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Are Private Government, the Nonprofit Sector, and Civil Society the Same Thing?

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This article argues that the concept of private government contributes to an elegant framework for understanding the public and private nature of American civil society. Private government has two distinct elements comprised of the interests of businesses and nonprofit organizations that exercise power to interact with government to achieve their specific goals and objectives. This new, yet familiar, lens on which to consider the role of the nonprofit sector in the United States and the manner in which it interacts with government policy makers and business decision makers adds clarity to the muddle of terminology scholars have assembled to classify and characterize one of American society's most distinguishing features. The article will be of interest to domestic and international scholars seeking yet another tool to compare nongovernmental organizations and the particular character of civil society in countries that do not have the same political traditions as the United States.

Keywords: *private government; nonprofit sector; civil society; community decision making; advocacy; nonprofit nomenclature*

Private government is a phrase that arouses images of feudal manors, family dynasties, overt, and covert relationships between business and governments, informal police and security forces, and closed societies. One need only consider some of the linkages between businesses such as Haliburton and Enron with governments, the procurement relationships national defense contractors such as Blackwater have with the federal defense establishment, and the influence domestic automobile manufacturers and the tobacco industry have as special lobby interests in the national legislature for dark examples of possible undue private corporate influence on public policies in the United States. Indeed, instances where the bounds and operations of business and government blur and the seeming domination of corporate businesses

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over the policy makers in government (Domhoff, 2001) provides cause to be anxious in any discussion of “private government.”

Despite this negative imagery, private governments can be a constructive concept, used to describe the nature of American civil society and the operations and accomplishments of the third—nonprofit—sector in the United States. For example, community benefit districts (CBDs) or business improvement districts (BIDs) in places like Baltimore, Maryland; Cleveland, Ohio; and Manhattan, New York are sometimes referred to as private governments in urban areas (Baer & Feiock, 2005). Private government has been reflected as arising from the supplementary relationship between government and voluntary organizations where contractual services are provided (Helsley & Strange, 1998). Private government has also been attributed to instances where private nonprofit leaders must position their organization strategically in local polity to achieve their desired goals (Long, 1958; Mendel, 2003). Finally, casual references to private government are occasionally made in describing the practices of philanthropic community foundations (Hammack, 1989).

As a conceptual framework, “private government” offers a new, yet familiar, way of thinking about nonprofit sector organizations, the less public role they play in policy and societal decision making, the carving up of resources made available by public and private funders, and in their strategic positioning as institutions in local communities. The notion of private government forces us to pay attention to the ethics of mission-based organizations and their influence on civil society. In addition, private government offers a way to understand the unintended consequences of poorly conceived public policies that exacerbate tensions throughout America’s political, economic, and social landscape and across the globe. Consequently, this essay will be of interest to scholars from the international community who seek yet another lens on which to compare nongovernmental organizations and the particular character of civil society in countries that do not have the same political traditions as the United States.

This essay presents a theoretical discussion that considers the interdisciplinary literature of American private government, nonprofit sector, and civil society. Research methods involved a search and comparison of private government, nonprofit studies, and civil society scholarship. The literature search comprised the raw data for analysis for the overall purpose of understanding how the terms private government, nonprofit sector, and civil society relate to one another. Based on the research, it is apparent that the notion of “private government” has remained relatively unexplored in the scholarship of American nonprofit sector and civil society studies. The research also suggests that a conceptual linkage between private government, the nonprofit sector, and civil society in America provides a clearer nomenclature and new paradigm for scholars and others to further the invention of civil society during the 21st century.

Confusing Terminology

At the 31st Annual Conference of the Association for Research on Nonprofit Organizations and Voluntary Action, noted scholar Henry Mintzberg proposed during his keynote address that the “mess of nomenclature” used by nonprofit scholars, practitioners, and the federal government to refer to the nongovernment, non-business components of American society is so confusing and imprecise that he proposed “The Nonprofit Sector Does Not Exist” (Mintzberg, 2003). Allowing for overstatement, the problem identified by Mintzberg is not a frivolous one. The absence of clarity in describing the nature and functioning of the third sector hinders both our ability to provide information to decision makers through advocacy and to adapt to new political, economic, and social circumstances. This is particularly troubling in a changing environment in the United States that threatens the official status and institutional well-being of nonprofits. For example, public policy makers may soon regularly tax property held by nonprofits; twenty-first century venture philanthropy requires accountability measures of performance for recipient organizations as a condition of their continued support; volunteerism is more likely to be driven by the convenience of the workplace than the altruism of the individual; and the lines between private organizations and public government are increasingly blurred. In accepting imprecise nomenclature and in adopting definitions for our private institutions of the nonprofit sector that include phraseology such as “the formal or informal, not-part of the apparatus of government, that do not distribute their profits to their owners, that are non-compulsory, self governing” (Salamon et al., 1999, pp. xvii), we have confused ourselves, obscured the role nonprofits play in our society, and created an unnecessary barrier to nurturing political, economic, and social pluralism in other parts of the world.

The issue of terminology has implicitly sat at the center of a vibrant discussion involving our understanding of the nonprofit sector (Salamon, 2002; Seligman, 1992; Skocpol & Fiorina, 1999; Smith, 2000; Van Til, 2000), social capital (Couto, 1999; Putnam, 1993), and the nature and uses of private organizations as empowering agents and integral partners of civil society in the United States (Berger & Neuhaus, 1996). To confuse matters further, we have come to equate civil society with the nonprofit sector or as Jon Van Til (2000, pp. xiv) has offered “a third space.” Given the fuzzy overlap in our understanding of these terms, it is not surprising that some thinkers would equate the two. Elizabeth Boris, for example, has gone as far as to suggest that “civil society” refers to formal and informal associations, organizations, and the networks between individuals that are separate from, but deeply interactive with, the state and the business sectors and therefore alone is a sufficient phrase to describe the nonprofit sector (Boris, 1999).

More recently, scholars have examined how civil society and social capital contribute to an underlying tradition of American polity, trust and trustworthiness

Table 1
Three Dimensions Assigned to Civil Society
as Exercised Through Nonprofit Organizations

I	II	III
As a process for intertwining public and private players in decision making and in allocating resources outside the bounds of government	As a continuum of actions arising from the participants of that process which consist of individuals or organizations	As the outcome of that process which consists of an aggregate of rules and customs or characteristics that comprise American culture and freedoms

(Cook, 2001; Hardin, 2002; O’Connell, 1999), and community that is nonpublic, somewhat intangible, and independent. In many respects, it is these very characteristics and the resulting tension they provide with government and business that we have come to understand as comprising civil society (Boris & Steuerle, 1999; Milofsky, 1988; Van Til, 2000).

But making use of “private government” as a concept that includes the nonprofit sector and as a component of the larger civil society places emphasis on the advocacy actions or communication functions of nonprofit organizations and their collective use in American polity. Through this lens, the nonprofit sector and its institutions or less-formal associations are credited as a mechanism through which civil society is birthed and nurtured (Smith, 2000). This discussion assigns to civil society three dimensions which are exercised through nonprofit organizations and are noted in Table 1.

If we define private nonprofit sector organizations in terms of their relationship to government as supplement, complement, or advocate (Young, 2000) or in their relationship to the market place (Salamon, 2002; Weisbrod, 1991), then the place they have in society is neither public nor business but something else that has much more to do with American polity than the label *nonprofit sector* suggests. Using this theoretical framework, “nonprofit” exists as part of “private government” where the business of civil society becomes blurred and where boundaries between the American economic sectors overlap (see Figure 1).

Understanding Private Government

Private government is a concept that in many ways has entered into the subconscious of nonprofit scholarship. Occasional references to it by historians (Hammack, 1989; Karl, 1997), economists (Helsley & Strange, 1998), political scientists (Duvall, 2003), experts in law (Hills, 2003), and others (Powell & Clemens, 1998) in their writings on community foundations, the market share of nonprofits in the local, national, and global economy, case law, think tanks, universities, hospitals, community development organizations, business development organizations, home improvement

Figure 1
Cross-Sector Interactions Comprising the System of Civil Society

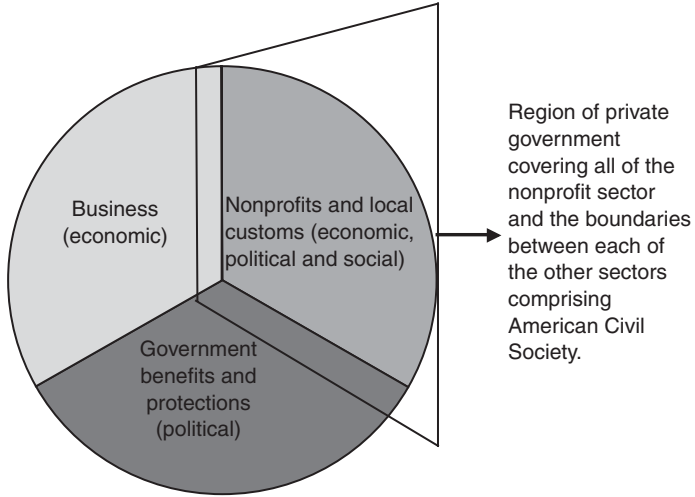


Table 2
Public Accountability in Private Nonprofit Institutions

	Public Government	Private Government
Public institutions	Totally accountable to the public	Partially accountable to the public
Private institutions (nonprofits)	Shared accountability to the public	Minimally accountable to the public

associations, and other major and minor private nongovernmental institutions suggest a value beyond mere convenience. By inference, private government can be defined as arising through the actions of individuals exercising power using private nonprofit organizations to achieve their specific goals and objectives. This suggests an absence of the accountability by which elected public decision makers are bound. This can be illustrated by a simple matrix comparison (Table 2).

Private government is a phrase that seems contradictory, stimulating an almost-instinctive negative reaction from scholars of political science and public administration who see it as violating the axioms of government (King & Stivers, 1998; Schattschneider, 1975). Worse still is that it has been used to describe a variety of things, and its meaning has evolved over time. Despite the infrequent usage and

sparse scholarship on private government, that which does exist crosses the disciplines of political science, public administration, economics, psychology, and sociology and examines the interactions between people and their institutions. Its application of topics has to do with not only political pluralism, liberalism, and democracy but also community organizing, community structure, community power, and decision making. Not only does it sound like and use the terminology that American scholars have adopted in describing the nature of the nonprofit sector but also the concepts underpinning private government overlap with how we have come to understand social capital, trust and trustworthiness, public/private partnership and collaboration, and civil society.

Charles Merriam used the phrase “private government” in the 1930s and in a published lecture in 1944 to describe organizations such as General Motors, private research universities, large private hospitals, and his local church which all had their own self-contained bureaucracy, culture, enforcement, and “politics” (Lakoff & Rich, 1973). Merriam’s view of “private government” emphasized the inward governance of each organization (government of the institutions) and only hinted at outward relationships in terms of interactions with other governments, when he wrote, “The thread of governance runs through all the web of social life in varying forms and varying units. The problems of systems of rules, the problem of consent, and the problem of leadership are common to all units of association, whether labeled public or private” (Merriam, 1944, p. 2). Merriam argued that private business enterprises and institutions such as universities, hospitals, and churches had internal governance that legislated operational policies and procedures, enforced standards, and made decisions over resources that touched the interests of every constituency. Second, Merriam argued that although internal, the governance of these private institutions inevitably had an influence on the behavior of other businesses, institutions, individuals, and the public government with which they had to interact. The interactions between organizations constituted a web of relationships governed by the internal customs and practices of each member of the web. In a limited sense, private organizations formed a system of “private government” which reflected the characteristic competition-for-power found in a larger system of public government. In a broader sense, they formed a “private government” that acted externally to influence legislation and decision making over public goods and funds to the benefit of their private interests and constituencies. In sum, Merriam characterized “private government” as a form of governance that existed within the larger framework of public government from which it was often indistinguishable.

Linking Private Government and the Nonprofit Sector

Beyond Merriam, a succession of other scholars—mostly political scientists but some sociologists—move further down the road in acknowledging linkages between

private government and the nonprofit sector. For example, many agreed with Merriam that private government existed, interacted with entities outside their boundaries, and served as an element of political pluralism.

In the 1960s, Grant McConnell suggested private government was exemplified by private associations that limited state action and that large undertakings—civic projects for instance—had associations of equals established for the furtherance of the initiative (Lakoff & Rich, 1973; McConnell, 1966). McConnell warned of the excesses of government through private associations that lacked the oversight of a mediating authority. He pointed out the countervailing tension between private and public government was a necessary dynamic to prevent oppressive dominance in decision making over public resources and that private government in any particular setting was restrained only by the laws of public government and the tensions created by the private government of competing organizations. In so doing, McConnell connected the organization of private local groups with doing public works outside government. These themes resonate in the literature on the uses of nonprofits that consider their relationship with government as either compliment, supplement, or advocate (Young, 2000) and suggest that nonprofits serve as intermediaries or mediating agents that interpret policy at the local level and empower people to interact with government, business, and each other (Berger & Neuhaus, 1996).

Sanford Lakoff, writing at about the same time as McConnell, noted that the separation of “public” and “private” implies and generates a dual system of government where each regulates the affairs of their members; exercises influence over nonmembers; and provides context and a framework for the expression and resolution of conflict. Lakoff also asserted the validity of the parallel public and private systems is not diminished by the differences between public and private government such as use of physical force in public government or voluntary nature of private government (Lakoff & Rich, 1973, p. 218). Like McConnell, Lakoff made the case for private government operating in the public sphere, which at its essence involves voluntarism, association, and organizing.

The literature on private government remained muted until the early 1990s when Evan McKenzie, a political scientist at the University of Illinois at Chicago, wrote of private government in the context of homeownership and community planning. In *Privatopia: Homeowner Associations and the Rise of Residential Private Government*, McKinzie painstakingly asserted that private government conceptually was separate from, but also subservient to, government in terms of hierarchy, but that both exist simultaneously in a tension over the rights of homeowners in private nonprofit corporations he called Common Interest Developments (McKenzie, 1994).

McKenzie considered home-owner associations a private government because they were able to enforce their power over their members—whose participation as members was a compulsory requirement of their status as homeowners—through a volunteer board of directors. The private board made it possible through the use of

restrictive property ownership covenants for affluent homeowners to benefit from master planning, exclusivity, and a sense of security in exchange for a measure of freedom to use their private property as they saw fit.

It is worth noting that the characteristics and mission of private, nonprofit homeowners' associations and gated communities can easily fit the description of many other kinds of exclusive membership-type nonprofits (Mezey, 1997). For example, "private government" may indeed be most easily reflected by government-by-contract occurring in the Business Improvement Districts (BIDs) and CIDs in some American cities. These geographically based private nonprofit organizations make decisions over public resources and perform planning activities for the common good for their members. In many instances, they use the taxing authority of government to benefit specific property owners.

The origin of McKenzie's use of the phrase "private government" arose from references in 1928 by Charles Stern Ascher, a lawyer, political scientist, and city planner in the garden community of Radburn, New Jersey, who sought a legal way to create a private city for affluent residents within the borders of an existing political jurisdiction. According to McKenzie, Ascher found his answer by referring to "government by contract," or "extra-municipal administration" administered through a comprehensive scheme of private deed restrictions (restrictive covenants).

The notion of "government by contract" is much broader than the realm of real estate ownership in America. The phenomenon has been described in the well-known work of Stephen R. Smith and Michael Lipsky (1993). In the introduction to their watershed work *Nonprofits for Hire*, Smith and Lipsky suggest that mutual dependence between the two sectors—government and nonprofit—blurs the boundaries between each, raising the question of where the state ends.

But the scholarship connecting private government to the nonprofit sector also joins with the scholarship on civil society. In one instance for example, Walter Powell noted that the interconnections and interdependencies between business, government, and nonprofits make for murky boundaries among them. Most important, he wrote that nonprofits as a form of voluntary association exist outside government and corporate enterprise and are the basis for civil society (Powell & Clemens, 1998). In another instance, Van Til (2000) observed the interconnections and overlap between the public and private sectors, offering well-referenced chapters and "mapping" diagrams on the subject.

It is clear that the interdisciplinary scholarship on private government and the nonprofit sector reflect conceptual similarities. Nonprofit professionals no doubt would observe that the boundaries between public policy makers and private interests—whether business or nonprofit—are not always apparent (Gilchrist, 2008). Nonprofit practitioners might also maintain that private government describes both the actions of individuals and the outcome of their actions, whereas the nonprofit sector corresponds to that portion of American society that is informal, private, and flexible. In the spirit of advancing our understanding of these terms, we can conclude that private

government and the nonprofit sector are related to one another and that each, in their way, contribute to the nature of American civil society.

Understanding Civil Society

The stewardship of American civil society has generally been attributed to the output of the nonprofit sector and the “connectedness” among individuals and their institutions in local communities. But to credit civil society to the nonprofit sector alone without accounting for the accumulative influences among individuals, governments, businesses, and other nonprofits ignores vital causative ingredients of civil society.

Many scholars have contributed to this discussion. For example, Adam Seligman, a sociologist, suggests civil society is a fragile concept that might be comprised of the process through which individual interests can be pursued in the shared social sphere (Seligman, 1992). Brian O’Connell assigns to “civil society” the responsibility of protecting the rights of individuals through the tension it creates with the other societal structures of government and business (O’Connell, 1999). Robert Putnam (1993, 2000) and Lester Salamon (2002) consider civil society as arising from the interconnections of people and their ability to organize, cooperate, and interact with one another.

In his primer on the nonprofit sector, Salamon refers to the private nonprofit sector as the set of organizations that are privately incorporated but serve a public purpose (Salamon, 2002). In America, nonprofit organizations predated the state because communities formed before government institutions were in place to help deal with common concerns. This use of informal associations was the means of establishing social and economic norms and ultimately civil society in America. Over time, the use of formal private institutions to sustain civil society and serve as intermediaries between individuals and their government is reflected by the increased number and sophistication of nonprofit organizations throughout the 20th century.

According to Putnam, social capital in America is comprised of the “features of social organization, such as trust, norms and networks, that can improve the efficiency of society by facilitating coordinated action” (Putnam, 2000, p. 19). In this assertion, social capital infuses all social, political, and economic polity. By providing the mediating organizations that find solutions to public problems that do not require government intervention, the nonprofit sector generates and strengthens civil society, which in turn strengthens political pluralism and democratic government.

Political Scientist John Ehrenberg observed that the De Tocqueville–inspired definition of civil society is an intermediate sphere of voluntary association and activity standing between the individual and the state (Ehrenberg, 1999). The tradition of localism and a culture of self-reliance made it possible for voluntary intermediary organizations to represent the population’s concerns to the state. In this way of thinking, voluntary associations fuse personal interest and the common good. Juergen

Habermas considered that the institutional core of civil society is constituted by voluntary unions outside the realm of the state and the economy (Habermas, 2000). Furthermore, he asserted that the validity of voluntary associations in governance is based on their informal communicative role (and the role of political parties, organizations, and individuals) to feedback information to government. This kind of advocacy in his view provides legitimacy to legislative mandates.

David Horton Smith (2000) draws a clear link between the presence and use of voluntary or grassroots associations as a basis for civil society. Smith and Ce Shen assert that voluntary, informal, grassroots associations are a form of nonprofit. Nonprofits arising as informal associations are distinguished from governments, businesses, and families by the substantial presence of voluntary altruism. Smith and Shen also note that small community-based nonprofits contribute to political pluralism, participatory democracy, and permissive political control that in turn sustain civil society (Smith & Shen, 2002).

In describing civil society in terms that attribute to it collective, cumulative, aggregate, and distinctive qualities arising through the sum total of all the voluntary self-organizing contributors of a defined community, scholars suggest that civil society arises through the sum total of actions by a community of autonomous political, economic, and social actors. Contributors to a particular regional civil society include not only individuals and communities but also government and business (O'Connell, 2000). It is not much of a leap to conclude that civil society in the United States can have distinctive traits from place to place, reflecting local customs and differences throughout the various regions of the country. Also, that the character and nature of civil society in a particular place is the sum of all its influences.

Conclusions: Linking Private Government, the Nonprofit Sector, and Civil Society

In working toward clarity of nomenclature by sorting out the terms “private government,” “nonprofit sector,” and “civil society,” several innovative conclusions arise. First, the American civil society is created by a larger group of actors than the nonprofit sector alone. Second, the use of the term “private government” accounts for the power and mechanism for exercising power by individuals and includes not only nonprofits but also private elements of business and public government. Third, that private government offers a conceptual frame/umbrella under which nonprofits function with business and other private actors to produce American Civil Society. Fourth, the government, in establishing the rule of law, also contributes in a proportional measure with private government to yield civil society. Fifth, that the characteristics of civil society will differ from place to place based on the “flavor” of a local community or on a larger stage, based on the nature of a national government

and business environment. Together, these conclusions suggest that civil society may “look” different in comparable communities and may be subject to evaluation and measure.

For example, the political economy of American private government, the nonprofit sector, and civil society arises through their contributions of public goods or services under the control of private boards of directors and decision makers. In this way of thinking, “private government” may refer to the system of nonpublic actions and organizations that are subtle, less visible, and less accountable to the electorate than public government but which exercise political power, solve public and private problems, distribute resources in local community settings, and feed information back into the system of public decision making. “Private government” in this framework is employed through nongovernment organizations and loose associations of individuals that possess neither the coercive power of law enforcement nor the ability to enact the laws, but rely on informal networks of private connections to select leaders, decide on the services to be delivered, and serve as a counter to the oppressive potential of government and business. The interconnections between private institutions and government reflects some of the attributes Salamon (1987) once described as a part of “third party government.” In these, its most positive applications, “private government” arises from the partnership arrangements and those voluntary interconnecting aspects of the nonprofit sector that we have come to associate with civil society in the United States.

Definitively, private government, the nonprofit sector, and civil society are not interchangeable terms but relational variables that lend themselves to a formula whose sum total compares to a congruence we recognize as civil society. For example,

$$\text{Civil Society} \equiv \text{ng (nongovernment)} + \text{g (government)}$$

The *nongovernment* American institutions may be represented as *private government (nonprofit)* and *private government (business)*. The relationships can be expanded to

$$\text{Civil Society} \equiv \text{p.g. (nonprofit)} + \text{p.g. (business)} + \text{g (government)}$$

The component parts of the formula are parsed out in Table 3.

If we agree with Peter Drucker (1990), who observed that private nonprofit institutions are central to American society and are its most distinguishing feature, then a relational formula that defines and relates the nonprofit sector as a component of “private government” assigns proper gravity to the function the nonprofit sector has with American polity, economy, and society rather than the misleading label designed by the Internal Revenue Service. This simple and elegant “civil society formula” illustrates that private government, the nonprofit sector, and civil society are not the same thing but are interdependent variables of one another. The formula recognizes that civil

Table 3
Civil Society = Private Government (Nonprofit) + Private Government (Business) + Government

Civil Society	Private Government (Nonprofit)	Private Government (Business)	Government
Uses nonpublic means to effect public purposes	Private government: Encompasses those facets of the exercise of power that do not appear in the public sector Nonprofit: Provides the structure, mechanism, and institutions of private government	Business: Obtains revenue-generating opportunities and profits from government contracts and public policies that nurture the growth of business commerce	Government: Contracts with private agencies to deliver services and measure outcomes more efficiently or precisely than possible through government alone
Depends on organizing of individuals around common interests to form webs of informal interactions between individuals and organizations	Private government: Exercise of power based on the common interests of groups of individuals Nonprofit: Uses volunteers committed to a specific mission to provide services and advocate for the interests of those volunteers	Business: Uses webs of public- and private-based relationships to gain information and advantage over competitors to create business opportunities and profits	Government: Receives information via the communication provided by lobby interests and advocates to develop policies and deliver services to businesses and individuals
Values, encourages, and rewards partnerships	Private government: Uses nonprofit organizations as institutions/agents that exercise power to achieve their aims Nonprofit: Mediating and facilitating agents that seek partnerships with others	Business: Seeks advantages to keep business operating costs as low as possible to generate growth in profits	Government: Seeks to offload the delivery of services as a way to finely apply public policies in precise ways to its constituents
Imprecise definition arising from many theories with none predominant subtlety and nuance	Private government: Positive and negative definitions that also provide the framework for educating legislators into reasonable strategies for using nonprofits in initiatives of the federal government; reform of the nonprofit sector to meet the needs of changing political, economic, and social structures; educate nonprofit managers and leaders; explain and duplicate the system of checks and balances the private sector has with government and business in the United States in other countries around the world; provides a model for the development and functioning of a healthy independent, third sector		Government: In the absence of clarity, becomes too restrictive in the delivery of services and development of policies, overly empowers public administrators and neglects ethics oversight, or delegates too much responsibility to private interests

(continued)

Table 3 (continued)

Civil Society	Private Government (Nonprofit)	Private Government (Business)	Government
	Nonprofit: Also known as independent sector, third sector, voluntary sector, charities, nongovernmental organizations et al.	Business: May work relationships with nonprofit and government partners so well that it becomes a monopoly	
Practiced in grassroots, neighborhood, civic, regional, national, and global settings	Private government: practiced in grassroots, neighborhood, civic, regional, national, and global settings	Business: Business enterprises serving neighborhood communities	Government: Ward politics and neighborhood partnerships with nonprofits and business
Dependent on trust and the trustworthiness of participants	Private government: In the absence of broad-based trust is feudal	Business: Required for a healthy business climate	Government: Must engender trust to serve communities it governs
Key component of decision making that precisely applies big picture policy decisions to the smallest of community settings	Private government: Critical to the development and application of public policy; plans in cities around public safety, public health services, and government-sponsored social services; research; oversight of taxation collection; transportation; and large-scale civil projects requiring local partners and private development	Business: Seeks profit opportunities for changes in public policy at all levels of consumer usage	Government: Develops the policy initiatives that must be administered by private intermediary organizations in local communities
Interdependencies serves as a check and balance on public and private action	Private government: Performs work that cannot be done by government or business	Business: Ensures that private nonprofits do not unfairly compete with the business sector	Government: Needs information to update and adjust policy initiatives that produce unintended consequences or that are outdated due to changing society norms

society in the United States arises from all the actions of public and private institutions and whose tensions and balance define and preserve American civil society.

Afterward

As Mintzberg has so usefully noted, the imprecise nomenclature we use to describe the nonprofit sector in the United States is a barrier to understanding and explaining it to others. But the confusion extends beyond the terminology and is symptomatic of the fragmented manner in which we study and think about America's public and private institutions. Simply put, our understanding of private government, the nonprofit sector, and civil society is twisted because everyone—scholars, nonprofit practitioners, legislators, and public officials—have taken a small piece of the formula without finding a way to understand the whole. Given the complexity and intricacy of American civil society, it is not surprising that effective unified public policies elude us.

Practically speaking, there is more to consider. The imprecise concepts that sustain our common understanding of the nonprofit sector distract nonprofit leaders, managers, and volunteers from their obligation to speak to government. This essential advocacy role of nonprofits—to use the imprimatur of a private institution to communicate with public government and private grant makers—is frequently lost in the shuffle as nonprofits struggle with the immediate short-term priorities of the day. Consequently, the collective ability of the sector's organizations to organize, identify constituents, pursue advocacy, and adapt to changing polity in the larger society is diminished.

The fuzzy terminology is also a barrier to public officials and business leaders who rely on the nonprofit sector to administer public policy and support the overall health and well-being of American cities and communities. Far too frequently, our public policy makers expect the market place to adjust to new government initiatives without consideration to that part of American society that mediates and facilitates change. It does not take much imagination to think of examples wherein a government policy adopted to address one set of ills creates an imbalance elsewhere, in effect, altering the balance of the elegantly delicate civil society "formula."

Consider the effect of the Sarbanes/Oxley legislation enacted by the U.S. Congress in 2002. Crafted to improve corporate accountability to shareholders, offer "best practices guidelines" for corporate governance, and reduce the opportunity for malfeasance on corporate boards of directors in the United States, this well-intended public policy initiative has had a chilling effect on the governance and operations of many community-, faith-, and grassroots-based American nonprofits. As an all-too-frequent example of government legislation resulting in unintended consequences, Sarbanes/Oxley has added burdens of cost, regulatory compliance, and complication to the work of understaffed and undercapitalized nonprofits that depend on voluntary labor and leadership to thrive.

For example, business sector critics of Sarbanes/Oxley have noted that its burdens for compliance with the law have placed for-profit enterprises at a competitive disadvantage to privately held corporations (Piotroski & Srinivasan, 2008). These same critics claim that government regulation creates a trend against an American political tradition promoting entrepreneurial effort, the creation of wealth and small government. In this view, a problem-solving coalition of nonprofits and businesses, using the mechanism of private government, might well concentrate advocacy that informs public policy makers who then moderate the measures or their implementation.

Looking forward, the confusion of nomenclature promises to make more difficult the search by many nonprofit organizations for earned revenue from unrelated profit-making ventures to sustain their fiscal integrity. The next big thing in nonprofit sustainability and capacity building, “earned income and social enterprise” (Light, 2008, Young, 2006), opens opportunity for the nonprofit sector as long as business and public policy makers accept it as a way to fund the nonprofit component of private government. By establishing the interdependent roles business and the nonprofit sector occupy as part of private government, the rationale is in place to persuade policy makers concerned about maintaining a robust business environment that entrepreneurial ventures by nonprofits do not constitute a threat to the business sector through unfair, tax-subsidized competition.

In defining the pieces of the nonprofit sector and civil society in the United States and framing them as a relationship with private government, we are better able to understand how the tensions in American society can be managed through balanced public policies. By recognizing the relationships between the variables of the elegant “civil society formula,” we are assigning the development and application of public policy and advocacy to the portion of American Civil society that best administers big picture ideas to local communities. Finally, cleaning the “mess of nomenclature” opens an international dialogue on the virtues and pitfalls of American civil society around the globe, opening the door for a quantifiable measurement to compare “civil society” in neighborhoods, cities, and countries.

Questions for Further Study

Despite the elegance of this formula defining nonprofits as an element of private government and connecting private government to government and civil society, there are still many questions to be answered. For example, How will we assure the business side of the equation that nonprofit institutions working to strengthen their financial underwriting using social enterprises are not a threat to their profitability and access to markets? How can nonprofits continue to draw quality and effective volunteer board leaders from business if we cannot draw clear connections to their involvement with the health and well-being of civil society? How can we further sharpen our definitions and the way we describe the role of the nonprofit sector in

the United States before powerful public forces make our decisions for us and our work even more difficult? How does the notion of American private government fit with how other countries around the globe think about civil society? How can we manage the transformation of civil society in the 21st century if our scholarly community remains fragmented in the way it studies the nonprofit sector and private government? Can private government characteristics be gauged in terms of their overlap with government? Does the elegant formula constitute a new way to classify nonprofit, nongovernmental organizations in a taxonomy that weighs the degree an organization participates in polity? How would the elegant formula compare across national boundaries with Helmut Anheier's "Civil Society Diamond" (Anheier, 2001) or Jon Van Til's "mapping?" What are the other problems that will arise due to the lack of clarity in our terminology and in understanding the nonprofit sector?

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