

**THE TRAINING GROUNDS
OF DEMOCRACY? SOCIAL TRENDS
AND NONPROFIT GOVERNANCE**

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Abstract

Some Australian nonprofit organisations report that it is difficult to recruit and engage directors (Woodward and Marshall 2004). Indeed, evidence from overseas is that these difficulties are increasing (Charity Commission for England and Wales 2005c; Putnam 2000).

It has been argued that nonprofit boards of directors are a training ground for democracy, enabling citizens to learn and practice the important skills of advocacy, negotiation, compromise, strategising, and collective decision-making (Dalton and Lyons 2005; Reiser 2003; Skocpol 2003; Verba, Schlozman and Brady 1995). If so, then difficulties in recruiting and engaging directors have important implications for civil society.

This paper explores the relevant data regarding director recruitment and engagement. It argues that there are two trends which might result in organisations experiencing such difficulties. First, there is a trend of *increasing expectations of nonprofit boards*. Legal and social expectations of boards and individual directors have substantially increased, which may make potential directors wary of taking on the responsibility of board service.

Second, it is possible that *social trends* are reducing the supply of potential directors. For the US, Putnam (2000) has argued that declining civic engagement is due to: pressures of time and money, and in particular the special pressures of two-career families; urban sprawl and increased time spent commuting; increased time spent watching television and related entertainment; and the gradual passing of the World War II-generation, a generation which proved to be exceptionally civically-minded. This paper will explore the available Australian data – limited though it is - relevant to Putnam's argument.

We argue that the combination of these trends may result in adverse implications for individual organisations and for civil society as a whole. The paper explores some possible approaches to resolving these difficulties.

Keywords: nonprofit organisations; boards of directors; governance; legal responsibilities; demographic trends.

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Introduction

The Australian nonprofit sector is important for the services it delivers, its economic impact, and its contribution to civil society. While the exact number of nonprofit organisations is unknown, the sector consists of somewhere between 500,000 and 700,000 organisations. In addition to hundreds of thousands of unincorporated organisations, there are some 320,000 nonprofit corporations, including 125,000 incorporated associations, 9800 companies limited by guarantee, 3000 cooperatives, 180,000 bodies corporate, and around 8000 other bodies (Lyons 2001; Woodward and Marshall 2004) (Anonymous 2005; Lyons and Hocking 2000, 13 -15).

The sector covers major areas of Australian life, including community services, health, education, religion, arts and culture, sport and recreation, advocacy and economic cooperation (e.g. cooperatives) as well as a variety of organisations from small self-help groups to building societies (Lyons 2001). Around 65% of adult Australians belong to at least one organisation. One quarter of Australians are active members of an organisation and 7% are active in two or more organisations (Lyons and Hocking 2000, 107). The proportion of members who are active is highest at 10.1% in sporting nonprofits and at 6.2% in religious organisations, and for other categories of organisations varies between 0.8% and 2.7% (Lyons and Hocking 2000, 108).

Economically, the sector contributed \$21 billion or 3.3% of Australia's GDP in 1999-2000; it employed 6.8% of all workers in the country; and a total of 558 million hours was contributed by volunteers, estimated to be worth \$8.9 billion p.a. (Australian Bureau of Statistics 2002). Government funding of the sector in 1999-2000 was \$10.1 billion, 30.1% of the sector's total revenue (Australian Bureau of Statistics 2002).

Some Australian nonprofit organisations report that it is difficult to recruit and engage directors (Woodward and Marshall 2004, 121-124). Indeed, from overseas data, it appears that these difficulties may also be present in other western democracies, and also may be increasing over time (Charity Commission for England and Wales 2005c; Putnam 2000). Such difficulties have consequences for the organisations concerned and potentially have implications for civil society.

For the organisations concerned, the additional effort required to recruit directors can divert the scarce time of organisational leaders; the failure of boards to achieve quorums can result in delays in important organisational decisions and consequent action; and the lack of engagement of directors can demotivate management and staff.

There are also important implications for civil society if such trends exist. Since Tocqueville's work of 1840, it has been recognised that nonprofit associations play an important role in the promotion and enactment of democracy (Tocqueville 1945, 114-118). First, nonprofits 'educate their members for democracy' (Dalton and Lyons 2005, vii; see also: Reiser 2003; Skocpol 2003, 98-124; Verba, Schlozman and Brady 1995). Those involved in the internal governance of organisations learn the important skills of meeting process, advocacy, negotiation, compromise, strategising, and collective decision-making, which can be of benefit not only to the organisation but to the wider community. Second, nonprofits impact on their external environment by representing the interests of the organisation and its constituents in political and policy processes, enabling greater participation in the political life of the wider community (Verba, Schlozman and Brady 1995). Directors often play an active role in such representation. Third, nonprofits help build social capital (Putnam 1993). Nonprofits foster norms of reciprocity, facilitate communication and information flows, and help build trust. As boards are at the hub of their organisations, it can be hypothesised that directors play a critical role in these processes.¹

Our aim in this paper is to explore the relevant evidence about the difficulty of Australian nonprofit organisations in recruiting and engaging directors, and the possible causes and consequences of such a difficulty. The paper serves as a means of identifying gaps in the empirical literature and also provides a guide for future research. The paper raises the issues of concern, looks at the available evidence, examines possible solutions, and argues that relevant Australian research is needed.

In the next section, the paper provides a brief description of previous work describing Australia's nonprofit governing boards. The following section looks at the empirical evidence in relation to director recruitment and engagement. We then examine the possible causes of difficulties experienced by some organisations. We look at possible approaches for working towards resolution of these difficulties, before presenting our conclusions.

Australia's nonprofit governing boards

With the exception of some religious nonprofits formally governed by Bishops or Orders, nonprofits are managed by or under a small group of directors. Collectively, directors may be known as boards of directors, boards of trustees, boards of governance, councils, or management committees.

The research on Australia's nonprofit boards is fragmented and incomplete. The Australian Bureau of Statistics survey on voluntary work in 2000 provides an overall impression. Surveying 12900 subjects (with a response rate of 88%), the survey revealed that there were 1,994,800 'activities' by volunteers in the area of 'management/committee work/coordination', or 45.4% of total voluntary activities (Australian Bureau of Statistics 2000). Men who volunteered were proportionately more likely to be involved in such activities than women who volunteered (50.3% of activities by males, and 40.9% of activities by females). Of those volunteering, managers and administrators who volunteered had the highest ratio of involvement in management, committees and coordination at 63.8%, compared to 24.9% of elementary clerical, sales and service workers.

Other studies in the area are more targeted in that they examine one category of nonprofit organisation and/or set their study in one Australian jurisdiction. Woodward and Marshall (2004) have conducted an Australia wide survey of companies limited by guarantee. Other studies include a national study based on a purposeful selection of various types of non-profits (Steane 2001; Steane and Christie 2000); and a relatively comprehensive survey of incorporated associations in NSW (Passey 2004). In Queensland, there is one study of registered charities (McDonald 1993) and one of boards of community sector agencies in a specific region (Wiseman 2002). The findings of this research is summarised in Table 1.

Table 1: Studies of Australian nonprofit directors

Attributes	Woodward and Marshall (2004)	Steane and Christie (2000) Steane (2001)	Passey (2004)	McDonald (1993)	Wiseman (2002)
Focus	National	National	NSW	Queensland	Queensland
Target organisations	9817 nonprofit companies limited by guarantee	350 organisations on a list compiled from eclectic sources	4130 organisations in a stratified sample of 33000 incorporated associations	1218 nonprofit charitable organisations registered under the <i>Collections Act 1966</i> (Qld)	22 community-managed welfare organisations in two localities in the Brisbane-Gold Coast corridor
Respondents	1736 CEOs or equivalent; response rate of 17.7% (the adjusted response rate having regard to estimated non-receipt was 39%)	118 organisation chairs; response rate of 34%	1226 organisations; response rate of 29.7%	242 organisations; response rate of 19.8%	94 committee members from the 22 organisations (response rate of 53%)
Member serving or public serving?	56% member serving 44% public serving	82% said 'welfare of recipients' was major reason for organisation's existence	45% member serving	All public serving	All public serving
Organisational income p.a.	<\$100,000 = 29% \$100,000-500,000 = 23% \$500,000 - \$1m = 11% >\$1m = 36%	<\$1m = 45% >\$1m = 55%	<\$100,000 = 80.7% \$100,000-500,000 = 14.3% \$500,000 - \$1m = 2.6% >\$1m = 1.8%	Not reported	<\$200,000 = 65%
Number of directors	Mean = 8.5	Mean = 12.5	Mean = 10 Median = 8	Not reported	Not reported
All non-executive directors	75%	55%	Not reported	Not reported	Not reported
Gender of directors	Male = 74% Female = 26%	Male = 60% Female = 40%	Not reported	Male = 31% Female = 69%	Male = 30% Female = 70%
Board member age	Modal age range 40-59	Average age = 47 years	Not reported	Under 35 = 10% 35 – 64 years = 65%	< 35 = 21% 36 – 65 years = 64%

Attributes	Woodward and Marshall (2004)	Steane and Christie (2000) Steane (2001)	Passey (2004)	McDonald (1993)	Wiseman (2002)
				Over 65 years = 25%	> 66 years = 13%
Occupation/experience	79% rated board's experience and skills in 'management/governance' as either adequate or very adequate; 74% for accounting/finance	86% of boards had directors with financial expertise; 79% expertise in management	Not reported	Highly related to management (3 or 4 on scale) = 30% Low relationship to management (1 or 2 on scale) = 70%	Professional/management = 48% Other than professional/management = 53%
Legal	79% of directors had received advice on their legal obligations; 79% reported that directors were aware of legal responsibilities under the Corporations Act; 54% rated board's legal experience and skills as either adequate or very adequate	52% expertise in the law	Not reported	Not reported	25% reported satisfaction with their legal responsibilities
Educational	Not reported	Not reported	Not reported	Technical/University = 51%	Technical/University = 58%
Average contribution of hours per month	Not reported	Not reported	Not reported	'Organisational business' Less than one day = 31% 1 - 2 days = 38% 3 or more days = 31%	'Committee business' <10 hours = 61% 11-20 hours = 21% >21 hours = 18%
Non-executive directors paid?	8%	Not reported	Not reported	Not reported	Not reported

In summary, while the research to date offers some insight into the sector's governance, it is fragmented and generalisation is thus difficult. In the next section, we explore the data in relation to recruitment and engagement of directors.

Director recruitment and engagement

We begin by examining the available Australian data, and then examine data from overseas. Woodward and Marshalls' (2004, 121-124) research on companies limited by guarantee reported that 29% of organisations had experienced difficulty recruiting directors, but this varied by sector, with pronounced difficulty in sports and recreation and 'other human services' (38%) and community service organisations (36%). Sixteen percent of organisations reported difficulty retaining directors. Almost two-thirds (64%) of organisations reported that elections are rarely contested, although 7% reported they were always contested.

Passey (2004, 29) comes to the issue through an examination of the related – albeit indirectly related – issue of member engagement. He reports that one in five members of NSW incorporated associations had undertaken voluntary activity for the association in the previous month. Fifty five percent of associations felt most members were active, 33% felt some were, and 12% reported that very few members were active. When asked to compare active engagement with five years ago, 67% reported it was about the same, 17% reported that members were more active, and presumably the remaining 16% reported less engagement.²

Also relevant is data on the increase in nonprofit organisations, as this indicates the demand for directors. For example, from 1991/92 to December 2001, the number of incorporated associations increased 61.2% from 77,552 to 125,034 (Anonymous 2005). As to whether this represents more associations, or simply more incorporation among associations, we cannot be sure.

Looking now at overseas data, Putnam (2000) reports that the proportion of the US population actively involved in associations as an officer or committee member reduced by more than 50 percent between 1973 and 1994. Industry publications in the United States also suggest there is increasing difficulty recruiting directors (Blecher 2002; Fram 1991; McLendon 2001).

In Britain, the Charity Commission reported 50% of charities in 2004 experienced difficulties 'sometimes' or 'always' in recruiting charity trustees (n=1487, with a response rate of 50%)(Charity Commission for England and Wales 2005c). This is up from 43% on a similar survey conducted in 2001 (Charity Commission for England and Wales 2005a). Eighty two per cent of charities reported that it was 'difficult to find people willing to make the time commitment, up from 35% three years earlier'; 53% reported that it was 'difficult to find people who want the responsibility or are willing to take on the legal obligations'³, and 41% reported it was 'difficult to find people with the right skills/experience', up 12% from 2001).

To summarise, both US and British trend data suggest that nonprofits in those countries are finding it increasingly difficult to attract and retain directors. Although the existing Australian studies are limited in scope, it also appears that some Australian nonprofit organisations are experiencing difficulty in recruiting directors. However, the studies are snapshot surveys and do not permit comparison across time.

Increasing expectations of nonprofit boards and directors

One possible explanation for the difficulty in recruiting directors is the increasing social and legal expectations on boards. Volunteering one's time as a director is no longer seen as sufficient: there are now clear expectations that boards will perform. This paper offers four related explanations for the increasing difficulty in recruiting directors. First, there are increasing legal expectations of nonprofit directors. Second, there is the increased publicity given to governance issues, in part driven by legal cases. Third, there are increased normative expectations of directors. Fourth, there are increasing social expectations of nonprofits and their directors.

The leading case on the responsibility of directors is that of *Commonwealth Bank v National Safety Council of Victoria* (1991) 5 ACSR 115⁴, which concerns a nonprofit company limited by guarantee. In that case, the Supreme Court of Victoria held the board liable for allowing the organisation to trade while it was insolvent, even though the Court accepted the board had been actively misled about the organisation's financial position by CEO John Friedrich. The Court stated there was nothing in the legislation to suggest that standards expected of part-time volunteers serving on the board of nonprofit companies was less than for directors of for-profits. The Court also observed that all directors must be capable of understanding the financial statements and reaching a reasonably informed opinion about organisational finances. For permitting the organisation to trade while insolvent, the voluntary and unpaid chair of the Council was found personally liable for the sum of \$97 million. In the case of those directors who were nominated to the Council's board by their civically-minded employers, their employers were involved in various liability settlements (McGregor-Lowndes 1995).

While the common law duties of directors have not changed, the standard expected in the discharge of the duty of care has increased. In the AWA cases, the Courts established the tort of negligence could apply for breach of the duty of care, and established standards for director monitoring: *AWA Limited v Daniels* (1992) 7 ACSR 759; *Daniels v Anderson* (1995) 37 NSWLR 438.

It is possible that common law duties of directors and the provisions of the *Corporations Act 2001* (C'wealth) in relation to insolvent trading apply even to nonprofits which are incorporated under State-based association incorporation legislation. Some States (e.g. South Australia) have explicitly included duties in their association incorporation legislation. Paradoxically, in States such as New South Wales and Queensland, it might be that volunteer directors are protected from liability actions by the recently-enacted volunteer protection legislation in their State (McGregor-Lowndes and Nguyen 2005). However, these are complex questions of law and the prudent course for directors of incorporated associations is to act as if they are subject to common law duties and the Corporations Act.

Moving now to legislation, nonprofit organisations are subject to general tax law. Undoubtedly the introduction of the goods and services tax in 1999 caused significant psychic costs for many long-standing volunteer treasurers (McGregor-Lowndes and Conroy 2002). Nonprofits are also subject to special taxation provisions consequent upon their nonprofit and, where relevant, charitable, deductible gift recipient and public benevolent status. The taxation law applying to nonprofits can confuse legal practitioners, let alone lay people. Directors can be subject to fines if the organisation they govern is not able to meet its tax debts. In *Fitzgerald v Deputy Commissioner of Taxation* (1995) 95 ATC 4587, the Court held that a director who held office for only 17 days was nonetheless personally liable to pay penalties equal to the amounts not remitted by the company prior to his appointment. Although the case concerned a for-profit corporation, the law does not distinguish between for-profits and non-profits in relation to director liability.

The anti-competitive conduct provisions of trade practices legislation also apply to those directors of nonprofit organisations which operate commercially: *Australian Competition & Consumer Commission v Real Estate Institute of Western Australia Inc* [1999] FCA 1387, and *ACCC v The Australian Medical Association Western Australia Branch Inc* [2001] FCA 1471. This has increased relevance due to competitive tendering for government community service provision (Neville 1999).

Moving to State law, association incorporation legislation (e.g. *Associations Incorporation Act 1982* (Qld)) prescribe a variety of offences for which directors can be personally fined. Workplace health and safety legislation and environmental protection legislation can make directors personally liable for breaches of the corporate body. If the organisation is guilty of an offence, the legislation provides that a director is automatically assumed to be guilty of the offence of failing to ensure compliance with the law, unless the director can make out statutory defences which are limited in nature (*Workplace Health and Safety Act 1995* (Qld), s. 167; *Environmental Protection Act 1994* (Qld), s. 493). Similarly, directors of fundraising nonprofits can be subject to fines for organisational breaches of charities and fundraising legislation, unless they demonstrate due diligence (e.g. *Collections Act 1966* (Qld), s. 11; *Charitable and Non-Profit Gaming Act 1999* (Qld), s. 170).

A second explanation for difficulty recruiting directors is the increased publicity given to governance and liability issues, in part due to case law. It would be reasonable to assume there has been increased awareness of legal responsibilities among nonprofit directors and potential directors as a result of cases such as the National Safety Council case, HIH, One.tel and Enron, and because of increased publicity given to liability issues as a result of the insurance liability crisis.

A third explanation is the release of normative standards of governance, a trend seen both here in Australia and overseas (Charity Commission for England and Wales 2005b; Panel on the Nonprofit Sector 2005a; 2005b; Standards Australia 2003; Storey 2004; United States Senate Finance Committee 2004). In part driven by publicity given to legal cases, the standards add to the complexity surrounding nonprofit boards, where many directors have been content to serve on boards for the 'social good' because there was little regulation and constraint over their activities.

A fourth explanation for difficulty recruiting directors is the increasing social expectations on nonprofits in general, and their boards in particular. Consistent with the rise of 'the audit society' (Power 1997), social expectations of the nonprofit sector appear to have increased. For example, the criticism of the Australian Red Cross – much of which was ill-founded - in relation to the administration of the Bali bombing relief appeal resulted in two major inquiries (Department of Gaming and Racing (NSW) 2003; PricewaterhouseCoopers 2003). There have also been scandals in nonprofits associated with inadequate oversight by boards. Although these scandals are not representative of the sector as a whole, they have attracted extensive publicity and criticism of absentee or ineffective boards (Fremont-Smith and Kosaras 2003; Gibelman and Gelman 2001; 2004; Gibelman, Gelman and Pollack 1997).

The complex legal and social environment in which the modern nonprofit operates may make potential directors wary of taking on the responsibility of board service (Charity Commission for England and Wales 2005c; Consumer Affairs Victoria 2005, 11; Passey 2004,12). Of course, whether legal expectations are having such an impact would in large part depend on director awareness of legal responsibilities. Here the evidence is mixed. On the one hand, it is reassuring that Woodward and Marshall (2004) report that 79% of responding companies limited by guarantee report that all of their directors are aware of their liability under the Corporations Act. On the other hand, the Victorian Government reports that directors are often unaware of their legal

responsibilities, in part due to frequent turnover of directors and in part due to time constraints (Consumer Affairs Victoria 2004, 11).

In summary, the responsibilities of nonprofit boards and directors have increased substantially in the last 20 years. The impact of these increased expectations on director recruitment and director engagement is likely to differ. Where there is knowledge of legal responsibilities, such knowledge might negatively impact on director recruitment and retention, but positively impact on director engagement.

The impact of demographic changes on social capital

While the preceding section of the paper examined possible explanations for the decline in nonprofit board membership at the micro level, there is a broader set of explanations that need to be explored – those that relate to a decline in social capital (Putnam 2000, 238-284). Putnam suggests that the decline in social capital in the United States is related to four factors, which are presented in ascending order of importance. First, there are pressures of time and money, and in particular the special pressures of two-career families. Second, urban sprawl and commuting have a role. For example, Putnam (2000, 213) cites evidence to suggest that every additional ten minutes spent daily in commuting reduces involvement in community affairs by 10%. Third, time engaged in television and related entertainment increased substantially. Fourth, and the most significant of the trends, is the gradual passing of the generation touched by World War II, a generation which Putnam believes was exceptionally civically-minded.

It has been speculated that at least some of these trends operate in Australia. For example, Passey (2004, 13) observes that increasing work/family pressures reduce opportunities for community engagement.

Table 2 reports selected Australian data relevant to the social trends identified by Putnam. This data suggests those trends also operate in Australia.

Table 2: Australian data relevant to Putnam's reasons for the decline in social capital in the US

Trends suggested by Putnam	Australian evidence	Time period	Change	Percentage change on base proportion	Source
Pressures of time and money, and in particular those pressures in two career families	Labour force participation	1994 to 2004	62.7% to 63.5%	1.3% increase	(Australian Bureau of Statistics 2005, 108)
	Women's labour force participation	1994 to 2004	52.5% to 55.6%	5.9% increase	(Australian Bureau of Statistics 2005, 108)
	Couple families with children under 15 years and both parents employed – of all couple families with children aged under 15	1994 to 2004	51.1% to 57.3%	12.1% increase	(Australian Bureau of Statistics 2005, 30)
	One-parent families with children aged under 15 – of all families with children aged under 15	1994 to 2004	17.2% to 23.1%	34.3% increase	(Australian Bureau of Statistics 2005, 30)
Increased urban sprawl and commuting	Average time spent commuting for work by all participants in the activity	1992 to 1997	51 minutes per day to 57 minutes per day	11.8% increase	(Australian Bureau of Statistics 1998, 19)
Increase in time engaged in television and related entertainment	Time spent watching television and videos	1992 to 1997	107 minutes per day to 121 minutes per day	13.1% increase	(Australian Bureau of Statistics 1998, 11)
The gradual passing of the World War II generation	Australians who experienced World War II	1990 to 2001	3,357,915 or 19.7% of Australians were 55 or older in 1990; by the 2000 census, those who were 65 or older had declined to 2,379,318 or 12.4% of the total population	37.1% decline in proportion of population	(Australian Bureau of Statistics 2004)

However, it may be there are countervailing trends not highlighted by Putnam in the US context that result in a greater pool of persons available to serve on Australian boards. These trends are summarised in Table 3.

Table 3: Australian data on possible countervailing trends

Trends	Time period	Change	Percentage change on base proportion	Source
Average hours worked by full-time workers	1994 to 2004	40.7 hours to 40.4 hours	0.7% decrease	(Australian Bureau of Statistics 2005, 108)
Full-time workers working 50-59 hours per week	1994 to 2004	23.7% to 23.4%	1.3% decrease	(Australian Bureau of Statistics 2005, 108)
Lone person households – of all householders	1994 to 2001	22.4% to 24.5%	10.9% increase	(Australian Bureau of Statistics 2005, 30)
Couple-only families of all couple families	1994 to 2004	51.0% to 55.3%	8.4% increase	(Australian Bureau of Statistics 2005, 30)
Education at bachelor degree standard or higher of all persons aged 25-64	1994 to 2004	13.4% to 21.9%	63.4% increase	(Australian Bureau of Statistics 2005, 86)

To summarise this discussion, Putnam’s argument regarding demographic changes does hold, at least to some extent, for Australia. However, the argument is not clear cut. First, there are demographic trends which, to some extent, *might* be countervailing. (Of course, an increase in the pool of persons with time to serve does not mean that they have the inclination to do so. In relation to volunteering generally, Warburton and Crosier (2001) note that those assumed to have more time might not actually have the time, and those who do have time might not have the inclination to volunteer.) Second, unpaid voluntary work and participation increased in Australia from 1992 to 1997, contrary to what would be expected if Putnam’s argument about declining social capital were to be true in Australia (see footnote 3).

Of course, there is an inferential leap inherent in Putnam’s argument, i.e. demographic change is impacting on community engagement. The only Australian study of which we are aware that actually looks at the impact of demographic factors on community engagement is that of Hughes and Stone (2003b; 2003a). Based on a national telephone survey with random sampling (n=1506), Hughes and Stone reported that the total number of group memberships for both males and females was 3.8 (but with a substantial variation indicated by a standard deviation of 3.7 for females and 3.8 for men). The study examined the impact of a range of variables, including family change (e.g. has partner in paid work for 35 or more hours per week), family social capital (e.g. trust and reciprocity among relatives), and other resources (e.g. education and health). Where relationships were found, they applied only to men: men who were divorced or separated reported significantly lower levels of group membership than other men. Group membership was more strongly related to health, education and financial

wellbeing than it was to family type, with the researchers concluding that ‘engagement in community groups and organisations is essentially a middle class phenomena’ (Hughes and Stone 2003a, 28). However, this study examined organisational membership levels, not board membership, which is the issue of immediate interest to us. Nonetheless, this study casts doubt on the argument of the link between certain demographic attributes and community engagement.

Implications for research

Given the importance of the issue of director recruitment and engagement, there is a need for Australian empirical research. Research to date has been fragmented. Future research should map the demographics and functions across the range of Australian nonprofit boards. This would provide baseline data from which to assess the current situation, but also so that trends over time can be established.

A second fruitful area for research is in the responsibilities of boards. Research on the correlation between knowledge of legal responsibilities, on the one hand, and director recruitment and engagement, on the other, would be helpful. Explaining the volunteer public liability paradox (see page 6) may be instructive in understanding the dynamics at play. Observation studies of how directors understand and enact their legal responsibilities in the boardroom would advance our understanding of the practices and behaviours of nonprofit boards, as it cannot be assumed that mere knowledge of responsibilities results in good practice.

A third area of research is in relation to the possible impact of social trends on governance. Nuanced studies which consider the impact of these social trends on the groups which are most likely to serve on nonprofit boards would advance our current understanding.

Implications for practice

The issue of the quality, quantity and pattern of nonprofit director recruitment and engagement is of vital concern. Legislators, regulators and nonprofit organisations need to consider appropriate responses. All parties might be well advised not to rush to adopt pragmatic solutions, but to consider these issues at a higher level.

Legislators and regulators might reconsider the incoherent approach to the regulation of nonprofit organisations in this country. First, it would be useful to state clearly the responsibilities and liabilities of nonprofit directors, but this would require a consistent approach by the Commonwealth and the States and Territories. It is paradoxical that there is an array of legislation imposing ever-increasing responsibilities on nonprofit directors, most of whom are volunteers, while some jurisdictions are seeking to limit the exposure of volunteer directors to legal action. There is obvious value in a consistent public policy framework for the regulation of nonprofit organisations.

More appropriate and facilitative regulation of the sector is needed. A key question to be determined is whether the nonprofit sector should be treated differently to for-profit organisations. While such an approach may well be justified, especially in the case of small nonprofits, the potential downside is that the sector is not treated with the same degree of professionalism as the private and public sectors. Further, some legislative responsibilities, such as the promotion of workplace health and safety, are important for all organisations regardless of size and sector. Consideration could be given to a scheme of staged responsibilities, with increasing powers for organisations and boards in return for increasing responsibilities and liabilities (Office of Fair Trading 2005). The position of boards in the system of corporate governance could be reconsidered: while

it is important that legal responsibilities are discharged, they could be discharged by a board or management (Harris 1993). Regulators should also give consideration to investing in director education.

Nonprofit organisations too should consider appropriate responses, starting with their philosophy of resource allocation and investment. While some organisations are poorly resourced having regard to their vision and mission, this is not the case for all. A consistent emphasis on mission and clients is desirable, but under-investment in organisational capacity – including governance capacity - can be to an organisation's detriment (Letts, Ryan and Grossman 1999). The sector should consider fresh approaches to the design of governance, including the possibility of 'inside' directors (i.e. directors who are management or other staff) and novel approaches to stakeholder engagement. Organisations might invest in professional advice for their boards, especially in matters of governance and comprehensive audit strategies. Board recruitment might also warrant greater investment. Strategies to support and engage directors might be considered. Constitutional changes on matters such as board size, quorums, frequency of meetings, and attendance policies could be contemplated. Other practices that might encourage and facilitate involvement include changes in meeting formats, appropriate recognition and reward, reimbursing directors for reasonable costs (including child care costs in the case of directors who are parents) and the publication of statistics on director attendance in annual reports.

In raising these options, we are conscious that many of these suggestions may have unintended consequences. For example, paying directors might ironically reduce commitment and engagement by undermining the voluntary ethos that characterises many nonprofit organisations.

Conclusion

This paper has examined the available Australian evidence regarding difficulty in recruiting and engaging nonprofit directors. While Australian longitudinal studies are not available, if Australia is following British and US trends, director recruitment and engagement will become increasingly difficult.

We have examined two possible causes of these difficulties. The first possible cause is associated with the increasing responsibilities of directors. We have suggested these might increase difficulties in recruiting and retaining directors, but positively impact on the engagement of directors. The second possible cause is social trends, along the lines argued by Putnam in respect of the US. However, an examination of Australian social trends, and of the relationship between Australian social demographics and social capital, suggests a complex picture.

This paper has implications for legislators, regulators and individual nonprofit organisations. We have suggested possible approaches to resolving these difficulties. Our overall conclusion is that these issues are worthy of immediate and sustained empirical investigation, both across jurisdictions and in a sub-sector context. Nonprofit boards are a training ground for democracy, teaching directors skills that are vital in a democratic society. If director recruitment and engagement is increasingly difficult, this has profound implications for individual nonprofit organisations, for the clients and communities they serve, and for the nation's civil society.

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¹ These arguments have obvious limitations. Dalton and Lyon (2005, viii) show how a range of variables affect the governance of advocacy organisations and their impact, including membership size, the quantum and source of revenue, socio-economic composition, and the range of interests within the organisation's constituency. In the US context, Skocpol (2003) has argued that democracy has been diminished by the trend away from mass, meeting-based membership organisations to management-centric associations which provide limited opportunity for personal involvement, are staff-heavy, and emphasise 'doing-for' instead of 'doing with'.

² We also examined data on trends in community participation and engagement. These are informative, but do not go to the issue of particular interest, which is participation in board service.

The 1997 Australian Time Use Survey surveyed over 4500 Australian households, and the results can be compared to a similar survey conducted in 1992. It found that the time spent in 'unpaid voluntary work' averaged across all persons increased between 1992 and 1997 from 5 to 6 minutes per day, with the participation rate increasing from 3.7% to 4.6%. The time spent by participants on unpaid voluntary work declined marginally from 132 to 130 minutes per day. Also relevant is the increased average levels of engagement in 'community participation'. Time spent in community participation averaged across all persons increased between 1992 and 1997 from 5 to 8 minutes per day, with the participation rate increasing from 15.2% to 23.5%. The time spent by participants on community participation declined marginally from 35 to 34 minutes per day.

The 2000 Community Services survey, based on both census and sample data, reported an increase of 25.4% in the number of volunteers between 1995-96 and 1999-2000, with the increase in volunteers in the nonprofit sector offsetting falls in the number of volunteers in for-profits and government (Australian Bureau of Statistics 2001). However, this increase was in the area of direct provision of community services, with other forms of volunteering in nonprofit nursing homes falling by 46.6%, 47.9% in nonprofit child care, and 62.8% in nonprofit accommodation for the aged. Again, we cannot be sure of the significance of this, as we do not know what proportion of this 'other' volunteering was in the area of board service.

Other surveys point to recent increases in volunteer rates. The 2000 Survey of Voluntary Work reported that 31.8% of Australians had volunteered in the previous 12 months. By the 2002 General Social Survey, this figure had increased to 34.4%. A 2004 Newspoll survey of 1200 Australians over 18 years of age reported that 46% of respondents had volunteered their time in not-for-profit organisations in the previous year (Volunteering Australia, 2004).

Volunteering Australia (2004) report that while volunteer participation rates have declined in the United Kingdom, the Netherlands and Canada, and there has been a decline followed by an increase in the United States, participation rates have increased in Australia.

It is noted that, the Australian Bureau of Statistics has made a commitment to survey on volunteering in the General Social Survey in 2005/06 as well as continue the Time Use Survey (Volunteering Australia, 2004).

³ There is no comparable statistic in the 2001 survey.

⁴ We use the standard systems for legal citations when referring to case law and legislation.