pensioners, foreigners, tenants, residents, disability, etc.; overlaps with group 4) • Consumer protection • Political parties • Legal services (e.g., for asylum seeker) 	<ul style="list-style-type: none"> • Commercial legal services
8. Philanthropic intermediaries	<ul style="list-style-type: none"> • Groups that encourage or facilitate volunteering (e.g., volunteer center) or giving • Grant-making Foundations (excl. family and church foundations) 	Almost all other foundations, when they fit with another category (e.g., social services)
9. International organizations, aid and relief	<ul style="list-style-type: none"> • Most overseas aid and development organizations (e.g., World Vision) • International Sport Organizations (e.g., IOC, FIFA, UEFA, etc.) 	<ul style="list-style-type: none"> • Public international aid agencies (e.g., World Bank) • Swiss Agency for development and cooperation (DEZA) • UN Administration Geneva (UNHCR, UNICEF, etc.)
10. Religious congregations & assoc.	<ul style="list-style-type: none"> • Non-state affiliated religious congregations (like Buddhism, Islam, Hinduism, etc.) <p><i>* Faith-based or church-affiliated service organizations (these are classified in the appropriate ICNPO activity category, e.g., church schools are in Group 2).</i></p>	<ul style="list-style-type: none"> • State affiliated congregations, including most churches
11. Unions, business and professional associations	<ul style="list-style-type: none"> • Professional associations, trade unions, employer associations, business associations and student unions • Chambers of commerce (no obligatory membership) 	<ul style="list-style-type: none"> • Trading cooperatives
12. Not elsewhere classified	<ul style="list-style-type: none"> • Organizations where is not clear which ICNPO category they should be assigned to 	<ul style="list-style-type: none"> • Consumer finance cooperative • Mutual life insurance companies • Mutual health insurance • Pension foundations

IV. MAJOR TYPES OF SWISS CIVIL SOCIETY ORGANIZATIONS AND BORDERLINE CASES

Due to a long history and widely varied sectors of activity, a vast number of different NPOs operate in Switzerland. There are two main categories into which the Swiss nonprofit sector is usually subdivided in order to group its organizations. On the one hand, there is the legal form and on the other hand the activity of the NPOs.

When differentiating by the organizations' activity, one can distinguish mutual benefit organizations (either informal or bureaucratic) and service organizations (Schwarz, et al., 2005; Purtschert 2001).

Mutual benefit organizations

Even today, the characteristics of NPOs in Switzerland reflect the cooperative, associative (corporate) and communal roots of the NPO Sector (Wagner 2008). In particular, the associative and cooperative tradition determines the nature of the NPOs that provide services for members of the organization and satisfy their own needs. In Switzerland, this type of NPO is classed as a NPO providing services for its own account.

If the main aim of such an organization is the protection of interests and it manifests itself in the form of an association or party with a bureaucratic structure, it is referred to as a bureaucratic NPO providing services for its own account. However, if the aim is to remedy an urgent problem in a non-bureaucratic way in matters where the state cannot or will not intervene, and if there is no commercial provider in a position to deliver the services, then informal NPOs are formed. These informal NPOs provide services for their own account through an organization which is more or less structured and often does not have a legal personality (e.g. religious organizations, organized leisure activities, nurseries or neighborhood groups, self-help groups or smoking, drug, alcohol or AIDS prevention; Meyer, et al., 1993; Bütschi, et al., 1994; Vogelsanger 1995).

In terms of bureaucratic NPOs providing services for their own account, the two main examples are political parties and associations. The role of an association is to support its members in their economic function (e.g. as employer or employee) and ensure that they can operate free from state intervention wherever possible (Helmig, et al., 2006a). In contrast, the role of political parties is to represent their members in the democratic decision-making process (Wagner 2008).

Service organizations

Unlike NPOs providing services for their own account, NPOs providing services for third parties are economic players. NPOs providing services for third parties provide goods or services not for the benefit of their members (at least not primarily) but for the benefit of third parties. The main organizations that can be classed as providers of services for third parties are those in the ICNPO activity groups 1, 2, 3 and 4 (Purtschert 2001).

When distinguishing between legal forms, choices for NPOs are restricted because the legislation only provides for ten legal forms. Depending upon an NPO's goals or liability, many of the available legal forms may not be options (Christen 2005; Jakob 2006; Jakob, et al., 2008). The choice of a certain legal form for a nonprofit organization can be based on various factors. In practice, the association, the cooperative society and the foundation are the most widespread legal forms for NPOs. The nonprofit stock company is a further possibility. In addition,

recent legal reforms have made it possible to constitute an NPO as a limited liability company; as of January 2008, the legislation was amended and a limited liability company must no longer have purely economic aims. Therefore, time will tell what role limited liability companies will play in the NPO sector going forward (Jakob, et al., 2008).

Associations

The most common legal form for an organization in the Swiss Third Sector is the association. If we take a look at the Swiss Civil Code, it becomes clear why. Article 60.1 of the Code regulating the formation of an association says: “associations with a political, religious, scientific, artistic, charitable, social or any other non-economic object acquire the status of a legal entity as soon as their intention to exist as a corporate body becomes apparent in the bylaws” (Bundeskanzlei 2008b).

The wording of this article clearly shows that it is the non-economic purpose, i.e. the altruistic concept that must be the basic function of an association (Christen 2005). This means that Swiss law only allows a corporation to be constituted as an association if it pursues a non-economic purpose. However, associations are allowed to pursue a commercial activity if that allows them to pursue their altruistic purpose (Christen 2005). In this case, the association is required by law to register in the Commercial Register (ZGB, art. 61) if the association generates revenues of at least 100,000 Swiss Francs (Portmann 2005). However, associations can also voluntarily register themselves in the Commercial Register provided that their articles of association are accepted and they appoint a board of directors (Riemer 1981; Jakob, et al., 2008).

Many cultural and sports organizations are organized as associations. Furthermore, most federations, professional organizations, unions, religious communities, socio-medical institutions, private schools and political parties are constituted as associations. This legal form is extremely popular because of the comparatively unrestrictive legislation and the fact that an association is relatively easy to establish, requiring no state authorization (Hahnloser 2004).

Foundations

As with associations, the legislation on foundations in Switzerland is rather liberal. The provisions are contained in essence in Articles 80-89 of the Swiss Civil Code and are based on a principle of extensive freedom for foundations, the only restrictions being the prohibition of unlawful or immoral aims (Helmig, et al., 2006b; 2006c; 2006d). Hence, Switzerland is often referred to as a “paradise for foundations”. A foundation is a legally independent asset that is established by one or several trustees for a purpose specified by the founder(s) and which has no members. Within legal limits, the foundation’s purpose may be chosen at will. This has led to a wide array of activities. The legislation does not mention that the purpose must be non-economic. Thus, corporate foundations can be found in Switzerland (Schubiger 2005; Lichtsteiner, et al., 2008). A basic prerequisite in order to establish a foundation¹⁵ – unlike an association – is registration in the commercial register (Christen 2005).

As already indicated, Switzerland has various types and forms of foundations. A distinction can be made between classic (operational and grant-making) foundations, family foundations, religious foundations, corporate

¹⁵ This does not apply to religious and family foundations.

foundations, foundations subject to public law and occupational pension foundations (Lichtsteiner, et al., 2008). However, it must be borne in mind that not all types of foundations can be assigned to the Third Sector because not all foundations pursue activities that are in the interests of the public as a whole or that can be considered as altruistic (Koller 2002). For example, occupational pension foundations are not part of the Third Sector as defined by the CNP. Occupational pension foundations operate occupational (company) retirement, survivors' and disability pension plans in Switzerland and form the second pillar of its three pillar system.¹⁶

This special form of foundation first appeared during World War I and significantly differs from the idea of a classic public-utility foundation. The particularity of this type of foundation is the narrow circle of beneficiaries, limited to the employees – of either one employer or, in the case of collective foundations, several employers – who must contribute to the fulfillment of the foundation's purpose with their own financial deposits. Furthermore, every employee is entitled to participate in the foundation's decision-making process. As soon as the foundation's purpose (retirement, disability) is achieved, the employees' deposits are refunded (Riemer 1981; Lichtsteiner, et al., 2008; Purtschert, et al., 2003). Under these circumstances, the criterion of voluntary membership, as intended by the CNP's definition of a NPO, is not met.

With regard to family foundations, Wagner (2008) points out that the absence of mandatory supervision for this type of foundation results in their wrongful use for tax avoidance purposes, and that they should thus not be classed as NPOs. In terms of the CNP definition, it is appropriate to exclude them since the circle of beneficiaries is restricted and limited to members of one family. Moreover, the donor may also be a beneficiary and that contravenes one of the basic criteria in the CNP definition (Riemer 1981).

The situation regarding religious foundations is similar, as they too have a limited circle of beneficiaries. In addition, religious foundations are closely linked to a parish, diocese or a church in organizational terms and this contravenes the fourth criterion of the CNP definition. As a result, this type of foundation is not included in the survey of the Third Sector (Riemer 1981). However, social and charitable institutions affiliated with the church, which represent an integral part of the Swiss Third Sector, are to be included (Lichtsteiner, et al., 2008).

Unlike religious and family foundations, corporate foundations are not specifically mentioned in Swiss legislation even though foundations supporting charitable institutions have existed since the Middle Ages. In principle, corporate foundations can be divided into corporate operating foundations and holding foundations. The former may be included in the NPO Sector because they act as operating foundations for hospitals and social institutions. In contrast, all holding foundations should categorically be excluded from the NPO Sector as they only own a stake in one or several companies and therefore do not correspond to the classic idea of a NPO. However, a clear demarcation is difficult as mixed forms exist. For example, the Ernst Göhner Foundation has numerous holdings in companies and could thus be regarded as a holding foundation. As it also awards grants, however, it could be considered as a charitable foundation (Purtschert, et al., 2003; Schildknecht 2002).

In terms of numbers, there are very few foundations subject to public law owned or governed by the state. However, they have a considerable impact on society given that the government has outsourced important so-

¹⁶ 1st pillar: mandatory public pension, 2nd pillar: occupational pension, 3rd pillar: private pension.

cial services to such organizations. As an example, the cultural foundation Pro Helvetia mentioned above represents an important pillar of the national cultural policy (Lichtsteiner, et al., 2008).

Cooperatives

Cooperatives, like associations, are associations of individuals and are most similar to associations in organizational terms (Heini 1988). The difference between the two is that cooperatives pursue a mainly economic aim rather than an altruistic one. Besides its pursuit of economic goals, a cooperative may expand its goals to non-economic and nonprofit tasks based on the direct economic interests of its members (Meier-Hayoz, et al., 2007; Jakob, et al. 2008). Their main objective is primarily to promote and protect economic improvements for members (Schnyder 1994). Cooperatives have a contractual relationship with their members and this is the essence of the cooperative idea of “collective self-help” (Reymond 1998).

However, opinions on cooperative bodies differ markedly and it is debatable whether they can be assigned to the Third Sector at all (Michalski 2007). Cooperatives are positioned on a continuum between market and NPO Sector and according to Purtschert, et al., (2005) “it is often the size of a cooperative that determines the sector to which it belongs”. For example, large Swiss purchasing and consumer cooperatives like COOP and Migros with a combined market share for consumer goods of 35 percent are scarcely typical NPOs (Purtschert, et al., 2005). However, these market-oriented “atypical cooperatives” are fully accepted in Switzerland and their status has not been challenged even in the civil courts although their primary focus is on customers in general rather than on their membership (Schnyder 2000; Purtschert, et al., 2005).

However the basic form of cooperatives can be considered as an NPO, because they can be admitted as charitable by the government as long as they are consistent with the tax privileges of the different departments. Furthermore, the earnings (dividends, repayments, etc) resulting from business operations are not distributed unless otherwise specified in the bylaws (Bundeskanzlei 2008a, art. 859 para. 1).

Nonprofit stock companies

A somewhat unusual form of nonprofit organization is the stock company and although uncommon, it is a legal form that is admissible for NPOs. Article 620 para. 3 of the Codes of Obligations expressly states that an incorporated company can also be established for a purpose other than commercial (Bundeskanzlei 2008a). However, it can only be recognized as a not-for-profit incorporated company and be granted tax concessions, for instance, if it refrains from distributing dividends and this distribution constraint is expressly stated in the articles of association.

Provided that this principle is observed, a nonprofit incorporated company as defined by the CNP can normally be assigned to the Third Sector in Switzerland and it then complies with the five criteria of the CNP classification. In practical experience, almost no incorporated company can be found which pursues a noncommercial purpose. Due to numerous regulations, extensive management and strict accounting requirements under the Stock Company Law as well as tax laws, the stock company is not the preferred option in order to pursue noneconomic purposes (Meier, et al., 2007; Jakob, et al., 2008).

Religious congregations/churches

In Switzerland, the general principle that applies to the law on relations between the state and the churches is that religious groupings are subject to private law, if they want to constitute themselves as a legal object. However, some religious groupings stand out from the mass of private congregations, because the state has granted them a status under public law (Famos 1999).

The Confederation is responsible for ensuring religious freedom. However, the cantons are in charge of regulating church powers (Rhinow 2003). This cantonal dimension means individual religious groupings do not have the same status under public law in all cantons. Out of the more than 1,000 religious congregations in Switzerland, only four denominations (Roman Catholic, Reformed Protestant, Old Catholic, Jewish) have been granted a status under public law (Blümle, et al., 1993).

This recognition under public law led to a transfer of a wide range of rights and obligations to religious groupings. A full description of these would go beyond the scope of this paper but even a brief review shows that religious groupings can enact legal instruments, impose taxes, make use of administrative coercion to assert fiscal demands and official rulings and enjoy tax relief. In addition, they are allowed to give religious education in public schools and to run theology faculties in universities under the direction of the state (Famos 1999).

However, this recognition under public law also means that a religious grouping is constituted as a legal entity under public law and is thus associated with the state. For this reason, religious groupings under public law are not included for the purposes of the CNP because they do not correspond to the CNP-definition (Cattacin, et al., 2003; Famos 1999).

Political parties

Political parties play an essential role in Swiss democracy and act as a link between civil society and the state. Despite their public function, all parties in Switzerland are associations subject to private law and thus a part of the Third Sector (Rhinow 2003). Political parties in Switzerland have a decentralized structure and important decisions are made not by the national leadership of the party but by cantonal or local sections. In addition, the latter operate relatively independently of the national party and it is often quite difficult to achieve a common party line (Ladner 2002). In total, there are some 5,000 local parties that are grouped into 180 cantonal parties. The four parties represented¹⁷ in the Swiss Federal Council (Free Democratic Party (FDP), Christian Democratic People's Party (CVP), Swiss People's Party (SVP) and Social Democratic Party (SP)) make up 80 percent of the local parties (Ladner 1999; 2002).

¹⁷ Until 2007.

V. THE NONPROFIT SECTOR AND SWISS SOCIETY AND POLICY (Nollert, et al., 2008)¹⁸

The government has adopted a positive stance toward the nonprofit sector. This was already reflected in the fact that Switzerland has been described as a “Confederation” (*Confoederatio Helvetica*) since the end of the Helvetic Republic. Cooperative associations played an important role even before the Federal state was founded in 1848. The Swiss government doesn’t have an explicit policy with regard to nonprofit entities, not least because NPOs are considered to belong to the private sector. In contrast to other countries (France or Germany) the autonomy of the nonprofit sector has never been questioned and therefore requires no special protection. By contrast, the government has entrusted many public services to private social actors from the outset.

The subsidiarity principle (Latin: *subsidium* = assistance), which was recently included into the Federal Constitution (art. 5a) is fundamental to the Swiss government’s policy with regard to nonprofit organizations. The principle explicitly states: “The principle of subsidiarity is to be observed in the allocation and implementation of public functions.” According to this principle, the state should only carry out activities and resolve problems when no other social actor subordinate to the Swiss Government can be found to be responsible. This principle does not only apply to the relation between state and cantons or between cantons and communes, but also to the relation between public entities and the civil society sector (families, nonprofit organizations).

In Switzerland the subsidiarity principle has two philosophical origins; these are evident in the differences between the manifestos of the Liberal and Catholic parties since the 19th century. The liberal subsidiarity assumes that individuals are responsible for their own lives and their own protection against risk and limits the role of the state to guaranteeing an ultimate social safety net. The state therefore interferes only when the individual’s resources and those of its primary social networks are insufficient to overcome a distress.

The Catholic subsidiarity principle, which stresses the role of Christianity, explicitly demands from the government that it support the self-help efforts of its citizens and help them to protect their social and employment rights. This is based on 19th-century social studies, which advocated a third way forward between capitalism and state socialism built on the potential of families and workers to help and organize themselves, and on the activities of charities to solve the problem of social integration.

Examples of the subsidiarity principle can be found in vocational education, which is provided by professional federations, in solving social problems through relief organizations, or in militia institutions (*Milizwesen*), which require citizens to get involved in providing public services (e.g. school janitorial service, fire brigade) on a honorary basis.

The federations hold a significant role in the political process and are involved in nearly every political decision. The NPOs’ strong influence is even institutionalized in some of the instruments of direct democracy: the referendum (R), the initiative (I), as well as the consultation process (CP, Linder 1999). By these means, citizens and

¹⁸ The following details are based mainly on Memorandum “Government policy and future issues” by Nollert/Budowski (2007) which was written in the context of the CNP. Literature used by the authors Nollert/Budowski and further additions by the authors of the present article are cited directly.

NPOs have the opportunity to disagree with proposed legislation (R) or to enforce the process. Consequently, Swiss legislators try to incorporate as many NPOs as possible at the consultation stage (CP) of policy-making in order to avoid having the referendum process occur too frequently

A further peculiarity of the Swiss political system is the so-called Federation Complaint Right (Verbandsbeschwerderecht) which has been incorporated into other laws since 1966. This law allows national environmental associations (which are at least ten years old) to induce investigations by the authorities into projects that have an environmental impact, such as applications for deforestation, construction outside zoned areas or rural land improvements, as well as other governmental tasks.

VI. CONCLUSIONS

Switzerland has a very large NPO sector with many heterogeneous organizations which started to develop many centuries ago. Because for a long time there was no unified state on the territory of today's Confederation, the Church and the bourgeoisie wielded a strong influence until the 18th century. Based on this fact, and coupled with the generally libertarian attitude of the Swiss people, a significant Third Sector was able to develop over the centuries. The basic principle of subsidiarity was recently anchored in the Swiss Constitution and a triad of legal forms for nonprofit organizations (NPOs) has developed: the association, the cooperative and the foundation.

In Switzerland, these NPOs assume a number of tasks for society which in other countries are adopted by the state or state-approved organizations. This can be observed in elder care, immigration or professional education, which is run by employer organizations. Since NPOs are in a strong position and have the ability to directly influence politics and legislation (referendum, initiatives, etc.), the authorities are literally forced to consult the NPOs and to include them in the decision-making process.

The strength of the NPO sector, or rather the weakness of the state, is apparent in the fact that in their political work, most members of parliament do not pursue only party matters but also represent the interests of federations or other particular cultural and economical interests. A further indication of the weakness of the Swiss state is that the special interest politics of associations, not activities of public authorities, have contributed to comparatively few strikes, high protectoral tariffs, and large agricultural subsidies (Nollert, et al., 2008).

The state basically offers NPOs a special policy treatment. However, the state is an important source of income for the concerned organizations and helps them with tax exemptions and financial aid in particular. Instead of distributing general subsidies, the state rather opts for service level agreements between the public authorities and NPOs. This engenders a close and constructive cooperation between the two parties. The state may thus consider the NPO sector as an indispensable civil societal link between citizens and the state.

As a consequence, the NPOs take over a prominent role in Switzerland and look back on a long history. Going forward, NPOs can be expected to maintain their important position, even if resources become scarce because of cuts in public expenditure. An indicator for this is the fact that NPOs are striving for professionalism in order to manage their resources more effectively and efficiently.

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Project Director: *Lester M. Salamon*
Senior Research Associate: *S. Wojciech Sokolowski*
Project Coordinator: *Megan Haddock*
Communications Associate: *Mimi Bilzor*

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Center for Civil Society Studies

Institute for Policy Studies

3400 North Charles Street, Wyman Building

Baltimore, MD 21211, USA

Phone: +1.410.516.5463

Fax: +1.410.516.7818

www.ccss.jhu.edu