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Political Theory and the Nonprofit Sector

Ted Lechterman and Rob Reich

Political theory aims to examine social and political arrangements and asks how these can be appraised and justified. The goal is normative (to evaluate or prescribe) rather than positive (to explain or predict). Social and political arrangements have powerful effects on the life course of anyone subject to them. They define the rules of social cooperation, and different arrangements will distribute society's resources and power in different ways. They are, moreover, not natural facts but human conventions, and thus amenable to change. Political theory asks, therefore, what set of social and political arrangements is best or just? Or, if the best proves to be the enemy of the good, which arrangements are legitimate and deserving of compliance even if less than ideal or fully just?

With this orientation, it is not surprising that political theorists frequently focus their attention on the state and its formal institutions, exploring what makes the exercise of coercive force legitimate and what justice requires in law and public policy. Law and public policy emanate from the state, but they shape social life far beyond formal public institutions. Accordingly, political theorists also examine realms beyond the state.¹ In the past generation, political theorists have given extensive thought to the status of property, markets, and commercial corporations (Anderson 1993, 2017; Murphy and Nagel 2002; Satz 2012; Ciepley 2013), to the status of justice between states (Miller 2007; Nagel 2005; James 2012; Wenar 2016), and to the family and the ethics of the parent-child relationship (Okin 1989; Brighouse and Swift 2014).

Political theorists have also devoted considerable attention to civil society and associational life and their role in a flourishing democratic society. Alexis de Tocqueville (Tocqueville 2012) is the canonical nineteenth-century exemplar, while Robert Putnam (Putnam, Leonardi, and Nanetti 1993; Putnam 2000) is arguably the preeminent twentieth-century scholar. But the corporate form we today call a nonprofit organization did not exist in Tocqueville's day. And Putnam barely makes any mention of nonprofits. This omission is typical of the discipline. Political scientists and theorists alike have paid little attention to the organizational architecture of civil society and the nonprofit sector.

Before proceeding, we propose some conceptual clarification. *Civil society* we take to refer to the myriad associations, formal and informal, enduring and ephemeral, large and small, professional and amateur, that arise in any social order where human freedom is protected to some degree. When afforded individual liberty, the natural sociality of human beings will bring them into diverse affiliations. The associations in civil society stand between the most primordial of associations—the family—and the one that claims a monopoly on coercive power—the state.² As we explore in this chapter, civil society associations are a site of mediation between the individual and the state. Within these associations, humans congregate for some common purpose or activity, including religious, educational, cultural, professional, political, and athletic pursuits. For some theorists, civil society encompasses the workplace (Scalet and Schmitz 2002), and for others even the family counts as a part of civil society (as discussed in Rosenblum 2002). For our purposes, civil society is the associational realm beneath (or in the case of global civil society, above) the state; in this realm, humans assemble into groups to pursue joint projects, independent of any formal, bureaucratic status or incorporation.

Associational life we take to refer to the portion of civil society that is marked by *voluntary membership*. In this respect, the family fits uneasily with associational life insofar as children cannot be said to be voluntary members. Most of civil society is constituted by associations in which people join voluntarily and have freestanding permission to exit. Associational life importantly includes informal associations (the bowling league, the book club, the weekly trivia night at the pub) as well as formal associations (the political party, the religious congregation, the professional society). Some scholars may also regard commercial entities as part of this category.

We follow conventional practice in defining the *nonprofit sector* as the portion of associational life and of civil society that meets two additional criteria. The first is formal incorporation. Within the sector lie organizations that have official standing. It is possible to count—at least in principle—the precise number of nonprofit organizations in each society. It is not possible to count the full number of associations in any society, for too many of them, such as the book club, are unregistered and leave no legal trace. The second criterion is a legal restriction on the distribution of profits that distinguishes nonprofits from business corporations. Nonprofit organizations are limited by law in the way they remunerate their stakeholders, often in return for legal privileges such as tax exemptions. Whether limitations on profit-seeking are necessary or sufficient to justify the privileges that typically attach to nonprofits, and whether “nonprofitness” as such is a useful analytical category, are longstanding questions that course through this chapter.

I. Do We Need a Political Theory of Nonprofit Enterprise?

Political theory aims to ask—and answer—foundational questions that situate the presence of associational life and the formal organization of a nonprofit sector in relation to a

broader political economy that includes the market and the state. These questions include the following: What is the difference, if any, between civil society and the nonprofit sector? Why have a formal nonprofit sector in the first place? If there is to be a nonprofit sector, how should it be organized and governed? Should the nonprofit sector be a society's primary (or secondary) channel for addressing poverty and inequality? Should the set of organizations eligible for nonprofit status be greater or narrower in scope? Should the nonprofit sector welcome commercialization or oppose it? How should power be distributed among donors, managers, and beneficiaries? Which, if any, nonprofit activities deserve public subsidy?

It may seem odd to insist as we do that normative assessment of the nonprofit sector must refer to distinctively political concerns. The nonprofit sector is generally regarded as a natural topic of sociological, economic, or legal inquiry—related to politics, certainly, but not an inherently political matter. This thought rests on a misconception. The nonprofit sector is not an autonomous social phenomenon, spontaneously generated and regulated by an internal logic, as a casual reading of leading economic theories of nonprofit enterprise might suggest (Weisbrod 1975; Hansmann 1987). But neither are civil society and associational life pure conventions of politics, elements of human sociality that disappear if the government were to be swept away in revolution. Consider, for example, the long-standing existence of universities, such as Oxford or Bologna, and religious communities, such as the Catholic Church, that predate the modern state and have survived with considerable organizational stability across centuries and many different governments.

Though it may not be an invention of the state, the nonprofit sector is best understood as *an artifact of the state*, its definition and contours shaped in profound ways by political choices. The sector depends on laws defining property and contracts and codifying various corporate

forms, including trusts, foundations, and a multiplicity of nongovernmental organizations.

Different configurations of these laws give rise to vastly different specifications of the nonprofit sector—including no formally organized sector at all, but rather a realm of merely informal associational life. This susceptibility to legal stimulus is one powerful reason why the nonprofit sector differs across time and place.

This conceptual discussion sets the stage for considering the more substantive questions for which recourse to political theory is necessary to deliver answers. The design of the nonprofit sector in any society depends on overarching political ideals and accompanying institutional frameworks. The functions or activities a society allocates to the nonprofit sector reflect fundamental political choices. Political theory is also necessary for justifying and appraising alternative specifications of a society's institutional division of labor. Finally, a central concern of political theory is the exercise of power and how it can be legitimate; insofar as the nonprofit sector involves exercises of power—as it most certainly does—it is an apt topic for political analysis.

II. Political Theory and the Shape and Purpose of a Nonprofit Sector

Political theorists frequently operate at the level of abstract principle, which is sometimes thought to make such theorizing indulgently utopian at best and utterly irrelevant at worst. But abstraction is unavoidable. The meaning of (e.g.) liberty, equality, security, or diversity, or how these ideals should be ordered in relation to one another, is not self-explanatory; it requires careful normative argumentation. Similarly, people disagree profoundly about the best interpretation and defense of democracy; to defend the value of a democratic society is to take a position on abstract issues such as what constitutes a people, what makes a decision-making process fair, and whether, and if so how, democratic arrangements can produce good outcomes.

Political theory is also productively engaged with empirical phenomena and the work of social scientists. Jeremy Waldron's label for this is "*political* political theory" (Waldron 2016). We share Waldron's aim to map the distinctive *philosophical* tools of normative analysis onto questions of institutional design and performance at multiple levels. Political theory in this mode is distinctive in its attentiveness to the evaluation of institutions in political and social life and in its invitation to dialogue with social scientists and historians. Chapter 7, "Nonprofits as Boundary Markers," by Elisabeth S. Clemens, for example, explores nonprofit organizations as private entities presumed to pursue a public mission. Chapter 2, "History of Associational Life and the Nonprofit Sector in the United States," by Benjamin Soskis, recounts the evolution of nonprofit organizations in the twentieth century. Clemens and Soskis are principally interested in describing; we by contrast aim to identify and prescribe institutional arrangements that better fulfill core political ideals.

To see more plainly how this interdisciplinary engagement can be valuable, take for example the typical concern of political theory with the fair distribution of resources. The nonprofit sector in the United States has historically played a considerable role in addressing poverty and deprivation; less so in social democratic countries. Why is this? Is one model superior to the other? What level of redistribution, if any, should be the responsibility of the nonprofit sector?

A. Distributing Justice Through Nonprofit Enterprise

Though modern theories of justice disagree about what forms of equality are morally required, virtually all regard unchosen poverty as deeply objectionable. Most of the philosophical debate about justice over the past three decades has been concerned with specifying what forms of disadvantage are justifiable and, conversely, which forms of disadvantage trigger valid claims

for redress. The perspectives that have garnered the most support (arguably, social egalitarianism [Anderson 1999], luck egalitarianism [Dworkin 2000], and neorepublicanism [Pettit 1997]) are united in the idea that justice condemns certain forms of relative deprivation—on some people being worse off than others. By contrast, right-wing theories of justice tend to be more skeptical of equality's purported demands, seeing them as rivals to prized forms of liberty or valuable traditions (Nozick 1974). Even so, leading right-wing theories tend to agree that justice requires robust protections against absolute deprivation—on some people falling below a minimum threshold of opportunity or well-being (Friedman 1962; Gaus 2010; Tomasi 2012). Immiseration is incompatible with justice.

A familiar idea about policies structuring the nonprofit sector is that the state should encourage donations to poverty-relieving organizations and discourage donations for other activities (Cooter 2003; Murphy and Nagel 2002; Fleischer 2009). Proponents of this common position often remind us of the sector's historical connections to almsgiving. The word *charity*, which has now come to represent a technical legal concept, originally referred to a Christian virtue of benevolence. On some readings of the historical record, the direct ancestors of the nonprofit organization were ecclesiastical societies devoted to caring for the sick and destitute. By drawing vivid contrasts between beleaguered soup kitchens and lavish museums and opera houses, traditionalists wish to suggest that the nonprofit sector has betrayed its original moral purpose. But engaging with social science and history exposes this position to some complications and contains helpful lessons.

First, this traditionalist position may be misinformed about the historical relationship of the nonprofit sector to welfare service delivery—at least in the United States. Although nonprofit organizations do provide a significant amount of services to the less advantaged, very little of

this activity is financed by donations. And this is by design. As historians of the nonprofit sector point out, the modern nonprofit sector took shape in response to the federal antipoverty initiatives of the 1960s (Hall 1992; Dunning, forthcoming). These initiatives offered substantial federal grants and contracts for the formation of community groups that would deliver social assistance. Many of the organizations in current operation formed directly in response to these incentives, and they derive most of their funding from government grants and contracts, along with fees paid by clients for their services. In other words, most of the nonprofits that conduct social service delivery today are not traditional private charities; these nonprofits are best understood as the face of the American welfare state.

Most observers will still conclude that the poor remain cruelly underserved by current policy. But the evidence suggests that responsibility for this failure does not necessarily lie with the stinginess of American donors or the convolutions of the charitable tax deduction. We can also explain the persistence of poverty as a failure of voters to authorize sufficient state funding to service-delivery groups. Alternatively, we can explain the persistence of poverty as a failure of the state to represent the views of its citizens. (A common finding in political science is that government policies tend to reflect the preferences of the wealthy for limited social spending [Bartels 2016].)

Once we broaden our gaze beyond donations, we confront the further possibility that the persistence of poverty has less to do with policies toward the nonprofit sector and more to do with policy choices in other domains that affect the distribution of wealth and opportunity in general. Suppose that inequities in education, criminal justice, and housing markets provided the best explanation for the persistence of poverty. If this were true, it would mean, perversely, that continuing to define the moral purpose of the nonprofit sector as poverty relief would require the

maintenance of unjust institutions so that poverty would persist for nonprofits to address. If certain forms of poverty are an injustice, and redressing injustice requires that we seek in the first instance solutions at the level of the state, clinging to nonprofits as the best mechanisms for poverty relief is to seek a solution in the wrong place (Kymlicka 2001).

The traditionalist position also struggles to make sense of the fact that the nonprofit sector, as we know it today, houses hospitals and universities, sports leagues and book clubs, nature conservancies and identity groups, think tanks and public-interest groups, trade associations and insurance cooperatives. The legal definition of the nonprofit sector in the United States classifies organizations into twenty-nine categories, with different tax status and permissions across the range (26 U.S. Code § 501). Depending on how its policy proposals are constructed, a position claiming that welfare service delivery organizations are the only entities worthy of public recognition risks exiling numerous valuable activities and associations that have nothing to do with addressing the gap between rich and poor.

Additionally, some philosophical positions suggest that the responsibility for securing distributive justice is irreducibly collective in nature. Principles of distributive justice apply directly to the formal institutions of the state, and they can only be rightly operationalized through public regulation and administration (Julius 2003; Cordelli 2011; Scheffler 2015; Beerbohm 2016; cf. Murphy 1998). From this perspective, the persistence of poverty is strictly a failure of the collective responsibilities of citizens, discharged through the powers of the state, not of insufficient private generosity. Even if private benefactors could make up the shortfall in funds needed to successfully relieve poverty, we should prefer a collective solution in which we act together as citizens rather than individually as donors in redressing injustice. We explore this idea further in Part IV.

This state-centric view of distributive justice faces challenges of its own. Is the state nothing more than a justice machine, and an exclusive provider at that? Suppose that a society appears to be resolutely opposed to discharging duties of justice through taxation and transfer schemes. “Everyday-libertarian” resistance to taxation is a mainstay of American political culture (Murphy and Nagel 2002). Given popular resistance to the policies that justice seems to require, does justice itself recommend a search for second-best options? If so, perhaps applying greater incentives for voluntary responses to poverty and inequality can be justified on grounds of feasibility. To make this case, however, one would have to defend a position that qualifies approaches to justice in relation to popular opinion, a position that accepts limits on the realization of ideals from the very start of theorizing about what ideals might demand of us.

This discussion also highlights the practical limitations of normative theorizing. It would be nice if political theory could provide us with determinate guidance on all questions of institutional design, public policy, and civic obligation. But even political theories developed in close cooperation with insights from social science can rarely offer more than general guidance. There are often a wide range of possible avenues for realizing a given normative principle. Selecting options that are most feasible, expedient, or sustainable in a particular historical setting—especially in the face of opposition—must draw on specialized knowledge and individual judgment. Nonetheless, discussions of political strategy are rudderless and incoherent without the grounding provided by normative principles.

B. Nonprofits as Democracy’s Handmaidens

Taking stock of the various activities that occur within the nonprofit sector has led many social scientists to conclude that voluntary organizations have a special relationship to democracy that cannot be reduced to a function of welfare service-delivery. We note three ways

of understanding this relationship (but see Clemens, Chapter 7, “Nonprofits as Boundary Markers,” for deeper reflection):

I. Nonprofit organizations as a bulwark against the state

Civil society organizations can play an important role in maintaining individual rights, such as freedom of conscience, expression, and association. Taken as a whole, the sector can serve as a bulwark against potential invasion of these liberties by an overreaching state. At the same time, civil society depends on a strong legal system of individual civil and political rights. In the absence of the most basic rights guaranteed by the state, including rights to free speech, assembly, and privacy, nothing recognizably like a modern democracy could possibly exist. Of course, civil society in some form or another persists in nondemocratic societies, though as we discuss further shortly, its shape and function is quite different.

In the United States and other liberal-democratic countries, a robust system of general rights has coexisted uneasily with broad denials of rights to specific disadvantaged groups, and nonprofit organizations have been one of the most important mechanisms for confronting these juxtapositions. For example, nonprofit organizations in the United States have been at the forefront of the movements for women’s suffrage (National American Woman Suffrage Association, National Woman’s Party), civil rights for African Americans (National Association for the Advancement of Colored People, Southern Christian Leadership Conference), and rights for gay and lesbian Americans (Gay and Lesbian Advocates and Defenders, Human Rights Campaign). Associational life and the matrix of nonprofit organizations that partially compose civil society have many times been open to marginalized or disadvantaged groups of citizens who have been denied participation in formal political institutions.

Nonprofits have thus served as one of the primary vehicles by which these denials of rights are resisted. Even when disadvantaged groups have been excluded from specific civil society organizations in addition to the formal political process, they have been able to create their own groups within civil society. In the twentieth century, civil society groups like Amnesty International and, more recently, the Electronic Frontier Foundation have pushed for the expansion and equal application of individual rights. These groups work not just by opposing intrusive government actions but also by working alongside journalists to inform and mobilize public opinion about these issues. Think here of the Charter 77 movement in communist Czechoslovakia that called attention to the failure of the government to respect human rights despite the fact that it had been a signatory to numerous human rights declarations and documents.

We might say that one function nonprofit organizations can serve beyond service delivery is to work as a *counterpublic*, permitting and transmitting the expression of ideas that run counter to official government policy. Nonprofit organizations can do more than help protect individual rights; they are in large measure the way citizens exercise their rights. The rights to association, speech, and religious liberty are all exercised in the context of formal (and informal) groups. It is through participation in these groups that people develop their interests and passions and meet others who share them. As a venue for expressive association, a vibrant nonprofit sector is a crucial part of life in a liberal-democratic society.

Tocqueville made a similar observation in the early nineteenth century when he posited that the many voluntary associations he saw throughout his travels could serve as a “countervailing” power to the federal government (Tocqueville 2012). Much earlier, the Roman historians Polybius and Livy identified the organs of a “contestatory citizenry” as crucial to the

health of a republic, a theme that neorepublican political theorists have recently resuscitated (Pettit 1997).

2. *Forming and transmitting political preferences through civil society*

A defining characteristic of a liberal-democratic political system is that government is responsive to the preferences and interests of citizens. Civil society organizations can be involved in this defining feature in at least two distinct ways. First, civil society organizations can help citizens discover, develop, and refine their preferences and interests. Second, these preferences and interests can then be transmitted to the formal institutions of government in part through the actions of civil society organizations. As the arena in which citizens discover and refine their preferences and interests, civil society takes on the role that Jürgen Habermas calls “the public sphere” (Habermas [1962] 1991). According to this view, democracy, a system whose goal is to enact the public’s vision of the common good, can be meaningful only if there are, outside the formal institutions of the state, mechanisms by which the public can debate and form visions of the common good in the first place. We should not assume that citizen preferences exist in a vacuum or are generated as if by magic. Though democracy’s procedural outcomes are the laws and policies enacted by and through formal state institutions, democracy requires a deliberative space outside these formal institutions. In the United States, this vision can be found in both the constitutional provisions guaranteeing freedom of speech and of the press and the widespread worries that perceived declines in the quality and quantity of public discourse are threats to democracy itself.

3. *Civil society organizations as a training ground for democratic life*

Tocqueville’s *Democracy in America* is a classic statement of the role of civil society organizations in helping Americans learn to be good democratic citizens (Tocqueville 2012).

Tocqueville marveled at Americans' habit of solving local problems by forming associations. He saw this tendency as not just an efficient way of getting things done—one that he contrasted with the sclerotic, top-down approach current in much of still-monarchical Europe—but as a crucial way in which the democratic culture of the United States was preserved and reproduced over time. Through institutions like town hall meetings, Americans learned to see themselves as authors of the rules that bound them, and Tocqueville believed that Americans accepted only rules that could plausibly be understood this way.

In the twentieth century, these observations about the importance of civil society for democracy were buttressed by comparative studies of democratic systems that succeeded and failed worldwide. A vigorous civil society exists almost everywhere democracy persists over time. This longstanding view of particular kinds of civil society as necessary supports of democratic governance led to significant anxiety when it was recognized in the late twentieth and early twenty-first centuries that large national membership organizations, which had been some of the most visible and popular civil society institutions, were decreasing in size if not dying out entirely. Drawing on a path-breaking investigation of differences in social conditions between regions of Italy, Robert Putnam popularized the idea of social capital: the value of interpersonal bonds between citizens (Putnam et al. 1993; Putnam 2000). In *Bowling Alone* and other work, he argued that social capital was essential for individual well-being and the health of a democratic regime overall. He also sounded an alarm that social capital in America was declining, potentially putting the democratic system at risk.

Each of the foregoing vignettes reveals how infusing political theory with historical and sociological investigation can broaden our understanding about the roles that the sector might play, along with the different virtues that correspond to these roles. Although welfare service

delivery is one potential function of the nonprofit sector, the sector can also perform critical functions in supporting a democratic order.

III. The Nonprofit Sector and Liberal Democracy

Ideals of freedom of conscience, speech, and association, which individuals can use to explore or realize their own conceptions of the good life (Kymlicka 2002; Sievers 2010), are at the heart of liberalism as a political philosophy. This approach holds that the state should be limited in its reach, that individuals are worthy of equal respect, and that coercively imposed arrangements must be justifiable to each of their subjects (Waldron 1987). Recognition of these liberties is what opens up space for a realm of association that sits between the realms of state and family, mediating between that which is formally public (the state) and that which is thought most private (the family).

Although forms of nonprofit organizational activity exist within many other regime types, they are often at odds with prevailing norms. Strains of communitarian thought and practice deny that a political order should include a realm of association independent from the state (as discussed in Rosenblum and Post 2002). Rather, from this standpoint, human societies succeed only when they operate as organic wholes. Collective control over society ostensibly enables social harmony, economic prosperity, and virtuous living. From this perspective, a realm of free association flourishing between the household and the state threatens to dissolve communal bonds; it paves a road to faction and anomie. Thus, even as nonprofits begin to proliferate in places like China and Singapore, they appear to occupy an unstable position, caught between a desire to assert their independence and the fear of state repression or co-optation (Lin 2015; Lee and Han 2016; Su, Li, and Tao 2018; Clemens, Chapter 7, “Nonprofits as Boundary Markers”).

It is also difficult to defend the nonprofit sector without a commitment to democracy. A nonprofit sector and democratic governance are to a great extent mutually reinforcing. The emergence of nonprofit organizations under authoritarian conditions tends to create pressure on the state to respond to popular demands. In Eastern Europe, nonprofit organizations (in cooperation with other elements of civil society) are often credited with helping to dismantle the authoritarian regimes of the Soviet Union.³

To defend the idea of a nonprofit sector, therefore, is to defend the ideal of liberal democracy. And this implication is not regrettable. Liberal democracy furnishes an attractive normative ideal for the conditions of modern life. It is an ideal supported by centuries of theory and practice. Until recently, many, if not most, societies either conceived of themselves as liberal democracies or aspired to become so. Despite the rise of illiberal democracies and electoral authoritarianism, the desirability of the liberal-democratic ideal remains unvarnished. Put simply, if we ask on what basis any society should be ordered, the best—or most defensible—answer available is to embrace the ideals of liberal democracy.

What, then, does a liberal-democratic ideal mean for the nonprofit sector? How should the sector fit within this ideal? And how can the liberal-democratic ideal guide societies under social conditions that are hostile to it (a question to which we return in the final section)?

These questions immediately push us back to the question of what exactly liberal democracy means. In the abstract, liberalism describes a political philosophy in which liberty or freedom of the individual is central. Individual liberty is taken to be a default position, a starting presumption, and restrictions on liberty, especially those imposed by the state through coercive means, stand in need of justification. The foundational role of individual liberty delivers a limited government that respects human conscience and religious diversity, with further promises

of economic prosperity: in Thomas Jefferson's famous words, "life, liberty, and the pursuit of happiness." In the abstract, democracy describes a method of collective self-governance marked by moral and political equality among its members. Democracy can involve direct participation by all or, in large-scale societies, representative government involving periodic elections.

One can very easily see connections to these elements in the contemporary nonprofit sector. For instance, welfare service-delivery agencies appear to serve equality in some sense; advocacy groups and political parties assist in representation; sports leagues, arts organizations, and religious societies contribute to the sector's pluralism. However, appreciating these connections can also lead to a common fallacy. Some commentators jump to the conclusion that this particular way of structuring civil society exemplifies the requirements of liberal democracy (e.g., Frumkin 2009). However, the presence of liberal-democratic elements in civil society does not on its own argue for the justifiability of their present configuration.

We must beware the temptation to resolve a normative question by consulting public opinion or resorting to survey responses (e.g., Schlesinger, Mitchell, and Gray 2004; Prewitt et al. 2006). This might be called *Weber's fallacy*—mistaking descriptive legitimacy for normative legitimacy.⁴ That people comply with or express support for some social standard is no demonstration that the standard is normatively justified or legitimate. Landmark analyses have shown that under certain circumstances there is no way of aggregating majority preferences into a coherent summary position (Arrow 1951). Even if this were possible, a majority opinion can be profoundly mistaken. For instance, political scientists have shown convincingly that majorities have access to limited arrays of facts and fall prey to all sorts of cognitive biases when making political decisions (Achen and Bartels 2017).

In sum, therefore, making normative claims about the nonprofit sector requires a systematic argument about how the different ingredients of the liberal-democratic ideal fit together, and, in turn, how the institutional architecture of the nonprofit sector should be designed to support this ideal.

In what follows, we show how different ways of understanding and ordering the various elements of liberal-democratic principles lead to dramatically different implications for how the nonprofit sector should be organized. We then consider how a society might make legitimate decisions about the nonprofit sector despite abiding disagreement about the ideal architecture for nonprofit activity.

A. Liberty

We start by focusing on liberty. What is the proper place of liberty in the liberal-democratic ideal, and how does this vision bear on the nonprofit sector? Libertarians rank liberty at the apex of all values and understand it in a specific way: individuals have natural rights to self-ownership, which give them strong claims to private property and against state interference (Nozick 1974). In turn, this position downgrades the value of equality. It holds that while every person is equally free to exercise his or her own natural abilities, no one is entitled to equalized opportunities to participate in economic or political life. Pluralism and efficiency are treated as beneficial by-products of the exercise of natural liberty, but not things to be promoted in themselves.

Libertarians tend to be skeptical about taxation except insofar as it is necessary to protect individual liberty—such as by providing national defense and enforcing laws against theft, murder, assault, trespass, and fraud. The nonprofit sector is best understood as the realm in which individuals exercise their liberty free from coercive interference. Two important

institutional implications flow from a libertarian perspective. First, democratic majorities should not subsidize activity in the nonprofit sector, as subsidies necessarily involve taxing individuals for purposes that are not strictly necessary for the preservation of liberty (Fleischer 2015). Second, because nonprofit organizations should be treated as voluntary private associations, governed exclusively by their members, it is impermissible for the state to impose any more extensive constraints on nonprofits, such as nondiscrimination laws. If, for example, the Boy Scouts do not wish to accept gay troop leaders, the state should not force them to do so.

B. Equality

The libertarian position accounts for certain intuitions about the significance of liberty, but it struggles to account for intuitions we may have about other elements of the liberal-democratic ideal, such as equality.⁵ Egalitarians often claim that the benefits and burdens of social cooperation must be justified to each citizen, which entails that institutions ensure a fair distribution of goods and opportunities (Rawls 1971; Dworkin 2000). It seems unfair that some individuals should enjoy the good fortune of a privileged upbringing or luck in the genetic lottery for marketable talents, while others inherit disabilities or the baggage of historical oppression. Correspondingly, these positions tend to conceive the value of liberty as protecting specific interests in expression, conscience, religion, association, and so forth—in a way that allows each citizen fair access to these goods. For egalitarians, opportunities to influence public decisions must be fairly distributed—acknowledging, however, that there is no obligation that citizens be active participants in public life. Pluralism is valuable for these views only insofar as its absence often signals forms of discrimination and economic exclusion. Efficiency, too, enters as a downstream concern: once we have determined what fairness demands, we ought to take care to spend resources prudently.

Taking equality seriously, therefore, requires a much different approach to the nonprofit sector than that prescribed by libertarianism. It might recommend heavily investing in antipoverty initiatives designed to ensure a fairer distribution of resources (Cohen and Rogers 1995; Murphy 1998). It might support nonprofit organizations devoted to the preservation and expression of specific liberties. And it might seek to intervene in associations that engage in discrimination (Rosenblum 2000). If public institutions cannot discriminate against minorities or women in the workplace, for example, then neither should nonprofit organizations. All-male golf clubs are in this view defective from the standpoint of justice. Racially segregated public *and private* swimming pools are unacceptable. The Catholic Church's historical practice of denying women the opportunity to be priests is suspect. In Nancy Rosenblum's apt phrase, an egalitarian conception of liberal democracy may imply a *logic of congruence* between the norms that govern the state—for example, nondiscrimination and fair equality of opportunity—and the norms that should govern associational life and the nonprofit sector (Rosenblum 2000).

Another implication for egalitarians is a healthy skepticism of big philanthropy (Saunders-Hastings 2018; Reich 2018). Large private foundations are, more or less by definition, a plutocratic element in a democratic society, an effort to direct private assets toward public influence, thereby potentially undermining the value of political equality. We take up these concerns in more detail in the following sections.

C. Pluralism

Despite the voluminous discussion in civil society literature on pluralism, few political theorists would consider it a first-order or fundamental value. Rather, most regard pluralism as an indicator of other values. When individuals have equal basic liberties, the exercise of their liberty leads them naturally to explore and organize around a panoply of different activities,

lifestyles, religious views, and cultural practices. John Stuart Mill famously argued that a society ought to test out various conceptions of the good life through “different experiments of living” (Mill 2015). The absence of pluralism can therefore indicate a troubling restriction of basic liberties, or the objectionable domination of powerful groups. In such cases, it may be appropriate to support pluralism by opening up more opportunities for marginalized groups. This goal could be achieved, for instance, by granting nonprofit status and its associated privileges to a wide array of private associations.

Pluralism also has its limits. Some people will use their liberty to form insular associations to engage in crime, preach theocracy, or trumpet racial hatred. Here enters what some call the “dark side” of civil society. Protecting the liberty of individuals does not lead inexorably to tolerance, civility, and a healthy regard for the dignity of all. It can—and does—lead to intolerance, incivility, and an attempt to exclude or dominate others (Chambers and Kopstein 2001). In these cases, civil society associations may publicly challenge the bedrock principle of equal citizenship; they may also severely restrict the basic liberties of their own members. Although the health of a liberal democracy depends on the flourishing of critical and heterodox perspectives, such a society cannot survive without limits on toleration. Precisely how to strike this balance presents a perpetual challenge. Under what conditions should the intolerant be tolerated?

D. Prosperity

Another philosophical tradition emphasizes the economic role of nonprofits. This is the outlook of utilitarians who affirm that a society’s central aim is to maximize well-being (Goodin 1995). Utilitarians need not embrace liberal democracy; they are democrats only contingently, believing the best form of government is the one that promotes the best outcomes. Although

many believe that democratic governance tends to promote better outcomes than alternative processes (Arneson 2009), some utilitarians profess sympathy with technocracy, holding that experts (defined in one way or another) should enjoy a greater share of power than ordinary citizens (Mill 2015). Thus, these positions often lend support to the outsourcing of public functions to nonprofits, entrepreneurs, or so-called philanthrocapitalists (Bishop and Green 2008).

Economistic views of the nonprofit sector tend to envision its role as solving technical problems. Nonprofit organizations can supply “collective goods,” such as museums, festivals, churches, parks, and soup kitchens, which are in high demand but undersupplied by markets (Hardin 1982; Steinberg 2006).⁶ The state is the collective goods provider par excellence but cannot supply all collective goods well. Conventional wisdom holds that governments are less adept at satisfying the economic preferences of a diverse polity (Douglas 1983; cf. Elster 1992). Decentralizing the production of certain collective goods helps ensure that citizens’ preferences are satisfied efficiently.

One collective good worth emphasizing here is social innovation and problem solving. Nonprofit organizations possess specific virtues that enable various kinds of innovation (Reich 2018). The absence of a profit motive and shelter from electoral pressures allow philanthropic foundations to engage in long-term research and risky experimentation. These activities periodically pay off with new discoveries that benefit great numbers of people

E. Legitimacy

What lesson is there to be drawn from this overview of different strains within the ideal of liberal democracy? Laying weight on a given ingredient of the liberal-democratic ideal leads to different implications for the nonprofit sector and the policies that structure it. Libertarians

will emphasize the freedom to associate unencumbered by state oversight or limit. They will prize donor discretion, and they will avoid public subsidies for nonprofits. Egalitarians will emphasize equality alongside liberty, placing special weight on the role that nonprofits play in bringing about equality of opportunity and realizing the goals of distributive justice, especially the guarantee of a basic minimum of core goods for all citizens. They will be more likely to endorse congruence between the norms of the state and those that bind nonprofit organizations. Utilitarians will emphasize the economic function of nonprofits and look to the nonprofit sector for its potential role in efficiently delivering goods that neither the market nor the state can or will produce well. Pluralism plays a role in all of these views but not as a first principle.

We need not endorse a particular view of liberal democracy in order to make certain kinds of practical judgments. We can distinguish, for example, between the concept of justice and the concept of legitimacy. Theories of justice are often thought to provide complete answers to the question of what makes a society normatively desirable. Theories of legitimacy, meanwhile, can offer more minimal claims about what states of affairs may be permissible (Rawls 1993; Buchanan 2002; Williams 2005; cf. Simmons 1999). Legitimacy tells us when we are obliged to comply with laws and policies even if we find them wanting by the lights of our favored conception of justice. Legitimacy is an especially helpful concept given the presence of abiding and reasonable disagreement about the details of justice. A society may be able to attain greater consensus on what conditions are minimally acceptable than it can on which conditions are equitable or optimal.

Theories of legitimacy tend to emphasize two essential criteria. For a state of affairs to be legitimate, it must result from reasonably fair procedures and it must respect basic human rights. Reasonably fair procedures include a representative system of government that abides by the rule

of law. Basic human rights refer to respecting the dignity of each person. All of the perspectives we considered earlier incorporate these criteria. The conclusion, then, is that a nonprofit sector organized around any of the perspectives we surveyed would be presumptively legitimate. Though it would not necessarily command its citizens' approval, it would at least demand their respect.

IV. Emergent Controversies

Aside from the longstanding debates about what roles (if any) the nonprofit sector should serve and how it should be organized and regulated, a number of emergent trends call out for sustained attention. We examine three: (1) the relationship between the nonprofit sector and persistent economic inequality, (2) the blurring of boundaries between traditional sectoral divisions, and (3) the place of nonprofits in global politics.

A. Inequality

Widening inequality has combined with several other factors to make the nonprofit sector increasingly controlled by, and responsive to, extremely wealthy individuals. One of these factors is the regressive nature of the system of tax deductions for charitable donations, which creates stronger incentives for donations from higher-income earners (Murphy and Nagel 2002). Another is the legal structure of grant-making foundations, which affords wealthy individuals concentrated and entrenched power over the nonprofit sector (Saunders-Hastings 2018; Reich 2018). Although foundations provide a relatively small proportion of overall funding for the nonprofit sector, their ability to offer large grants on a perpetual basis creates strong incentives for nonprofit organizations to cater their activities to foundation priorities. Whatever function we believe the nonprofit sector ought to serve—be it providing minority collective goods, administering or experimenting with social policy, raising awareness about social issues, and/or

contesting the state—it is increasingly doing so on behalf of the wealthiest citizens. These trends prompt us to consider how control over the nonprofit sector ought to be distributed, and the extent to which power should be translatable across different domains of society.

From the standpoint of some of the perspectives we have presented, these trends are either not worrisome or only contingently worrisome. Strands of libertarian thought, for instance, will point out that rising inequality is mainly a by-product of voluntary transactions (Nozick 1974). Even if we find disparities in income and wealth unsettling, introducing new rules or increased taxes to contain inequality will involve objectionable interference with liberty. Strands of utilitarian thought, meanwhile, will want to know the effects of these trends. If increasing control over the nonprofit sector by the wealthy leads to better social outcomes, perhaps this is something citizens should ultimately welcome (Singer 2015). This perspective is implicit in the philanthrocapitalist movement, which heralds the translation of business success into solving social problems and characterizes the approach of many of today's largest foundations (Bishop and Green 2008).

From other standpoints, however, these developments raise the specter of *plutocracy* and thereby reveal a marked tension with democratic principles. The threat of plutocracy is easiest to appreciate when we consider how power within civil society can translate into power over the state. Democracy, according to a familiar view, requires that citizens enjoy equal opportunities for political influence over their common affairs. Some, of course, may think that the demands of democratic equality are satisfied when citizens enjoy the same formal opportunities for influence, such as equally weighted votes and the right to run for elected office. But are equal formal liberties adequate protections against a background of vast inequalities? If electoral campaigns are privately financed, the political agenda becomes overwhelmingly sensitive to the

preferences of the wealthy (Gilens 2012; Bonica et al. 2013). Hence the concern among many democratic theorists with campaign finance reform: coercively binding rules cannot be legitimate unless everyone subject to them enjoys substantively fair opportunities to participate in the rule-making process (Beitz 1989; J. Cohen 2009; Kolodny 2014a, 2014b).

Recent developments have revealed that influence over campaigns is just one way in which the wealthy can control political outcomes. Somewhat notoriously, foundations involved in the reform of public education have made grants to cash-strapped government bodies on condition that officials abide by the donors' policy preferences (Reckhow 2013). Less overtly, by funding think tanks, advocacy groups, and leadership-training institutes, wealthy individuals are able to exercise disproportionate influence over the background political culture. Warnings about a "mask of pluralism," "dark money," and an "unheavenly chorus" (all titles of books dramatizing these phenomena) point to the ways in which wealth buys dominance over political debate, apart from its more direct influence over elections (Roelofs 2003; Schlozman, Verba, and Brady 2012; Mayer 2016). These concerns raise the question of whether equality requires limits on the ability to convert wealth into political influence, and how these demands might be met. The countervailing anxiety that regulations on elite influence might objectionably trample on freedom of speech hangs over this controversy.

Worries about plutocracy go beyond the political process. Increasing inequality means that wealthier citizens are also able to exercise disproportionate control over processes and outcomes within civil society (Saunders-Hastings 2018; Reich 2018). This might mean, for instance, that a greater proportion of donations flow toward collective goods preferred by the wealthy, such as high culture and higher education. Such elite dominance of collective goods provision may be objectionable on at least two grounds. First, if we believe that one of the

nonprofit sector's main purposes is to provide collective goods preferred by democratic minorities, it may be troubling if the nonprofit sector tends to benefit only the wealthiest people. Second, many of the goods that nonprofits provide help constitute a society's cultural language. By providing institutions for historical preservation, academic inquiry, artistic expression, and social advocacy, the nonprofit sector is instrumental in determining a society's identity and values. Thus, when wealthy individuals enjoy disproportionate influence over the nonprofit sector, they are better able to fashion a society's identity and values in line with their own preferences. (And research shows that the preferences of the wealthy systematically differ from those of the rest of us [Page, Bartels, and Seawright 2013].)

Widening inequality also challenges another democratic function of civil society: its role in fostering civic virtue. The neo-Tocquevillian mantra that voluntary associations are "schools of democracy" seems to presuppose associations with a participatory structure (Putnam 2000). By coming together to discuss challenges and solve problems, citizens are expected to forge social bonds, formulate political identities, and develop capacities for effective political engagement. These benefits do not accrue if citizens do not or cannot actively participate. As Theda Skocpol has shown, the mass membership organizations that dominated the nonprofit sector through much of the twentieth century have been gradually replaced by donor-controlled entities staffed by professional managers (Skocpol 2003). Nowadays, to be a "member" of an organization often means nothing more than having signed up to receive occasional activity updates, while actual organizational decisions reflect negotiations between wealthy donors and hired professionals. The decline in civic participation has several causes, but rising inequality is an important one. Organizations have become more responsive to elites in large part because concentrated wealth has shifted fund-raising incentives away from seeking out small donors.

Some scholars have suggested that the solution to this problem lies with new forms of civic engagement made possible by emerging technology (Gimmler 2001). Whether and how the Internet can adequately foster the democratic virtues once located in the nonprofit sector remains to be seen.

Confronting runaway economic inequality is an urgent priority. Recently, some have also suggested ways in which changes to the regulation of the nonprofit sector could work to prevent background inequalities from overwhelming civil society. Some attack the charitable deduction policy regime, arguing for alternative means of subsidizing the nonprofit sector that better serve less wealthy taxpayers (Reich 2011; Pevnick 2013). Others challenge the legitimacy of philanthropic foundations or seek ways to limit their influence (Saunders-Hastings 2018; Reich 2018).

In the absence of regulatory change, nonprofits and their donors also can adopt certain measures voluntarily. Under conditions of enduring injustice and the failure of the state to redress it, perhaps nonprofits and their donors are wrong to focus on providing nonessential goods. Faced with meeting the urgent needs of our fellow citizens who are experiencing homelessness, poverty, systemic racism, or addiction, for example, providing support to the opera or one's alma mater might seem an unseemly indulgence. Several theorists have argued that agents within civil society act wrongly unless they address urgent needs and do so in a cost-effective way (Pogge 2011; Singer 2015; Cordelli 2016). Aside from curbing the discretion that they enjoy over their chosen ends, civil society actors can also take measures to redistribute power in decision-making processes. Instructive examples are the movement among some philanthropists to reject the perpetual life that the foundation form affords them (Soskis 2017),

and the movement among nonprofits to include representatives of their beneficiaries on governance boards (McGinnis Johnson 2016).

B. Hybridity and Shifting Boundaries

The idea of a nonprofit sector seems to presuppose that the political economy should be sharply divided into independent domains, each organized by a different mechanism of transaction: command, in the case of the state; exchange, in the case of the market; gift (or perhaps deliberation), in the case of the nonprofit sector (Young 2000). Each sector, then, would appear to inhabit a distinctive role, which comes along with distinctive regulative ideals. But recent historical developments have initiated considerable blurring of the lines between sectors, with nonprofit organizations acting on behalf of the state and enterprises experimenting with various ways of blending commercial activity with nonprofit goals. Cases of blurred boundaries raise at least three important questions around (1) which set of governing norms ought to apply in hybrid scenarios, (2) whether societies have good reasons to maintain stronger fences between sectors, and (3) whether a three-sector division of institutional labor is ultimately desirable.

1. Do Hybrid Forms Need Hybrid Norms?

Nonprofits are increasingly taking on governmental or quasi-governmental functions. Consider the growing practice of contracting out government functions to nonprofit agencies, most commonly in the areas of health and human services (Cordelli 2011). Even theorists who draw the line less starkly than libertarians tend to think that different standards of regulation and appraisal apply to governments and private entities. Hybridity challenges this position. Should nonprofit contractors abide by public norms or private norms? If we think that civil society norms should prevail in these cases, we may conclude that these organizations should be at liberty to discriminate between different potential recipients of these services, and that those who

believe themselves ill-served or passed over are not entitled to recourse. But if we think that public norms should prevail, we may conclude the opposite: that nonprofit service deliverers must abide by all public norms—including antidiscrimination norms and those that allow citizens to dispute adverse decisions.

2. *The Case for Stronger Fences*

Sometimes nonprofits perform or take over presumptively public functions without explicit authorization from the state. Examples include privately funded food banks, homeless shelters, and schools. Private provision offers certain advantages. Government coercion is *prima facie* objectionable, so initiatives that can accomplish public aims by harnessing freely given resources may seem preferable to those that depend on taxation. Also, private initiatives may be able to innovate and adapt to needs more flexibly than tightly controlled government programs. There are a number of grounds for caution, however.

As we discussed previously, citizens have a moral right to a decent social minimum, and something similar might be said about a basic education. If we think that citizens are owed certain goods as a matter of justice, it may be more important that those goods are provided reliably, on a guaranteed basis, than that they are provided voluntarily or innovatively. Recent advances in political theory have argued that political freedom requires protection against dependence on the goodwill of private benefactors (Pettit 1997; Ripstein 2010). Private provision of essential resources may invite relationships of domination and subordination that are unacceptable among free and equal citizens (Oberman 2011; cf. Taylor 2018).

As we foreshadowed in Part II, another worry is that voluntary efforts to supply essential collective goods deprive the public of the ability to discharge what is in fact a collective responsibility. In this view, realizing conditions of justice is a responsibility that applies to all of

us. Welcoming the private provision of essential collective goods allows noncontributors to free-ride on the gratuitous sacrifices of the generous (Beerbohm 2016). From another angle, the voluntary performance of public functions may raise worries about democratic accountability (Lechterman 2018). Arguably, citizens have an interest in opportunities to influence critical policy decisions, whether or not those decisions emanate from traditional state authorities. Private provision may be objectionable insofar as it bypasses democratic deliberation over matters of public concern.

3. *Is the Nonprofit Sector Obsolete?*

Concerns about privatization seem to favor erecting stronger boundaries between sectors of economic interaction. However, another set of developments forces us to reconsider where these boundaries ought to lie. Recent years have seen for-profit entities incorporating nonprofit objectives, nonprofit entities adopting commercial elements, and fully hybrid “social enterprises” blending both commercial and nonprofit elements in roughly equal parts (Mair, Chapter 14, “Social Entrepreneurship”). Proponents of this hybridity claim that it is a mistake to try to split civil society into acquisitive and altruistic pursuits. Separating civil society into discrete profit-seeking and nonprofit-seeking realms encourages each’s distinctive vice: greed in the market and inefficiency in the nonprofit sector. Justice, in this analysis, requires a tighter integration of profit-seeking and beneficence to moderate these risks. Such a view might then recommend a two-sector model comprising a public sector as traditionally understood and a private sector organized around social enterprise. This model naturally comes with several trade-offs that require careful evaluation.

Preliminary evidence suggests that many hybrid organizations face competing pressures from incompatible incentive structures and can be difficult to sustain (Smith, Gonin, and

Besharov 2013). The pressure to maintain a bottom line may compromise a social mission, and vice versa. Even if experiments in hybridity can overcome these challenges, more serious concerns remain. Political theorists and philosophers have long argued that market principles are not appropriate in every domain of social life; they undermine the conditions that make certain practices and relationships valuable (Anderson 1993; Satz 2012). Though these studies tend to focus on pure profit-seeking rather than hybrid organizational forms, some of these lessons—such as the transformative influence of the profit motive on value-laden domains like child-rearing and criminal punishment—are instructive. Additionally, as businesses increasingly engage in the provision of collective goods, they encounter some of the problems that we discussed earlier in relation to private provision of public functions. For instance, the fact that social media companies hold oligopolistic control over spheres of democratic deliberation prompts us to consider whether they should be subject to public norms of accessibility and transparency (Rahman 2018; Wu 2018).

C. Globalism

An increasingly interconnected world has also generated a globalized civil society, one aspect of which features nationally based nonprofits engaged in lobbying international authorities, publicizing global problems, establishing international norms, and delivering goods and services around the world.⁷ These phenomena raise challenging questions about the proper role of private actors in global politics.

Certainly, many of the controversies that pertain to the liberal-democratic ideals that inform the regulation of the nonprofit sector in a domestic context also apply in some way to the global context. Consider, for instance, the question of whether and how governmental bodies should share authority with private organizations. In areas of humanitarian and development

assistance, many governmental bodies have moved from performing these tasks directly to channeling resources through NGO intermediaries. In what senses is this a desirable shift, and in which areas should it be qualified or resisted? Separately, NGOs are increasingly stepping in to fill gaps in governance, such as in the setting of international environmental and industrial standards (think here of the Forest Stewardship Council and the Institute of Electrical and Electronics Engineers (IEEE), which establishes protocols for communications technology and other industries). Under what conditions can private associations be legitimate providers of global public goods?

1. Transnational Advocacy and Its Limits

Even as global civil society presents some familiar challenges, many difficulties encountered are notably different in magnitude or kind. There is, of course, no global government that can charter, protect, and regulate NGOs or the background conditions in which they operate. Disparities in wealth and power between societies are stark and pervasive. And disagreement about fundamental political principles is deep and abiding.

The absence of global government also means that there are no formal institutions of representation to mediate between expressive NGOs and governing bodies. Instead, NGOs press their cases directly to governing bodies, which can afford them formal consultative status and/or administrative authority. Many of these groups claim to be representing perspectives and communities that would otherwise be missing from interstate negotiations. That NGOs make representative claims triggers complaints about their authorization. No one elected Oxfam or Amnesty International, and while they may claim to speak on behalf of common interests or dispossessed communities, their chain of accountability ultimately runs back to their donors (Grant and Keohane 2005; Rubenstein 2015).

The complaint that NGOs lack democratic authorization generates at least two interesting responses. John Dryzek suggests that although international NGOs may not be ideally representative agents from the standpoint of democratic theory, they serve as a considerable counterweight to the more seriously antidemocratic tendencies of global politics (Dryzek 2012:107): “Compared to other realities in a global order dominated by large corporations, hegemonic states, neoliberal market thinking, secretive and unresponsive international organizations, low-visibility financial networks, and military might, global civil society does rather well.”

Another response has been to challenge the conventional understanding of political representation. The traditional view of legitimate representation requires that representatives be authorized and directly accountable to individuals, generally organized into territorially based voting constituencies (Pitkin 1967). Recent discussions in democratic theory have suggested that alternative ways of assessing claims to representation are both possible and necessary. Some scholars propose that without being formally elected, self-appointed representatives may nonetheless exhibit qualities associated with good representation, such as acting on behalf of the interests of the represented and/or responding to their preferences (Saward 2010; Landemore, n.d.). Self-appointed representatives may sometimes represent better in these respects than elected representatives do. Others propose that often what matters in political debate is not that everyone’s voice is heard, but that all of the relevant positions are put on the table (Dryzek and Niemeyer 2008). Thus, insofar as NGOs help to supplement or challenge dominant discourses, they are legitimate contributors to global political debate. Although these broadened understandings of representation apply most directly to global politics, which lack democratic elections, some argue that nonelectoral representation also has a role to play within states, where

the electoral system has become an outmoded mechanism for connecting individuals to decision making (Urbinati and Warren 2008).

2. *Transnational Aid and Its Limits*

Disparities in wealth and power across societies generate numerous conflicts. Chief among them is the extent to which rich societies are obliged to provide assistance to poor ones, a question that has received considerable attention from political theorists and philosophers (Singer 1972; Beitz 1979; Rawls 2001; Nagel 2005; Miller 2007; Pogge 2008). Less studied are the duties of and constraints on NGOs that are often called upon to be intermediaries for this assistance (Rubenstein 2015 is one important exception). The traditional practice of state-to-state aid is now supplemented by state-to-NGO and individual-to-NGO models. Bypassing the state may be especially appealing when governments are crippled or kleptocratic. Investing in a variety of small-scale development projects may also help discover innovative solutions to social problems. But these potential benefits must be weighed against the reality that a patchwork of private agencies, even when operating under the best conditions, cannot replicate certain virtues of formal government. They cannot provide universal and equitable access to public goods, and they cannot afford local communities bona fide democratic control over policy decisions. Even if development NGOs are not meant to replace states but rather to assist societies with the transition to successful self-government, the current evidence indicates that NGOs are most beneficial where governments are already functioning well, while in more fragile contexts NGO activity discourages state development (Cammett and MacLean 2014; Clough 2017; cf. Brass 2016).

The apparent failure of states to supply enough aid, or public disagreement over the direction of aid policy, also leads to a profusion of NGOs supported directly by individual

contributions. Although in some cases these initiatives may fill critical gaps or discover innovative alternatives, in others they represent amateurish or parochial efforts that damage development and reinforce power asymmetries (Schnable 2015). Think here of the ill-fated PlayPump water pump (MacAskill 2015), programs that donate used Western clothing to sub-Saharan Africa (de Freytas-Tamura 2017), or the Kony 2012 campaign (de Waal 2015).

3. *Transnational Disagreement*

Earlier, we noted that principled disagreement about the norms that apply to the nonprofit sector in a domestic setting make it difficult to issue conclusive assertions about how the sector should be justified and appraised. In a global setting, the range and depth of disagreement becomes even more pronounced. Societies with no tradition of an independent civil society, or traditions that look very different from liberal-democratic experiences, nonetheless endeavor to participate in global civic life. To what extent should a globalized nonprofit sector accommodate this diversity?

Even within the liberal-democratic tradition, theorists disagree profoundly on whether and how principles of political morality apply outside the state. Many theorists pair demanding conceptions of justice and democracy within the state with minimalist aspirations outside it (Blake 2001; Nagel 2005; Sangiovanni 2007). NGOs, in this reading, should be predominantly accountable to their donors and beneficiaries, tasked with carrying out their missions—be they religious proselytism, coordinating cottage industries of artisans, or lobbying for the fossil fuel industry. So-called cosmopolitans, meanwhile, endorse demanding ideals of global justice and democracy that may impinge on transnational nonprofit activity (Beitz 1979; Caney 2006; Abizadeh 2008). Cosmopolitans may task NGOs with duties toward democratizing global

politics or redistributing global economic gains, either by engaging in these tasks directly or by making their operations consistent with these aims.

V. Conclusion

In this chapter, we argued for the essential role of political theory in orienting the study and institutional design of civil society, associational life, and the nonprofit sector. We illustrated how philosophical argument and social scientific inquiry can be partners in the design and evaluation of institutional arrangements that structure the nonprofit sector. Registering the intellectual appeal and predominance of liberal-democratic ideals as a framework for social organization, we showed how different ways of understanding these ideals lead to different principles for justifying and appraising the nonprofit sector. We also drew attention to emerging social phenomena that raise new or underappreciated challenges for theory and practice alike.

Our emphasis on liberal democracy may seem peculiar in light of the resurgence of illiberal and nondemocratic regime types in the early decades of the twenty-first century. Electoral authoritarianism has arisen in areas where it was once unimaginable. One-party states that have overseen economic prosperity have proven surprisingly resilient to democratic pressures. The prevalence or apparent success of these models may stoke doubts about the putative superiority of liberal-democratic ideals. And even if we reaffirm those ideals, inhospitable conditions may make applying them seem increasingly difficult.

Of what help are liberal-democratic principles in a world that appears to reject them? The answer is not nearly as mysterious as it may seem. Political ideals provide standards against which to assess current circumstances and identify directions for reform. We have shown various ways in which nonprofits can promote, respect, or embody principles of justice and legitimacy in the face of unfavorable conditions. Nonprofits can lead the charge against economic inequality

through advocacy (cf. Walker and Febres-Cordero, Chapter 21, “The Changing Face of Nonprofit Advocacy”), through direct redistribution, and through inclusive management. Nonprofits can monitor and protest abuses of human rights, contest and organize opposition to authoritarian leaders, and model democratic norms in their internal conduct. But these are only a few possibilities. We are optimistic about the creative possibilities of collective action when guided by sound principles.

¹ Many theorists believe, however, that the existence of a state is not necessary for motivating research questions in political theory, and that orienting our thinking around the state can inhibit scrutiny of oppressive social relationships (Phillips 1992; G. A. Cohen 1997).

² Though common today, this definition breaks with a long tradition in the history of political thought (Taylor 1990). For early modern writers, “civil society” was used to distinguish a law-governed condition from a lawless state of nature. Thus, for many years, “civil society” included the state as well as nonstate organizations.

³ This trend has important exceptions. Nonprofits have sometimes served to fragment societies and provide social infrastructure for authoritarian rule, as in Weimar Germany (Berman 1997).

⁴ Our claim is not that Max Weber himself was guilty of this mistake. Rather, the fallacy inheres in reading Weber’s powerful claims about descriptive legitimacy as normative claims (Weber [1922] 1978).

⁵ Indeed, some commentators argue that libertarianism is not ultimately compatible with liberal democracy and instead works to support an anarchistic ideal (Freeman 2001).

⁶ “Collective goods” include the traditional category of “public goods,” along with the often neglected but critically important categories of “club goods” and “merit goods” (Steinberg 2006).

⁷ Conventionally, nonprofits that operate outside the state are called nongovernmental organizations (NGOs). Some scholars reserve the term *NGO* for well-established organizations that engage in advocacy and/or humanitarian assistance, such as Human Rights Watch or Save the Children. This terminological choice leaves us without language to discuss the surfeit of nonprofit groups that perform other functions, such as the Fédération Internationale de Football Association (FIFA), People to People International, and the International Society for Third-Sector Research.