PHILANTHROPICATION *thru* PRIVATIZATION

Building Permanent Endowments for the Common Good

by

LESTER M. SALAMON

PHILANTHROPICATION THRU PRIVATIZATION:

Building Permanent Endowments for the Common Good

Lester M. Salamon

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Cover & report design by Chelsea Newhouse.

There are those who see things as they are, and ask: ‘**WHY?**’
But I dream things that never were, and ask: ‘**WHY NOT?**’

Senator Robert F. Kennedy,
Paraphrasing George Bernard Shaw

The Academy of Central European Schools (ACES). Photo courtesy of ERSTE Foundation.

This volume is dedicated to the memory of

Pier Mario Vello

who singularly combined a passionate commitment to the unique potentials of charitable foundations with rare leadership and administrative skills to produce in Milan's Cariplo Foundation one of the world's pre-eminent charitable institutions, demonstrating in the process the enormous promise of the concept that this volume introduces.

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PREFACE

In these times of financial crises, growing public debt, and deepening poverty in various parts of the world, it seems particularly important not to fall into the trap of short-term thinking and panicked responses. Instead we should take the time for a thorough review of the path dependencies and interconnected reasons for the miseries we find ourselves in, and for careful consideration of new perspectives for building a more sustainable future for mankind.

It will take many building blocks to ultimately surmount the enormous challenges ahead of us. One of the most interesting, if so far largely ignored, of these possible building blocks is outlined in the present report: namely, the potential for channeling some or all of the proceeds from privatization transactions into permanent charitable endowments devoted to the common good.

It is against this background that Lester Salamon and his colleagues deserve to be thanked most cordially for taking on the enormous effort of providing us with the first comprehensive study of numerous already-existing cases of such "philanthropication through privatization." This process of channeling into effective and efficient philanthropic institutions some or all of the proceeds of the sale or transfer of various state-owned businesses or other assets has already achieved much and holds great promise for bringing additional resources and energies into efforts to solve pressing human problems. Compared to the still prevailing practice of dumping such proceeds into regular state budgets, this option has the advantage of permanently preserving such assets for priority common-good purposes on a long-term basis. As such, it is a practical and workable part of the solution to many of the problems we face and deserves the attention that this report will give it. In several respects this option seems to follow the advice of the German poet Friedrich Schiller who once wrote: "If what we are doing does not speak for itself, then words won't be of any help either."

Let's hope that the considerations and recommendations presented in this report will not only find many readers but also many leaders and decision-makers capable of implementing them in the most sustainable way by turning the results of safe and sound privatizations into trustworthy and endowed institutions that are able and willing to make a difference. The Members of the Advisory Committee to this project, which I am privileged to chair, are deeply committed to advancing this process in every possible way.

Wilhelm Krull
Hanover, 28 April 2014

FOREWORD and ACKNOWLEDMENTS

The **Philanthropication thru Privatization (PtP) Initiative** is designed to explore the potentials for creating permanent charitable endowments in countries throughout the world by tapping into the proceeds of privatization transactions of various sorts. Numerous such "philanthropication thru privatization" transactions have already occurred, but they have never been systematically identified and analyzed, nor seen as a possible strategy for seeding charitable foundations in countries where such institutions are sorely lacking. Yet such a strategy could yield "win-win" benefits for citizens, for civil society, for governments, and for investors. To understand this potential, the Project has set about to identify the previous cases of this PtP phenomenon, to subject a group of them to intensive examination, and to assess the potentials and desirability of implementing the PtP concept in other settings where privatization is planned or under way. This report summarizes the results of this inquiry.

The PtP Initiative is housed administratively at the **East-West Management Institute** (EWMI), an independent, not-for-profit organization that has played an instrumental role in building sustainable civil society institutions in countries throughout the world. And it has received important institutional support as well from the Maecenata Institute in Berlin, Germany, directed by Dr. Rupert Strachwitz.

Assisting me on this project has been an experienced team of Associates that includes: Dr. Gian Paolo Barbetta in Italy, Attorney Chuck Bell in the United States, Peter McKinlay in New Zealand, Dr. Lucas Meijs in the Netherlands, Amélie Mernier in Belgium, Dr. Bartek Pielinski in Poland, Nigel Siederer in the U.K., Dr. Rupert Strachwitz in Germany, and Boris Strecansky in Slovakia. Along with a number of other associates noted in **Attachment C** to this report, these individuals have assisted in the identification of past cases of PtP around the world and have produced a series of case studies that form the raw material on which this report largely depends. Unless otherwise noted, information on the PtP cases cited in this report derives from Field Guide Reports produced by these respective Associates. Brief summaries of these case studies will be posted at the project website, **p-t-p.org**.

Special assistance in the preparation of this report was provided by four of these Associates (Bell, McKinlay, Siederer, and Strachwitz) who prepared summary overviews of the 22 case studies carried out as part of the fact-finding portion of this initiative. In addition, the Project has benefited from the research and administrative assistance of Emmanuel Opati, William Burckart, Alexander Morse, and Naomi Hansen, and the production assistance of Chelsea Newhouse.

Support for the PtP Project has been provided by eight Italian foundations of banking origin (Fondazione Cariplo, Compagnia di San Paolo, Fondazione Banca del Monte di Lucca, Fondazione del Monte di Bologna e Ravenna, Fondazione Cassa di Risparmio di Bolzano, Fondazione Cassa di Risparmio di Cuneo, Fondazione Cassa di Risparmio di Fossano, Fondazione Cassa di Risparmio Salernitana) through the Associazione di Fondazioni e di Casse di Risparmio, by the ASB Community Trust in New Zealand, by the Charles Stewart Mott Foundation in the United States, by the King Baudouin Foundation in Belgium, and by the Volkswagen Foundation in Germany through a grant to the Maecenata Institute in Berlin. An Advisory Committee chaired by Dr. Wilhelm Krull, Secretary General of the Volkswagen Foundation, is providing guidance and advice to the initiative.

I am deeply grateful to all of the organizations and individuals for their crucial interest and support. None of them bears responsibility for the interpretations reported here, however. That responsibility lies with me alone as project director and principal author.

Finally, this book is dedicated to the memory of Pier Mario Vello, whose untimely death just as this book neared completion robs Italy and the entire global philanthropic community of a truly extraordinary leader and moral guide. Pier Mario was an unusually effective manager and leader of one of the more remarkable PtP foundations, Fondazione Cariplo, located in Milano. But he was also more than this: he was a moral philosopher who, in his recent book, *Generosity,* essentially took his place as the contemporary heir to an earlier moral philosopher, Adam Smith, whose major work was not *The Wealth of Nations,* but *The Theory of Moral Sentiments,* and whose long-forgotten major message was not about the "hidden hand" of the market, but about the sentiment of "mutual sympathy" without which he felt the hidden hand could not function. In *Generosity,* Vello gives modern expression to a similar theme, identifying what he terms "inclusive generosity" as the antidote to the contemporary failures of the state and the market, and urging us to "render generosity a public affair," and to "give more public space and voice" to its "private and public expressions." It was this deep philosophical perspective that made Pier Mario such a creative force in the philanthropic community of the world and that made it such a great privilege for me, as for so many others, to earn his interest and support and to know him as a valued colleague and friend. Hopefully, this volume, which he encouraged and supported, will help carry his message forward.

Lester M. Salamon
Annapolis, MD
31 July 2014

EXECUTIVE SUMMARY

Philanthropication thru Privatization:
Building Permanent Endowments for the Common Good

Lester M. Salamon

BACKGROUND

With the resources and capabilities of governments barely growing or in decline around the world, yet the problems of poverty, ill-health and environmental degradation ballooning daily, it is increasingly clear that new efforts, and new financial resources, are urgently needed to address the world 's pressing social, economic, and environmental challenges.

In response, governments in many parts of the world are looking to the privatization of state-owned enterprises or the sale of other public assets, such as mineral rights, air rights, or electric power, to generate the capital needed to meet these challenges. However, these efforts are increasingly encountering citizen resistance because they tend to produce "upside-down" effects, imposing significant short-term burdens on relatively narrow groups of affected citizens while delivering their potential benefits only over the long run to widely dispersed groups or having them disappear without a trace into government budgets.

Meanwhile, in many of these same areas energetic efforts are under way to promote the development of community-based philanthropic institutions that can generate private resources to help deal with community problems. But these efforts are confronting a crucial barrier due to the general lack of capital to underwrite their operations.

Fortunately, there is a potential "win-win" way out of both of these dilemmas: by channeling all or a portion of the proceeds of privatization transactions into charitable foundations, a process we are calling *Philanthropication thru Privatization,* or PtP.

PtP offers a way to reverse the upside-down effects of privatization by placing permanent assets in private charitable institutions dedicated to improving the quality of life of citizens, particularly those most directly affected by privatization. In the process, it can reduce opposition to legitimate privatization transactions by ensuring citizens they will share in the benefits that can flow from the sale of assets that are their birthright or the product of their sweat and toil. Properly designed and executed, PtP can revolutionize the charitable landscape of countries while transforming privatization into a win-win process for citizens, governments, and investors alike.

Philanthropication thru Privatization is not just an abstract idea, moreover. It is already in operation. Indeed, some of the largest and most reputable foundations in the world—such as Germany's Volkswagen Foundation, Italy's foundations of banking origin, New Zealand's network of "community trusts," Belgium's King Baudouin Foundation, and close to 200 health conversion foundations in the U.S.—have all resulted from, or been enlarged through, a PtP process.

Yet these developments have all proceeded in virtual isolation. No one has thought to draw a circle around them and call attention to their striking commonalities. More importantly, no one has thought to highlight the important lessons they might hold for a new approach to privatization that can yield win-win payoffs for citizens and civil society, as well as for governments and investors.

Until now.

THE PRESENT REPORT

The present report seeks to fill this gap. It offers the first systematic look at what turns out to be a sizeable global process of social wealth creation that has already contributed to the establishment or enlargement of significant philanthropic institutions endowed with billions of dollars of assets and dedicated to a variety of social, economic, developmental, and environmental objectives.

With a new wave of privatization activity now under way, and efforts to generate charitable resources to support civil society and social purposes going starved for funds, it is imperative that this option be better appreciated and understood. And that is precisely what this report seeks to accomplish.

SIX KEY QUESTIONS

More specifically, drawing on a global network of associates who surveyed the philanthropic landscape of the world and then conducted a series of in-depth case studies of existing PtP institutions, the report seeks to answer six key questions:

1) What is PtP?
2) What is the scope of the existing PtP universe?
3) What factors have given rise to PtP transactions?
4) How are PtP transactions best structured and carried out?
5) How have PtP foundations operated and performed? and
6) Does PtP have a future?

KEY FINDINGS

Eight key findings have emerged from this investigation as detailed in this report.

1) A Powerful New Concept

PtP is a powerful concept, providing a new analytical lens that brings into coherent view for the first time a long-overlooked but important set of transactions that hold the promise of changing the global philanthropic landscape and ushering in a new citizen-focused mode of privatization. These transactions share three key features:

- **a)** An initial governmental or quasi-governmental asset;
- **b)** A process of divestiture that transfers ownership or control of this asset into the hands of one or more private institutions; and
- **c)** A meaningfully autonomous private charitable institution that secures ownership or control of all or a portion of the proceeds of this transfer in the form of a permanent endowment or an endowment-like flow of resources.

At least five types of such PtP transactions have been identified based on whether the initial asset is:

- **i)** A state-owned enterprise;
- **ii)** Some other government-owned asset (e.g., a building);
- **iii)** A stream of income from some government-controlled resource (e.g., a lottery, mineral deposits, air rights licenses);
- **iv)** A debt swap; or
- **v)** A quasi-governmental entity or resource (e.g. a nonprofit organization that has benefited from government tax or other subsidy).

2) An Enormous Engine of Social Wealth Creation

Once brought into focus with the help of the PtP concept, the universe of PtP transactions, institutions, and resources turns out to be huge. Our preliminary exploration of this universe of institutions reveals that:

→ Well over 500 PtP foundations exist around the world, located in 21 countries, and holding at least US$135 billion (€100 billion) in assets.

→ The most common type of PtP transactions are those involving the privatization of quasi-public institutions, but significant examples of all five types are evident.

→ Like foundations generally, most PtP foundations (54 percent) are small, with assets of less than US$100 million each, however 13 percent have assets in excess of $3 billion each, placing them among the largest foundations in the world. In fact, compared to the foundation universe in general, PtP foundations are more heavily weighted toward larger institutions, reflecting the enormous scale of the privatization transactions that have fueled their growth.

3) Facilitating Factors

Philanthropication accompanies privatization where it is necessary, or useful, to do so. More specifically, this outcome seems to be most likely:

→ Where privatization is proposed or under way;

→ Where the assets involved have some unusual characteristic (e.g., contested or unclear ownership, unusual legal structure, history of prior governmental subsidization);

→ Where the legal environment facilitates philanthropication or discourages alternative uses of privatization proceeds;

→ Where opposition to privatization has surfaced or is feared; and/or

→ Where policy entrepreneurs or other advocates, including civil society, push for this outcome.

4) The Specific Structures of PtP Deals and Institutions Matter

- PtP deals that create endowments generally yield better financial results than ones that establish a stream of revenue, even when the stream of revenue is secured over a period of time contractually or by law.
- PtP foundations can receive the proceeds of privatization transactions either in the form of cash (one-step deals) or in the form of shares of stock in a privatized company or other asset that they can later sell (two-step deals). Generally speaking, two-step deals yield larger charitable endowments than one-step deals.
- PtP deals can be structured in ways that avoid any conflict between the establishment of PtP foundations and privatization's contribution to the reduction of government debt.

5) Generally Impressive Operational Performance

With some notable exceptions, PtP foundations have adopted leading-edge techniques of foundation operations. Thus, they have generally established:

- Governance arrangements that provide *meaningful autonomy* from governmental authorities and privatized companies;
- Coherent *mission statements* and programmatic objectives;
- *Transparent reporting procedures* that publicize programs, sources, and uses of funds, governance arrangements, and conflict of interest policies;
- *Professionalized operations*, featuring skilled experts in the fields in which the foundations work and in the management of foundation assets; and
- Rationalized *investment management*.

6) Effective Programmatic Performance

Programmatically, PtP foundations have made significant contributions to their communities. Thus they have:

- Generated substantial charitable contributions;
- Strengthened civil society organizations;
- Promoted regional development;
- Supported a wide variety of objectives, though generally within an increasingly strategic sense of mission;
- Generated important innovations; and
- Modeled creative multi-stakeholder decision processes.

7) A Promising Future

The future of Philanthropication thru Privatization seems bright, for a number of reasons.

→ Significant assets are still available for privatization.

→ Governments are under pressure to reduce debt and attract private investment.

→ Because of its upside-down effects, privatization faces continued community hostility that PtP can help to resolve.

→ PtP thus brings win-win benefits to investors, governments, communities, and civil society:

- *Benefits for investors include:*
  - ✓ Assurance of community support;
  - ✓ Consequent avoidance of costly delays in securing closure on deals;
  - ✓ Resulting advantages in the bidding process;
  - ✓ Early good will with employees, potential customers, and suppliers; and
  - ✓ Positive international reputation.

- *Benefits for governments include:*
  - ✓ Attracting investors wary of uncertain investment climates;
  - ✓ Avoidance of community resistance;
  - ✓ Consequent avoidance of failed sales;
  - ✓ Guaranteed support for long-term priorities;
  - ✓ New partners to share the burdens of addressing enduring problems; and
  - ✓ Improved international reputation for probity and social accountability.

- *Benefits for communities include:*
  - ✓ Securing tangible, long-term benefits from privatization;
  - ✓ Opportunities to participate in community problem-solving;
  - ✓ New resources for addressing community problems; and
  - ✓ Improved, health, education, environment, infrastructure.

- *Benefits for civil society:*
  - ✓ Liberation from sole dependence on external support;
  - ✓ Improved public image;
  - ✓ Broader promotion of charitable giving and philanthropy;
  - ✓ Improved channels for participation in governmental decision-making; and
  - ✓ Expanded resources with which to address community needs.

→ The dissemination of the PtP concept through the present report will boost awareness of these win-win benefits and help propel adoption of the PtP option.

8) The Need for Standards and Guidelines

For PtP to deliver the benefits of which it is capable, great care must be taken in the design and operation of PtP foundations, as well as in the selection of privatization transactions to which it can appropriately be attached.

Features of privatization transactions that would make them potentially suitable for PtP applications include:

- **i)** Coherent and explicit legal and organizational structures for managing the transactions;
- **ii)** Open and transparent procedures;
- **iii)** Attention to market conditions likely to restrain competition and therefore create a need for regulation or other intervention; and
- **iv)** Inclusion of a "social package," a set of provisions committing investors to assist in mitigating any negative effects of privatization and to operate in an environmentally and socially responsible fashion.

Key features required in PtP foundations:

- **i)** Independent governance;
- **ii)** Professional management;
- **iii)** Transparency;
- **iv)** Accountability and conflict of interest provisions;
- **v)** Representativeness; and
- **vi)** Grantmaking activity.

Even with these features in place, the benefits of PtP will not be achieved automatically. Active dissemination of the concept and technical assistance for potential implementers are needed, and both are now available. To learn more an to contact the project team, please visit **p-t-p.org**.

CONTRIBUTORS

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The following individuals authored case studies of PtP foundations on which chapters 4 thru 6 of this volume drew heavily:

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Nigel Siederer is founder and principal of the Good Foundations Consultancy, which advises NGOs on governance and strategy. He was formerly chief executive of the U.K.'s Association of Charitable Foundations, where he established Philanthropy UK, and edited the journal, *Trust & Foundation News*.

Rupert Graf Strachwitz is the Managing Director of the Maecenata Foundation and Director of the Maecenata Institute. Dr. Strachwitz has served as Vice President of German Caritas, as a member of the German Parliamentary Commission on Civic Engagement, as President of the Duke of Bavaria's Administration, and as a member of the boards of a number of foundations and nonprofits in Germany and abroad. The author of numerous publications on foundation issues, cultural policy, the third sector, and civil society, he earned his Ph.D. degree from Muenster University.

Boris Strečanský is the Executive Director of the Slovak Center for Philanthropy and consults on organizational capacity-building, evaluation, and strategic planning for civil society organizations in countries of Central and Eastern Europe, the Caucasus, and Central Asia in cooperation with the C.S. Mott Foundation and others. With a degree in Philosophy and History from Comenius University and a post-graduate certificate in Developmental Donor Practice from London Metropolitan University, Strečanský serves on the editorial board of *Alliance* magazine and participates in national and international civil society and philanthropy research.

Chapter 1: INTRODUCTION

On July 30, 1990, the Italian Parliament passed a law with monumental implications for the country's economic development and social progress. In one deft stroke, Italian lawmakers set in motion two remarkable developments that would make ancient practitioners of alchemy envious: *first,* the transformation of Italy's somewhat shaky banking system into a financial powerhouse whose tentacles now stretch into the farthest reaches of Europe; and *second,* the even more remarkable transformation of a charitable sector that lagged badly behind its European counterparts into the most well-endowed, well-heeled, and generous such sector on a per capita basis in all of Europe, and nearly the entire world.

To be sure, the legislators who passed this momentous piece of legislation may not have fully understood what they were setting in motion. For, Law No. 218 of 1990, the Amato-Carli law, was a fairly arcane piece of legislation. Its stated purpose was to comply with European Union strictures to modernize a banking system dominated by two sets of institutions: *first*, a handful of public-law banks, some with origins stretching back to the fifteenth century Franciscan tradition of pawnshop institutions;[1] and *second*, a network of 84 relatively small, regional savings banks, many with origins in the late 18th and early 19th century efforts to encourage habits of thrift among low and middle-income people as exemplified by the Ersparniskasse created in 1778 in Hamburg, Germany, and the 1810 "trustee savings bank" first established in Dumfriesshire, Scotland, by minister Henry Duncan and later spread through Great Britain and through the British Empire.

During the 1930s, however, both types of institutions had been swept up in the waves of nationalizations and government control unleashed by the Mussolini era and subsequent governments so that, by the 1980s, they found themselves caught in a difficult legal no-man's land—functioning partly as banks and partly as charitable institutions—and with their status a confusing mixture of public and private.

Under pressure to transform these institutions into regular joint stock companies capable of raising capital in the international money markets, the Italian Parliament chose a novel course. First, it established powerful incentives for this collection of public-law and savings banks to transfer their banking functions to separate joint stock companies. But instead of terminating the old savings banks and allowing outsiders to gain control of the new joint stock banks, it left ownership of the new entities in the old institutions, which were still in possession of their traditional subsidiary charitable activities but now were in control as well of a new set of joint-stock banking companies.

The Italian Parliament chose a novel course.

The rest, as they say, is history. The old banks, now awkwardly renamed "conferring entities," began operating fundamentally as foundations, but foundations in control of local banks. In this latter function, they proved—in most cases—to be very good stewards of their new joint-stock banking offspring. In rapid order, many of them agreed to merge these offspring in order to achieve needed efficiencies. Thus, thirteen of them came together to form what ultimately became Unicredit, now one of the largest Italian banking groups. Nineteen other of these new "foundations of banking origin" (neé "conferring entities") decided to sell their newly formed, for-profit banks to existing for-profit banking companies. Thus, for example, the **Cariplo Foundation**, the "conferring entity" that resulted from the transformation of the Cassa di Risparmio delle Province Lombarde into a for-profit bank, sold the resulting bank to Banco Ambrosiano Veneto, an existing, for-profit bank, for cash and stock. In the process it became the single largest owner of the resulting merged institution, renamed Banca Intesa. Later, the **Compagnia di San Paolo**, the conferring entity emerging from the transformation of one of the privatized public banks, the Istituto Bancario San Paolo di Torino, followed a similar course, selling its bank into the same Banca Intesa group, forming, along with some additional acquisitions, the Intesa San Paolo S.p.A., now the largest banking group in Italy.[2]

Through these mergers and resulting efficiencies, the new bank offspring more than repaid their old savings-bank parents, boosting the value of their shares and generating sizable dividends to boot. Along the way, a series of laws and regulations began to cut the umbilical cords linking the new banks to the old conferring entities—first, by banning the joint appointment of members to the boards of both entities; and second, by encouraging the conferring entities to divest themselves of their ownership positions in the new banks by selling portions of their bank stock and diversifying their holdings. Finally, two days before Christmas in 1998, the legislature passed a subsequent law, the Ciampi Law, which seemed to celebrate an earlier

Italy found itself not only with a substantially modernized private banking system but also with a strong, new, private foundation community created almost magically out of a process of privatization.

"immaculate conception" by completing the transformation of the conferring entities into full-fledged, endowed, private foundations, separated from their banks (except as minority shareholders), and fully empowered to act on their own authority to pursue public-benefit and economic development objectives with their much enhanced assets and earnings.[3] Thus was completed a process we have termed "philanthropication thru privatization," or PtP—the creation of significant endowed charitable foundations out of the proceeds of the privatization of state-owned, or state-controlled, assets.

Ten years out from passage of the Amato-Carli Law, therefore, Italy found itself not only with a substantially modernized private banking system but also with a strong, new, private foundation community created almost magically out of a process of privatization, and pumping 1.7 billion euros a year (US $2.2 billion) into charitable endeavors. By 2010 these "*foundations of banking origin*" (FBOs) boasted assets topping 50 billion euros (US$65 billion). Even more amazingly, a number have taken their place among the largest such institutions in the world. Thus, the **Cariplo Foundation**, created out of the transformation of the Lombardy region savings bank, ended up in 2012, even after the 2008 financial crash, with US$9.8 billion in assets, putting its endowment on a par with that of the Ford Foundation, the second largest foundation in the United States. **Compagnia di San Paolo**, with assets of US$ 8.6 billion as of 2011, ranks even with America's third and fourth largest foundations, the J.P. Getty Trust and the Robert Wood Johnson Foundation. The Rockefeller Foundation, one of the best known of the American institutions, is only a third the size of these two new Italian institutions and lags behind two others—**Fondazione Cassa di Risparmio di Torino (Fondazione CRT)** and Fondazione Cassa di Risparmio di Verona Vicenza Belluno e Ancona, each of which boasts assets well above The Rockefeller Foundation's $3.5 billion.[4]

These are not only huge philanthropic institutions, moreover. As we will see more fully below, many of them have established reputations as trend-setters in the philanthropic arena globally. They have developed coherent mission statements and strategy documents, adopted strong transparency practices, formed partnerships with institutions in Italy and elsewhere, pioneered new approaches to leveraging their resources to maximize impact, and become fundamentally important supporters of the civil society sector in their country. Thus the **Cariplo Foundation** has launched an ambitious social housing initiative, promoted community arts, invested resources into a fund for technology start-ups, and started some of the first Italian experiments in the field of "evidence based" policies. **Fondazione CRT** in Torino created a separate entity to promote growth and development in its region. And four of the foundations have joined forces in Foundation4Africa to resettle displaced persons and pursue economic development activities in Uganda and Senegal.

To be sure, not all of the Italian PtP foundations have been equally successful. Some of them did not diversify their endowments and neglected to separate themselves fully enough from their banks. When the 2008 financial crisis hit, these institutions encountered deep trouble.[5] Nevertheless, the overall outcome is nothing less than eye-opening.

And with our eyes so opened, it becomes clear that the Italian experience does not stand alone. Indeed, what is most unusual about it is that it turns out not to be so unusual at all. To the contrary, even casual observation, informed by the Italian experience, reveals that this experience has counterparts in places far and wide—some of them virtual replicas of the transformation of the Italian savings banks and others more distant cousins, but with enough family resemblance to be recognizable as products of the same gene pool. For example:

The Italian experience does not stand alone.

- → In New Zealand in the 1980s a story virtually identical to that of the Italian foundations unfolded, with the transformation of another network of nonprofit savings banks into stock companies and the vesting of ownership of the stock of the resulting banks in a network of twelve "community trusts," which now form the backbone of New Zealand's philanthropic community.
- → Two decades earlier, in 1961, the Government of Germany privatized the former Nazi Party-owned Volkswagen Company, sold 60 percent of the shares of the company to German citizens and dedicated the proceeds to a new foundation designed to promote German science. Called the **Volkswagen Foundation**, (though it has no relation to the Volkswagen Corporation), this Foundation now boasts €2.6 billion (US$3 billion) in assets and a long history of substantial grant-making.[6]
- → In the early 1990s, the Czech Republic set aside one percent of the shares of its sizable privatization sales of major state-owned enterprises in a **Czech Foundation Investment Fund**, which ultimately distributed the resulting funds as endowments to 73 Czech foundations.

- In the late 1980s, the **King Baudouin Foundation** became the recipient of another type of "privatization"—a contractually set stream of revenue generated by the Belgian National Lottery, an enterprise of the Belgian national government.

- More recently, the conversion of a number of nonprofit hospitals and health insurers in the United States into for-profit companies led almost overnight to the creation of nearly 200 so-called "conversion foundations."[7]

- And more recently still, Austria's network of Sparkasse, or savings banks, was converted into stock companies in a pattern virtually identical to the development in Italy, yielding the **ERSTE Foundation** and over 30 other foundations of banking origin in that country.

It appears that in a variety of circumstances, the privatization of state-owned or quasi-public assets has led to the establishment of often-substantial charitable endowments.

In short, it appears that, in a variety of circumstances, the privatization of state-owned or quasi-public assets has led to the establishment of often-substantial charitable endowments. A kind of philanthropic alchemy has thus been under way in a significant number of areas through which the privatization of public or quasi-public assets has left behind not only a string of for-profit businesses, but also substantial deposits of charitable gold that have been used, in addition to other purposes, to help foster and support the civil-society institutions without which democratic political systems and market-based economies cannot function.

Up to now no one has thought to draw a circle around these developments and recognize not only their commonalities, but also the lessons they might hold.

What is striking about these developments, however, is that they have all proceeded in virtual isolation from one another. Each is therefore known in its local setting but largely invisible to a broader public. Each is therefore considered *sui generis*. No one has thought to draw a circle around them and recognize not only their commonalities but also the lessons they might hold as a new strategy for promoting the development of charitable foundations, particularly in regions where such institutions are lagging but where privatization activity is still very much under way. Yet these lessons could be transformative. If steps could be taken to channel into foundations even a small portion of the proceeds of the privatization transactions under way in developing and transition areas, not to mention more developed countries where philanthropic assets are also frequently scarce, a fundamental transformation could be achieved in the philanthropic map of the world.

For example:

→ If just 10 percent of the proceeds of Ukraine's sale of its Kryvorizhstal steel mill to Mittal Steel in 2005 could have been devoted to the strengthening of the country's embryonic community foundations or the creation of a Ukrainian National Foundation, the result would have been €400 million (US$520 million) in charitable assets to help offset any ill effects of the privatization on workers and the surrounding communities, as well as to create a permanent source of resources to grow the country's nascent civil society sector.

→ Similarly, if 10 percent of 2007's sale of 40 percent of the stock in Kenya's Safaricom mobile phone network to the U.K.'s Vodaphone Corporation had been dedicated to buttressing the endowment of the Kenya Community Development Foundation, the result would have been a charitable institution with over €50 million ($65 million) in assets, 20 times larger than this institution's existing endowment. With just 5 percent of its assets, the resulting institution would be capable of generating €2.5 million in grants annually, more than 5 times larger than the €0.37 million in grants that Vodaphone currently contributes to its Safaricom Foundation.[8]

→ If 10 percent of the $5.5 billion proceeds of the U.S. Government's 2012 sale of a portion of its stake in the General Motors Corporation could have been reserved to finance a foundation dedicated to helping revitalize the City of Detroit, that city might be facing a far brighter future than it now does in the wake of its recent bankruptcy.

Such privatization deals are not just a thing of the past, moreover. Rumours about the death of privatization deserve the same reaction that 19th century American humourist Mark Twain gave to reports that reached him of his untimely death: "The reports of my death," Twain told reporters, "have been greatly exaggerated." For better or worse, contrary to reports of its demise, privatization remains very much alive and well across the globe. Despite the economic crisis of 2008, for example, the two highest years of privatization transactions ever recorded occurred as recently as 2009 and 2010—and this using an extremely narrow definition of "privatization."[9] Furthermore, despite a partial cooling of such transactions as economic growth faltered in 2011, privatization activity seems to have picked up again in 2012, yielding the third highest year of privatization transactions in history.[10] A sampling of

Philanthropication thru Privatization is thus not just an interesting historical artifact; it is also a potential route to foundation development as the privatization process continues to unfold.

articles on privatization in the Financial Times in just the last quarter of 2012 includes headlines such as the following: "Brazil plans to privatise Rio airport" (20 December 2012); "Turkey privatisation plan boosted by sale" (16 December 2012); "Osaka airports open gate to privatisation" (4 December 2012); "Russian Railways approves the $1.6 bn sale of its remaining 25 per cent share in Freight One [and] Completes privatisation of its biggest freight subsidiary" (29 November 2012); "Albania: €850m state oil company sale" (26 November 2012); "Turkey raises $2.5bn from Halk Bank sale" (19 November 2012); "Privatisation: Sberbank sets example for further state sales" (18 October 2012).

Philanthropication thru Privatization is thus not just an interesting historical artifact; it is also a potential route to foundation development as the privatization process continues to unfold.

THE PtP PROJECT

It was to explore this significant and largely unexamined route to foundation formation and the lessons it might hold for future privatization transactions that the project that forms the basis of this report was launched. More specifically, this project has proceeded in six steps:

→ ***First,*** a "working definition" of the project's core "philanthropication thru privatization" concept was formulated.

→ ***Second,*** a global effort was launched to examine the past history of this phenomenon and its potential future prospects. For this purpose, a global network of twelve "Discovery Associates" was assembled to perform three tasks: (a) to identify all known cases of PtP-type transactions in various regions of the world; (b) to identify any cases of failed PtP experiments; and (c) to gather information about the status of on-going or planned privatization activity in the respective regions these Associates were asked to examine. In order to ensure consistency across regions, a Field Guide was prepared and used to structure the work of these Discovery Associates. (See Appendix B for a list of these Discovery Associates and the regions they covered).

→ ***Third,*** the working definition of the PtP phenomenon was revised and broadened based on the reports that came back from this discovery process. Fundamentally, we discovered more ways in which publicly controlled assets can reach charitable endowments than our initial working definition acknowledged, including some that touch on important assets in regions particularly lacking in charitable endowments and are therefore in a position to benefit considerably from the PtP process.

→ ***Fourth,*** we identified 22 of these PtP transactions for more in-depth analysis, taking pains to include examples of different types of transactions, in disparate settings, and including some less than successful cases as well as some generally successful ones. To prepare these case studies, as Project Director, I prepared a detailed case study field guide and recruited nine analysts to prepare the resulting case studies (See Chapter 3 for a fuller description of these PtP case study institutions and transactions and the Case Study Associates who prepared them).

→ ***Fifth,*** the insights provided by the Discovery Associates on the continuing pattern of privatization activity globally we supplemented with data drawn from a variety of other sources, including particularly the records compiled by the Privatization Barometer, a Milan-based project of the Fondazione Eni Enrico Mattei, and analyzed by Professor William Megginson.

→ ***Finally,*** we assembled the Case Study Associates for a preliminary workshop to review the results of their work and identify implications of our findings for the PtP concept going forward.

The present document reports on the results of this work. To do so, the discussion falls into six chapters in addition to this Introduction.

We begin in Chapter 2 with a discussion of the PtP concept itself, since it has not been previously articulated. Like all concepts, this one is intended to bring into better focus a component of reality that has long been present but that has gone largely unnoticed in the absence of a coherent concept to identify its commonalities and thereby attract useful attention to it.

In Chapter 3 we then examine the scope of the PtP phenomenon as revealed by the still-preliminary survey of the global philanthropic landscape carried out with the aid of informed observers by our team of Discovery Associates. What has emerged from this preliminary inquiry is a set of more than 500 charitable foundations that have been formed or substantially expanded as a result of one or another of our five types of privatization transactions. (See Appendix A; this list will be regularly updated at p-t-p.org.)

Chapters 4 thru 6 then look in more depth at some of the central features of the PtP transactions and the operations and performance of the resulting institutions as reflected in the experiences of the 21 foundations, and the 22 PtP transactions, on which we have done in-depth case studies.[11] These chapters seek to identify meaningful lessons that these cases seem to hold, first, for the political or legal circumstances that seem to lead to PtP-type outcomes; second, for the kinds of deals through which such transactions can best be implemented; third, for the governance and operational structures most conducive to the successful operation of the resulting institutions; and finally, for the performance that these institutions seem to have achieved.

Chapter 7 then looks to the future by examining what we know about current trends in privatization and identifying the advantages that the PtP option can bring both to those affected by privatization and those promoting its further development.

A CRUCIAL CAVEAT

Before proceeding into the heart of this discussion it is important to emphasize that this project is well aware that privatization is a complicated and controversial topic. The project takes no position for or against privatization. Its one concern is to make sure that the interesting option of capturing in philanthropic endowments at least a portion of the proceeds of any privatization transactions that go forward is more seriously and explicitly considered whenever such transactions are under discussion. The rationale for making this option more explicit is quite basic:

→ The assets involved in privatization transactions are not ultimately "the government's" assets, but "the people's" assets, built up through the sweat, toil, and resources of a country's citizens or belonging to the people as a birthright by virtue of their presence in the territory that they collectively occupy.

→ A country's people, and particularly those living or working in close proximity to the assets in line for privatization, therefore deserve to receive some tangible benefit from any such transactions.

→ For a variety of reasons, this can often best be achieved by vesting these proceeds into charitable endowments instead of having all of them absorbed into state budgets.

→ Properly done, this option has the advantage of usefully contributing to pluralism in the search for solutions to public problems; of bringing permanent sources of new resources and energies to the solution of public problems; and of helping to promote the independence and viability of civil society organizations, which have been found to be crucial for building the trust that is necessary for the operation of democratic governments and prosperous market economies.

→ At the same time, the project is keenly aware of the need to specify the transparency, governance, and operational provisions required for philanthropication to be considered "properly done" and therefore likely to achieve these socially desirable objectives. What is more, it is also keenly aware of the danger that philanthropication could be used as a cover for improper privatizations—ones that are carried out without transparency and that enrich a small group of elites without delivering meaningful benefits to society at large—and it will vigorously discourage such uses of the PtP concept. Between these two extremes of improper philanthropication and improper privatization, however, lies a potentially broad area of win-win transactions capable of yielding desirable improvements in long-run economic performance along with new, or newly expanded, endowed charitable institutions delivering important benefits to disadvantaged citizens and long-term contributions to pluralism, democracy, and social and environmental progress. In the process, PtP can produce a new people-oriented form of privatization that overcomes what we will term the “upside-down effects” of privatization—the tendency of privatization to impose significant early costs on the narrow groups of citizens directly affected by it while delivering whatever positive benefits it generates only over the long run and to widely dispersed populations.

These, at any rate, are the premises on the basis of which this work has proceeded. Against this backdrop we can now turn to a closer look at what the PtP concept really entails, at what forms it can take, at what it has so far achieved, and at what more it might achieve in the future.

[1] Including, for example, the Monte dei Paschi di Siena and the Compagnia di San Paolo di Torino.

[2] In addition to the banks named here, the other institutions that came together to form the Intesa San Paolo S.p.A banking group included the Banca Commerciale Italiana and the Banco di Napoli.

[3] Some of the smaller foundations, operating in small communities, were permitted to retain majority stakes in their "conferred" banks.

[4] U.S. foundation assets drawn from foundation websites accessed 29 July 2013. Asset figures are as of 2011. These figures confirmed at foundationcenter.org (accessed 2 August 2013). Unless otherwise noted, throughout this report monetary values will be expressed in U.S. dollars at exchange rates in effect as of July 31, 2013.

[5] The Monte dei Paschi di Siena is probably the most striking example: the bank raised new capital to finance what later became apparent to be an ill-advised acquisition. To avoid diluting its control of the resulting merged institution, the foundation took out a substantial loan to participate in the capital increase. But, then, with the bank teetering on the edge of bankruptcy and its stock price radically devalued, the foundation found its endowment virtually disappear. For further detail, see, for example: Elisabetta Povoledo and Jack Ewing, "Italian Bank Caught in the Vortex of Election Politics," *New York Times* (28 January 2013).

[6] Data on Volkswagen Foundation assets as of 2013 available at volkswagenstiftung.de (accessed 28, July 2013). As will be discussed below, the actual transaction involved was a bit more complicated than this. In the initial transaction, 60 percent of the shares of the new company were sold to the public and 20 percent each were given to the Federal Republic of Germany and to the state of Lower Saxony where the Volkswagen plants were located. While the proceeds of the publicly sold shares were dedicated to it, the new Volkswagen Foundation had to wait 20 years to receive them. Instead the proceeds went to the Federal Republic in the form of a loan and the Federal Republic paid interest to the Foundation for the use of these funds. In addition, the Federal Republic ultimately sold its own shares and transferred most of these proceeds to the Foundation as well.

[7] Grantmakers in Health, *A Profile of Foundations Created from Health Care Conversions*, (Grantmakers in Health, 2009), accessed February 6, 2010.

[8] Vodaphone contributions to Safaricom Foundation based on UK Vodaphone Foundation accounts available from the U.K. Charity Commission. These records show that Vodaphone contributed 43.8 million Kenyan shillings to Safaricom Foundation in the calendar year ended 31 March 2012.

[9] William Megginson, "Privatization Trends and Major Deals in 2012," in *The PB Report 2012*, (Milan: Fondazione Eni Enrico Mattei, 2013), 3. Megginson defines privatization narrowly as the sale of state-owned enterprises or assets. As will be discussed in Chapter 2, this project has identified three other forms of privatization as well, while other authors extend the definition well beyond this.

[10] Ibid.

[11] Although we focus on 21 foundations, one of these institutions, the Foundation for Polish Science, actually was the beneficiary of two separate types of PtP transactions. In two other cases, individual transactions benefited multiple foundations. Thus, the proceeds flowing into the Czech Foundation Investment Fund ultimately benefited 73 Czech foundations. And, to avoid capital gains taxes, most of the resources ultimately deposited in the California Endowment as a result of the conversion of the California Blue Cross to for-profit status were initially placed in another new entity, the California HealthCare Foundation, for liquidation. In both cases, we focus solely on the main actor rather than the subsidiary institutions.

Chapter 2: DEFINING THE PtP CONCEPT

Philanthropication thru Privatization, PtP, is, to say the least, an awkward construct. It links together two fields rarely thought of together and uses two words that are inherently unclear—one because it was invented for this project and has no certain meaning beyond it, and the other because it has widely divergent meanings in the hands of different observers. To understand the discussion that follows, therefore, it will be important to clarify from the outset the defining features of the phenomenon under investigation.

DEFINING PRIVATIZATION

So far as the *privatization* part of the concept is concerned, one reliable observer recently cautioned that "[t]he term 'privatization' has been, and continues to be, loosely applied to a broad range of transactions, only some of which involve the complete transfer of ownership to private parties." More specifically, this author notes that:

> *The contracting out to private operators of a firm's non-core activities (e.g., office cleaning, vehicle maintenance), management contracts, leases, and concessions—none of these necessarily involve (sic) transferring permanently a firm's productive property to private hands, but all are generally referred to as forms of privatization.*[1]

For the purposes of this project, we reject this broad conceptualization and focus more narrowly on *transactions that involve the transfer of ownership or effective control of assets from government or quasi-government entities to private hands.* The term widely used for this more narrow conception of privatization is "divestiture," which signals circumstances "where partial or full ownership of assets is legally removed from government and transferred to new private operators."[2]

Even this definition has problems from the perspective of the PtP Project, however. This is so for two major reasons. In the first place, in most of the literature on privatization—and certainly in most of the data sets purporting to cover "privatization"—the focus has been almost exclusively on the divestiture of state-owned "enterprises," i.e., on businesses producing products or services.[3] However, privatization can also involve the divestiture of other state-owned, state-controlled, or heavily state-influenced assets beyond businesses. Included here are state-owned facilities, such as cultural institutions, schools, or, in recent years, ports and airports. Also included, however, can be streams of income that reach state coffers through extraordinary activities or events. Included here can be lottery receipts, mineral rights fees, airwave fees, proceeds from court settlements, so-called "stranded assets" left in bank accounts of citizens who die without a will, and debt swaps that allow a country to be relieved of foreign debt in return for committing an equivalent amount of local currency to some public purpose, such as preserving a rain forest or promoting environmental objectives.

Privatization can involve the divestiture of other state-owned assets beyond businesses.

In addition, privatization can also involve assets that are only *quasi*-governmental, i.e., that are arguably only partly owned or created by government. This is the case, for example, with nonprofit institutions that have built up their assets at least in part thanks to exemptions from governmental taxes provided in view of the public benefits they are thought to create. When such institutions are privatized in the sense of being sold to, or transformed into, for-profit companies, it is often considered inappropriate, and in some cases illegal, for the proceeds to be claimed by the directors of the former nonprofits. Rather, arrangements have to be made to preserve those assets for the same charitable purpose that justified the tax benefits that helped create them. Placement into a charitable foundation mandated to pursue those purposes is one convenient way to achieve this.

In the second place, most of the focus in privatization discussions takes as a given that the *recipients* of the assets transferred through privatization are exclusively *private, for-profit firms*. While such transfers are certainly included within the PtP Project's conception of privatization, it does not exhaust the range of transfers that are possible. In addition to private, for-profit firms, the private sector also includes a wide array of *private, nonprofit entities* that are also potential recipients of the privatization of government-owned or -controlled assets. This can occur either directly, or as a by-product of sales of government-owned assets to for-profits. Such nonprofit recipients can be nonprofit schools, hospitals, social service institutions, cultural facilities, or, of special interest in the present project, private, nonprofit charitable foundations.[4]

The private sector also includes a wide array of private, nonprofit entities that are also potential recipients of the privatization of government-owned or -controlled assets.

BOX 2.1

Definition of Philanthropication

Philanthropication involves the creation or expansion of a charitable or philanthropic endowment, a more or less permanent pool of assets dedicated to charitable or public-benefit purposes and under the control of a legal entity with a meaningful degree of autonomy from state authorities and from any for-profit company.

DEFINING PHILANTHROPICATION

So far as the *philanthropication* part of this project's central concept is concerned, our approach is more narrow than some renderings of this term might suggest, but also more nuanced. By philanthropication, therefore, we do not mean the simple generation of charitable gifts. Rather, philanthropication, as we conceive it, *involves the creation or expansion of a charitable or philanthropic endowment*—a more or less permanent pool of assets dedicated to charitable or public-benefit purposes and under the control of a legal entity with a meaningful degree of autonomy from state authorities and from any for-profit company that may have acquired the state asset before its transfer to a nonprofit entity.

At the same time, as noted earlier, an asset can take the form of a stream of revenue rather than a lump-sum transfer, so long as the stream of revenue is in some fundamental sense semi-permanent and fixed by contract or law. The asset-equivalent value of such a stream of revenue can be easily estimated by calculating what size of asset would be needed to generate such a stream of annual revenue given current estimates of returns on investments.[5] As noted below, a variety of such streams of revenue can be made available to support charitable, or public-benefit, organizations, and a number of them already are. Prominently included in the latter category are revenues from state-run or state-controlled lotteries, but other examples can easily be imagined, including proceeds from mineral rights or air rights payments.

Given this definition, a privatization transaction in which the government sells a state-owned enterprise to a private company that creates a corporate foundation funded through annual donations from the parent company is therefore *not* a case of philanthropication thru privatization since no permanent asset, or steady stream of revenue that is the equivalent of an asset, is created and no meaningfully autonomous institution is given the power to determine its use. Rather, the company would remain in control of the foundation and the size of the donations would be determined by the size of corporate profits or other internal corporate decision processes. Similarly, a state-regulated lottery that sets its decisions about whether and how much to share its proceeds with local foundations or charities annually and autonomously has not created a true asset in our sense of the term: only if the distribution is set by law or contract over an extended period is an asset created.

A corporate foundation funded through annual donations from the parent company is *not* a case of philanthropication thru privatization.

PtP: A Working Definition

Three key features thus form the core of our working definition of the PtP concept:

1) A public or quasi-public *asset*;

2) A *transaction* that transfers ownership or control over all or a portion of this asset either directly from government to a charitable institution, or indirectly through a sale or transformation of this public or quasi-public asset into a for-profit business in the course of which *all or a portion of the proceeds end up in the control of a charitable institution*; and

3) A *charitable endowment or endowment-like stream of revenue* in the hands of a meaningfully autonomous charitable institution.

BOX 2.2
Definition of PtP

"Philanthropication thru Privatization" can be defined as a transaction in which essentially public (i.e., government-owned or -controlled) or quasi-public assets are transformed in whole or in part into charitable endowments under the control of meaningfully autonomous charitable institutions, either directly or in the course of the transfer of their ownership into for-profit hands.

A TYPOLOGY OF PtP VARIANTS

While all PtP cases adhere to these three defining features, the way in which they do so can vary depending on two key factors: first, the nature of the original asset; and second, the type of transaction involved.

Nature of the asset. So far as the first of these factors is concerned, the public or quasi-public asset can take any of at least five different forms:

i) A state-owned enterprise;
ii) Some other state-owned asset;
iii) A stream of revenue resulting from a state-owned or state-controlled activity;
iv) A debt swap; or
v) A quasi-public entity.

Type of transaction. So far as the type of transaction is concerned, two broad possibilities are available. In the classical privatization transaction, the asset reaches the philanthropic entity indirectly through a transaction involving a for-profit firm that becomes the owner of the asset either through an outright purchase or the acquisition of shares. But governments can also transfer an asset, or a stream of revenue, directly to a philanthropic institution, either newly formed or pre-existing. In either case, moreover, the transaction can occur in either one step or two depending on whether the

PtP foundation receives cash (one-step) or some form of ownership shares in the privatized asset that it can subsequently sell (two-step). In the case of the **Volkswagen Foundation**, for example, the foundation received 60 percent of the proceeds of the sale of shares in the Volkswagen Company to German citizens. In the case of the Italian foundations of banking origin described in Chapter 1, however, the foundations became the owners of 100 percent of the shares of the new joint-stock, privatized banks, and only later were authorized and encouraged to sell these shares.

Not all of these possibilities are equally likely, of course, but we have been able to identify five more or less distinct types of PtP cases, and we have found actual instances of all five types in the record of charitable developments in countries around the world. More specifically, these five types include:

→ ***Type I:*** A *state-owned business* that is sold to an investor or transformed into a for-profit enterprise with the ownership of the assets or the proceeds of their sale transferred in whole or in part to a new or existing foundation (e.g., the sale of shares in the formerly state-owned Volkswagen auto and munitions firm and the transfer of 60 percent of the proceeds into the newly formed **Volkswagen Foundation** in Germany).

→ ***Type II:*** Some *other publicly-owned asset*, such as a building, a cultural institution, or a public utility such as an airport, that is given to a nonprofit foundation to manage (e.g. the conversion of Italy's public opera companies into foundations with rights in perpetuity to use their existing opera houses free of charge).

→ ***Type III:*** A *stream of income resulting from government control of some asset that generates special-purpose income* that the government commits to share with a charitable foundation (e.g. the legal commitment of the Belgian National Lottery to devote a portion of its proceeds to the **King Baudouin Foundation** annually).

→ ***Type IV:*** A *debt swap*, i.e., a foreign debt forgiveness transaction that requires the beneficiary government to place an equivalent amount of local currency into a charitable institution dedicated to some charitable or public-benefit purpose (e.g., the German Government's forgiveness of repayment of the unpaid balance of a "jumbo" loan it made to the government of Poland on condition that Poland pay the equivalent amount in Polish currency into a **Foundation for Polish-German Cooperation**).

→ ***Type V:*** A *quasi-public or quasi-private organization*, i.e., a nonprofit organization or mutual association that is converted into, or sold to, a for-profit firm with the assets resulting from the sale placed in whole or in part into a charitable endowment (e.g., the Italian bank conversions outlined earlier).

While these key features are easy to specify, however, they are often difficult to verify in actual practice. For one thing, governments are often reluctant to surrender complete control over assets that have long been under governmental ownership. Complex governance structures are therefore frequently put in place to preserve some degree of continued state involvement (e.g., government involvement in selecting board members or legal requirements for direct government representation on the boards). Establishing when such provisions violate the definitional requirement for having a "meaningfully autonomous institution" in control of the resulting asset thus inevitably involves some degree of subjective assessment.

What is more, these governance arrangements frequently evolve over time. Tight government control in the early years of a PtP foundation can thus give way to more autonomous operation as the new institution matures and gains stature, and as clarifications are sought on its legal status. As we will see, this turns out to be a common dynamic in many of the PtP cases we examined.

If uncertainties can arise over whether a charitable institution resulting from a privatization transaction fully enough meets the "autonomy" criterion of our working definition, similar uncertainties can exist about how "public" the asset involved in the transaction is. To what extent, for instance, does a transaction involving the sale to a for-profit business of a nonprofit or mutual organization that has benefited from significant government subsidies constitute a privatization transaction? What about the legally mandated distribution to a foundation of the proceeds of a privately owned lottery operating under a governmentally-issued license?

Perfect answers to these questions are impossible to formulate, of course, and much depends on the actual circumstances and the surrounding context of law and practice. Suffice it to say that our research sought reasonable and defensible answers to these questions and, in turn, derived from the range of practice insights into how such matters can most usefully be addressed in PtP transactions going forward. It is therefore to the results of this work that we now turn.

[1] John Nellis, "The International Experience with Privatization: Its Rapid Rise, Partial Fall and Uncertain Future," *SPP Research Papers*, Vol. 5, Issue 3 (Calgary, Canada: University of Calgary School of Public Policy, January 2012), n.2, 1. For an example of this broad and undifferentiated use of the term "privatization," see: E.S. Savas, *Privatization: The Key to Better Government* (Chatham, NJ: Chatham House Publishers, 1987).

[2] Nellis, "International Experience," 2012, n. 2

[3] The clearest illustration of the focus on "businesses" producing market-oriented products and services is the World Bank's extensive data on privatization activity in the 1970s and 1980s. See, for example: World Bank, *Bureaucrats in Business: The Economics and Politics of Government Ownership*. World Bank Policy Research Report, ISSN 1020-0851 (New York: Oxford University Press, 1995). Also in this same tradition is the data assembled by the Privatization Barometer, though this source includes the sales of state-owned public facilities, such as ports, airports, and roadways.

[4] The legal definition of what constitutes a "foundation" is quite elastic around the world, however, with the result that many nonprofit schools, hospitals, and cultural institutions can be legally registered as foundations. See, for example: Lester M. Salamon, ed., *The International Guide to Nonprofit Law* (New York: John Wiley and Sons, 1998).

[5] In the present report, as noted more fully below, we assume a conservative rate of return of 4 percent on invested assets. To achieve an annual return of US$100 million given a rate of return of 4 percent per year would thus require an asset of US$2.5 billion ($100,000,000/.04).

Chapter 3: A SIZABLE SUBCONTINENT: Scoping Out the PtP Universe

Analytical concepts provide the lenses through which we view the world.

INTRODUCTION: Bringing the PtP Phenomenon into View

Analytical concepts provide the lenses through which we view the world. When the lenses are blurred, or if no appropriate lens is available, key aspects of reality remain out of focus or, worse yet, completely out of sight even though they may be physically present in the world around us. Scientists are well aware of this phenomenon and the history of scientific progress has consisted of positing, through scientific reasoning and understanding, the existence of certain components of natural life—bacteria, molecules, electrons, atoms, DNA—and then working to formulate measurement instruments that can validate their existence and bring them into view.

The PtP concept is such a lens. The reality to which it applies has long been present in our world. But lacking a clear enough lens to pick it out of the surrounding organizational terrain, it has long been invisible and largely ignored. Not surprisingly as a consequence, no comprehensive data on the scope of this phenomenon has ever been assembled, let alone any analysis of why it emerges or what consequences it has.

Having formulated the PtP concept, therefore, our first task was to determine what the application of this new conceptual lens would turn up in the way of tangible evidence of PtP transactions around the world. As noted in Chapter 1, our approach to implementing this measurement task was to assemble a team of knowledgeable "Discovery Associates" familiar with the third sector in different parts of the world; to construct a Field Guide to introduce them to the PtP concept; to structure a process for investigating whether any entities that fit our definition existed in their assigned regions; and to set them to work contacting people familiar with the foundation landscapes in their areas to determine whether anything resembling the PtP phenomenon was in existence or known to have existed in the recent past. We then convened these Associates midway through their work to review their preliminary results and make any needed adjustments to our basic definition.

The purpose of this chapter is to review the results of this effort and then to introduce the 22 examples of the PtP phenomenon on which we undertook detailed case studies.[1] We have no illusions that this will be the final list of PtP cases, however. For one thing, we have not been able to examine all the cases in sufficient depth to determine whether they truly meet our definition. For another, we have observed a regular pattern of turning up additional examples beyond those already on our list every time we describe the PtP concept to knowledgeable observers from different parts of the world, leading us to believe that there are many more cases out there than we have yet captured. As just one example of what promises to be a rich area for harvesting more valid examples, we have yet to explore in depth the many cases of "debt-for-nature-swaps" to determine which of these, if any, resulted in endowments in meaningfully autonomous foundations or nonprofit organizations as opposed to funds housed within, or otherwise controlled by, governments. Preliminary research has identified 160 such debt swaps.[2] Far from the end of the road in identifying PtP transactions, therefore, the present chapter should mark only the end of the beginning of the search, and we look forward to hearing from readers about other cases known to them.[3]

THE PtP UNIVERSE: A FIRST GLIMPSE

An Enormous Process of Social-Purpose Wealth Creation

Even at this early point in the search for cases of the PtP phenomenon, however, it is clear that we are dealing with an enormous process of social-purpose wealth creation. As reflected in detail in **APPENDIX A**, and summarized in **TABLE 3.1**, we have identified close to 540 foundations that have resulted from, or been enhanced through, a transaction that fits our PtP definition. Taken together, these foundations hold nearly US$ 135 billion (€102 billion) in charitable assets traceable to these PtP-type transactions. This is over

It is clear that we are dealing with an enormous process of social-purpose wealth creation.

three times more than the world's largest foundation, the Bill and Melinda Gates Foundation, and 13 times larger than America's second largest foundation, the Ford Foundation—enough to make many of these foundations major players in the international philanthropic community, and enormously significant players in the philanthropic and civil society communities of their respective countries and regions.[4] This is particularly true, as we will see, when account is taken of the fact that many of these institutions have a local or regional focus, which concentrates their impact.

TABLE 3.1
Preliminary tally of PtP foundations, by country

COUNTRY	FOUNDATIONS		ASSETS*	
	NUMBER	%	AMOUNT (US$ MILLIONS)	%
Austria	33	6.1%	$4,882.9	3.6%
Belgium	1	0.2%	$408.2	0.3%
Brazil	3	0.6%	$2,542.8	1.9%
Canada	1	0.2%	$53.0	0.0%
Czech Republic	73	13.5%	$206.7	0.2%
Germany	29	5.4%	$15,672.1	11.6%
Hungary	1	0.2%	N/A	N/A
Italy	103	19.1%	$72,021.9	53.4%
Netherlands	1	0.2%	$497.8	0.4%
New Zealand	36	6.7%	$7,073.7	5.2%
Norway	4	0.7%	$6,227.7	4.6%
Poland	4	0.7%	$511.3	0.4%
Slovakia	2	0.4%	$24.7	0.0%
Sweden	35	6.5%	$1,478.8	1.1%
United Kingdom	9	1.7%	$3,170.7	2.4%
United States	199	36.9%	$19,988.5	14.8%
Other**	5	0.9%	N/A	N/A
TOTAL	**539**	**100%**	**$134,760.8**	**100%**

**Assets not available for some foundations.*

***Includes Bolivia, Chile, Morocco, Peru, & Uruguay.*

Source: PtP Foundation Master List, Appendix A.

A Widespread Phenomenon with Notable "Hot Spots"

As Table 3.1 also shows, the PtP phenomenon is fairly widespread across the world, with examples identified to date in 21 countries stretching from North and South America, through Western Europe, into Central Europe, and beyond into the Asia-Pacific region. At the same time, there appear to be some definite PtP "hot spots." In particular, just three countries (the United States, Italy, and the Czech Republic) account for 70% of the cases, with just two of them (Italy and the United States) accounting for nearly 60 percent of the cases themselves. In Italy, this is a product of two multiple PtP transactions—one involving the transformation of the banks noted above and the other the privatization of Italy's lyric opera companies, including the renowned La Scala. In the U.S., it reflects the preservation for charitable purposes of the assets of the country's numerous nonprofit health insurance organizations and hospitals as they have undergone conversions into for-profit status. In terms of assets, the concentration is equally pronounced, with Italy alone accounting for 53 percent of the identified PtP assets, though eight other countries contain PtP foundations with assets in excess of $1 billion.

Variations by Transaction Type

Not all the different types of PtP transactions are equally well represented in these data. Rather, as **TABLE 3.2** shows, 76 percent of the foundations and 84 percent of the assets are *Type V* cases, i.e. privatization of essentially quasi-public assets. An additional 16 percent of the foundations and about 12 percent of the assets resulted from *Type I* transactions involving the privatization of a state-owned enterprise. By contrast, considerably less numerous were the *Types II, III*, and *IV* identified to date, involving, respectively, the transfer of state-owned property other than an enterprise, the direction to a foundation of a stream of revenue coming from some asset under state control (e.g. a lottery), or debt swaps.

TABLE 3.2

Distribution of PtP foundations and assets, by PtP type

TYPE	SHARE OF TOTAL	
	Foundations (N=535)*	**Assets** (N=US$130 billion)**
I	16.3%	12.4%
II	6.0%	2.1%
III	1.7%	1.3%
IV	0.4%	0.2%
V	75.7%	84.0%
TOTAL	**100%**	**100%**

**Excludes foundations with unavailable type.*

***Excludes foundations with unavailable asset amounts.*

Source: PtP Foundation Master List, Appendix A.

For a variety of reasons, however, this allocation of cases among the transaction types may reasonably be treated as only a tentative conclusion. First, as already noted, we have not yet seriously explored the numerous cases of debt swaps around the world to assess whether more of them than we have yet captured really represent valid PtP cases. Second, a similar statement can be made about the Type III cases involving the tapping of lottery proceeds, penalty fees, airwave fees, and mineral rights payments. In each of these areas, and doubtless others, there may be considerably more examples of PtP-type transactions than we have identified. Finally, the assignment of at least some of the current examples to the Type V, quasi-public organization category, is open to question. The Italian savings banks, for example, had come under significant government regulation and control during the Fascist period in Italy and thereafter, so much so that their nonprofit character was open to serious questioning prior to the privatization. In the case of the New Zealand savings banks, as we will see, ownership was at best unclear, though the government asserted that its claim to ownership was the strongest of all contenders and therefore justified taking action to transform these institutions. Under this interpretation, the New Zealand savings bank privatization could be considered a Type I set of transactions.

Similarly, in the U.K., the multitude of "trustee savings banks" that were ultimately privatized were consolidated over the years by acts of Parliament, leading finally to the Central Trustee Savings Banks Act of 1985 that merged them into a single holding company that was declared a government body. This gave the government the power to determine their fate, which it did by establishing a series of banking stock companies but with 5 percent of the shares of the resulting banks vested in a network of four "trustee savings bank foundations," which also absorbed the earlier charitable activities of the former savings banks.[5] Here again, therefore, these Type V transactions could as readily be classified as Type I cases. Under any circumstances, as will become clearer in Chapter 4, this discussion makes clear that the nature of the pre-existing asset—in these cases savings banks with a particular charitable character—seems to have affected the likelihood of a PtP outcome.

Sources of PtP Assets

This factor is even more clearly evident when we examine the sources of the assets that went into our PtP foundations. As **FIGURE 3.1** reveals, the two most numerous types of PtP transactions, accounting for 38 percent and 35 percent respectively, resulted from transactions involving health providers (health insurers and hospitals) and financial institutions. The former of these were essentially nonprofit institutions and the latter public banks with ancient private origins or "trustee" savings banks inspired by a model that had its origins in Hamburg, Germany, in 1778 (the Ersparniskasse), and in early 19th-century Scotland. A significant 15 percent of the cases resulted from the more classic form of privatization—the privatization of a state-owned enterprise—with smaller, but still significant, numbers arising from the privatization of various public utilities, such as energy distribution systems, and cultural institutions.

Size of PtP Foundations

As is common in the foundation world generally, there is considerable variation in the size of PtP foundations, with most of the institutions having assets of less than US$100 million, while most of the resources reside in the few institutions with assets of US$1 billion or more. Thus, as shown in **FIGURE 3.2**, 57 percent of all PtP foundations have assets of under $100 million, but these institutions control only 7 percent of all PtP resources. At the other end of the spectrum, 12 percent of the PtP institutions have assets of over US$3 billion each, and these foundations account for 38 percent of the PtP assets. These large foundations are large even by global standards, moreover, comparable in size to that of the largest U.S. foundations. Thus, the three largest PtP foundations by asset size would rank among the five largest foundations in the United States.[6] But in the U.S., the foundations in the over $3 billion range comprise less than 1/10 of 1 percent of the foundation universe while among PtP foundations they account for 12 percent, and another nearly 4 percent fall into the $1 billion to $3 billion range. This means that the PtP institutions are

FIGURE 3.1

Distribution of PtP foundations and assets, by source of asset

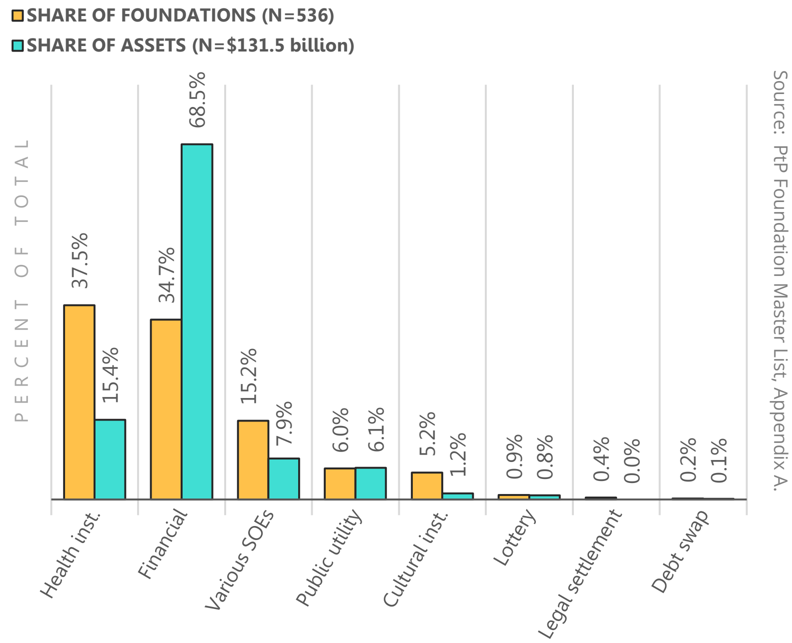
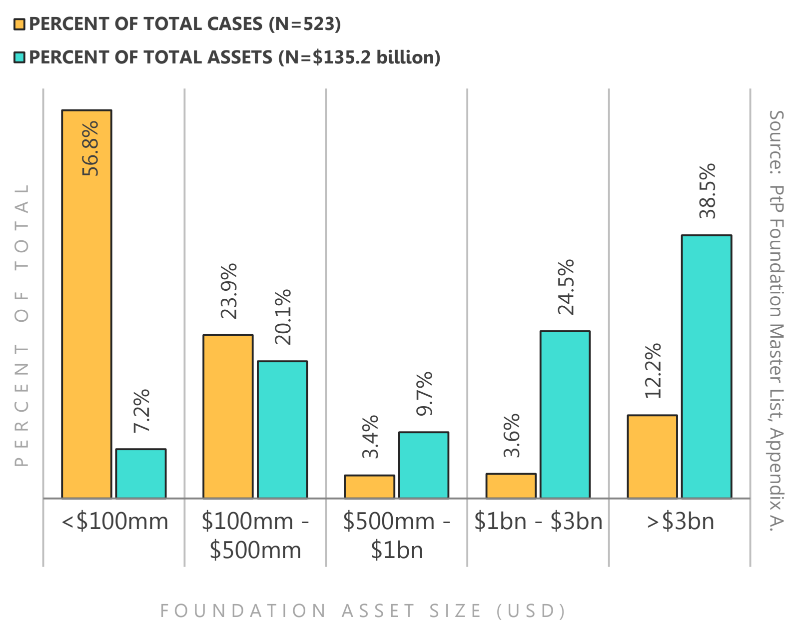


FIGURE 3.2

Share of PtP foundations and assets, by foundation size



PtP institutions are skewed toward the upper range of global foundations by asset size, underlining the significance for foundation development that the PtP process potentially represents.

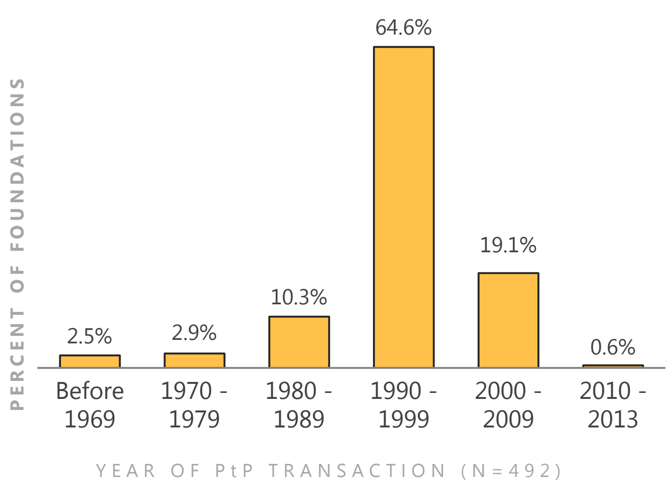
skewed toward the upper range of global foundations by asset size, underlining the significance for foundation development that the PtP process potentially represents.

Timing of PtP Transactions

Given their close connection to the process of privatization, it is not surprising that PtP transactions follow the rhythms of the privatization process itself, which began in earnest only in the mid- to late 1980s and peaked, at least temporarily, in the 1990s and early 2000s before petering out following the 2008 financial crisis. Also likely at work was the growing visibility of the civil society, or non-profit, sector, including foundations, beginning in the 1960s, a product of the "global associational revolution" that accompanied the emergence of "liberation theology," expanded communications, popular independence and human rights movements, and the growing questioning of the capabilities of states typified by the Thatcher and Reagan regimes in the U.K. and the U.S. in the 1980s.[7] Most PtP foundations are therefore fairly young institutions, which makes their scale all the more remarkable. As **FIGURE 3.3** shows, fully three-fourths of these transactions took place in the latter 1980s and during the 1990s—the heyday of the privatization process internationally. But another 19 percent took place in the first decade of the 21st century. The senior figure among our PtP foundations, however, is the **Volkswagen Foundation**, which was founded in the early 1960s and has served as a role model for other German PtP cases.

FIGURE 3.3

Distribution of PtP foundations, by year of PtP transaction (N=492)



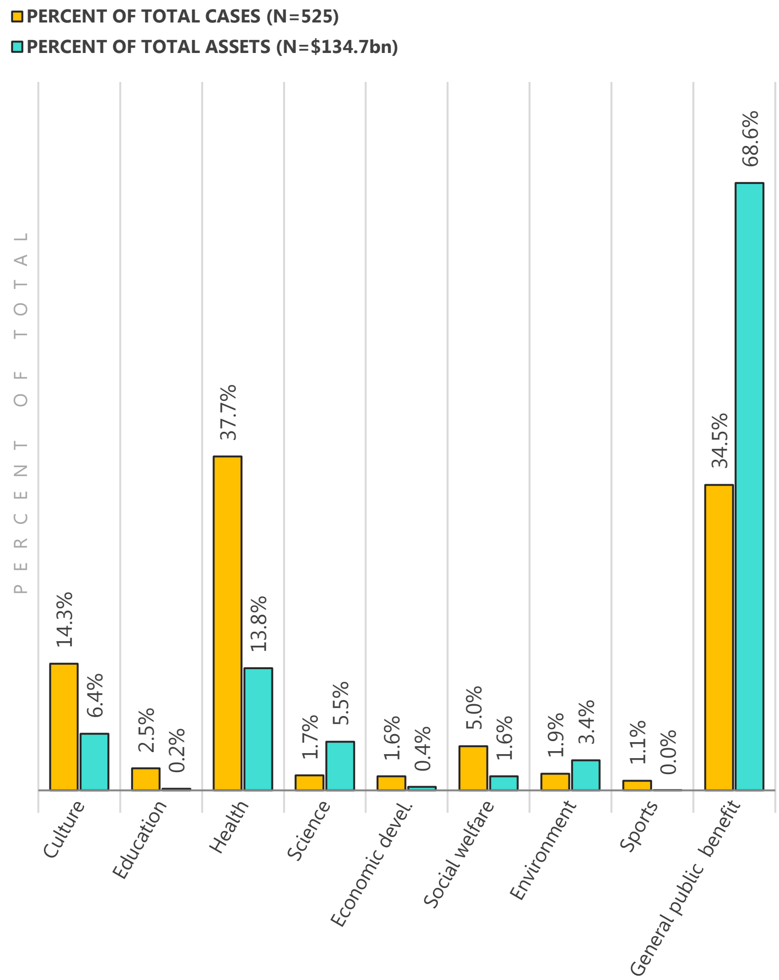
Source: PtP Foundation Master List, Appendix A.

Activities of PtP Foundations

A final important characteristic of the PtP foundations concerns their activities. Not surprisingly, given their considerable scale, most PtP resources are in the hands of institutions that pursue a general public-interest orientation embracing activities as diverse as social welfare, education, economic development, and cultural promotion.

This includes most of the Italian foundations of banking origin, which, as will be discussed in more detail later, have the option to focus on any five of 21 topics specified in their governing law and can change their lists of five on a regular three-year cycle. As shown in **FIGURE 3.4**, in terms of numbers of foundations, the most numerous are foundations focusing on health, which account for 38 percent of the institutions, though a much-smaller 14 percent of the assets. This reflects the large number of health conversion foundations in the United States. A sizeable proportion of the PtP foundations are also spread among a wide variety of other purposes, from cultural advancement to economic development, further reflecting the responsiveness of the PtP mechanism to a wide assortment of community priorities and needs.

FIGURE 3.4
Distribution of PtP foundations and assets, by primary focus of activity



Source: PtP Foundation Master List, Appendix A.

Summary

In short, the PtP foundations are a robust group of institutions, in command of substantial philanthropic resources, created through one of several forms of privatization of state-owned or state-controlled assets, and dedicated to a wide variety of public-benefit purposes. As a group, a higher proportion of these institutions tend to be clustered toward the upper end of the size distribution than is the case of foundations globally, which likely reflects the large scale of many of the privatization transactions. This bodes well for the promise that the PtP concept holds for future foundation development as the privatization process proceeds, as it seems very likely to do.

THE PtP CASE STUDY FOUNDATIONS

To learn more about the PtP process, about the institutions that it has yielded to date, and about the lessons this past experience holds for possible future PtP transactions, it was necessary to dig a bit more deeply than this broad overview made possible. Accordingly, we conducted case studies on a sub-set of these institutions and transactions to examine their operations and their histories more closely. The balance of this report draws largely on this more detailed case-study material. In this section, we set the stage for this discussion by briefly introducing these case-study organizations.

As shown in **TABLE 3.3**, we chose 21 PtP foundations for intensive scrutiny, though one of them, the **Foundation for Polish Science**, actually experienced two different privatizations, giving us 22 transactions in all. Care was taken in the selection process to include cases in each of the five categories of PtP types while taking account of the overall distribution of PtP foundations among these types as well as the need for sufficient geographic coverage.

Type I Cases

Seven of the case study institutions involved sales of state-owned enterprises (Type I). Included here were:

a) Germany's **Volkswagen Foundation** (*VolkswagenStiftung*), which resulted from the privatization of the Volkswagen Company in the early 1960s.

b) The sale of Germany's huge Salzgitter steel complex, the proceeds of which went into the creation of the US$2.9 billion **German Environmental Foundation** (*Deutsche Bundesstiftung Umwelt*), which claims to be the largest environmental foundation in the world.

c) Two other sales of government-owned German enterprises were owned by state, or Lander, governments and the proceeds were used to fund two Land-based foundations—the **Baden-Württemberg Foundation** (*Baden-Württemberg Stiftung*) and the **Rheinland-Pfalz Foundation for Innovation** (*Stiftung Rheinland-Pfalz für Innovation*)—that have supported extra-budgetary initiatives in the areas of technology and economic development.

d) The important case of the **Czech Foundation Investment Fund**, which served as the repository for one percent of the shares of all major enterprises privatized through the Czech Republic's massive, post-Communist privatization process in the early 1990s, and which then distributed these assets as endowments to 73 existing, but relatively new, Czech foundations, significantly expanding the capabilities of the Czech Republic's embryonic foundation and civil society sectors.

e) The **Foundation for Polish Science** (Fundacja na rzecz Nauki Polskiej), which, for a brief period received two percent of the shares of companies privatized under the early Polish post-communist privatization process in the early 1990s.

TABLE 3.3
PtP foundations chosen for case studies

CASE	COUNTRY	SOURCE OF ASSET	YEAR FORMED	CURRENT ASSETS (US$)*	RESPONSIBLE ASSOCIATE
		TYPE I			
Volkswagen Foundation	Germany	Industrial company	1961	$3,451,084,000	Strachwitz
German Environmental Foundation	Germany	Industrial company	1991	$2,891,849,111	Strachwitz
Baden-Württemberg Foundation	Germany	Multiple companies	2000	$3,304,970,413	Strachwitz
Rheinland-Pfalz Foundation for Innovation	Germany	Multiple companies	1991	$141,612,965	Strachwitz
Czech Foundation Investment Fund	Czech Republic	Multiple companies	1997	$206,748,270	Strečanský
Foundation for Polish Science**	Poland	Multiple companies	2004	$118,421,344	Pieliński
Slovak Savings Bank Foundation	Slovakia	Public bank	2004	$10,260,848	Strečanský
		TYPE II			
La Scala Foundation	Italy	Opera house	1997	$266,395,050	Barbetta
Slovak Youth Foundation	Slovakia	Real estate	2002	$14,457,738	Strečanský
Lombardy Foundation for the Environment	Italy	Disaster payment	1986	N.A	Barbetta
		TYPE III			
Oranje Foundation***	Netherlands	Lottery	2002	$497,752,500	Meijs
King Baudouin Foundation***	Belgium	Lottery	1976	$408,157,050	Mernier
		TYPE IV			
Foundation for Polish-German Cooperation	Poland	German loan	1991	$131,612,535	Pieliński
		TYPE V			
Cariplo Foundation	Italy	Savings bank	1991	$9,749,756,798	Barbetta
Compagnia di San Paolo	Italy	Savings bank	1991	$8,625,533,324	Barbetta
Fondazione CRT	Italy	Savings bank	1991	$3,717,127,537	Barbetta
ERSTE Foundation	Austria	Savings bank	2003	$4,699,314,536	Strachwitz
ASB Community Trust	New Zealand	Savings bank	1988	$1,568,035,800	McKinlay
Community Trust of Southland	New Zealand	Savings bank	1988	$255,190,140	McKinlay
California Endowment	U.S.A	Health insurer	1996	$3,660,548,295	Bell
Lloyds TSB Foundation for England & Wales***	U.K.	Savings bank	1986	$1,025,872,049	Bell
TOTAL (US$)*				**$44,744,700,303**	
TOTAL (EUROS)*				**€33,710,209,762**	

** Based on exchange rates of July 30, 2013. Assets as of 2011 or 2012.*
***Part of the asset came from a Type II transaction*
****Estimated asset equivalent of resources from annual lottery or covenanted proceeds.*

f) The **Slovak Savings Bank Foundation** (Nadácia Slovenskej sporiteľne), which resulted from the sale of the state-owned Slovak Savings Bank to Austria's Erste banking group, itself the product of a PtP transaction that led to the creation of a network of foundations of banking origin in Austria.

Type II Cases

Three of our cases involved transfers of other state-owned assets (type II). Included here were:

a) The famed Italian opera company, La Scala, which, along with twelve other Italian lyric operas, was converted into a foundation—The **La Scala Foundation** (Fondazione Teatro alla Scala)—and given possession of the assets of the former government-run opera company along with free use of the famed Milan opera house in perpetuity.

b) The **Slovak Youth Foundation**, set up to receive the remaining real estate and other assets of the former Slovak Socialist Union of Youth following an initial disastrous management of these assets by the early, post-Communist Slovak government.

c) The transfer of the proceeds of a damage award that the government of Italy's Lombardy region received as compensation for an environmental disaster in one of its towns into the **Lombardy Foundation for the Environment** (Fondazione Lombardia per l'ambiente).

Type III Cases

Two cases were examples of the allocation to foundations of semi-permanent streams of revenue generated by an asset owned by, or substantially controlled by, governmental authorities. Included here were:

a) The stream of revenue generated by Belgium's state-owned National Lottery, part of the proceeds of which are distributed to the **King Baudouin Foundation** through a series of 5-year agreements.

b) A similar stream of revenue generated by a state-licensed private lottery in the Netherlands and channelled into support of the **Oranje Foundation** (Oranje Fonds).

Type IV Cases

Representing the fourth type of PtP transaction, debt swaps, was the **Foundation for Polish-German Cooperation** (Fundacja Współpracy Polsko-Niemieckiej), which resulted from the German government's forgiveness of the remaining 57 percent balance due from Poland on a jumbo loan made to the Polish Government in 1975 on condition that the Polish Government pay an equivalent amount in Polish Zlotys into this newly formed foundation.

Type V Cases

The remaining 8 cases represent Type V PtP transactions, which involve the conversion into for-profit companies of quasi-public organizations, i.e., private organizations that have acquired a significant public character either by virtue of being essentially absorbed into the state apparatus or having benefited materially from governmental subsidies or tax forgiveness. PtP arrangements in these cases provide a way to preserve for public-purpose activities assets of public-purpose organizations that have benefited from public subsidies when these organizations are sold or transformed into for-profit entities. Included here were:

- **a)** Three examples of the 88 important Italian foundations of banking origin (FBOs) described in the introductory chapter above, **Cariplo Foundation** (Fondazione Cariplo), **Compagnia di San Paolo**, and **Fondazione CRT** (Fondazione Casa di Risparmio di Torino).

- **b)** Four other similar transformations of quasi-public savings banks into joint stock companies—two of the 12 established in New Zealand (**ASB Community Trust** and **Community Trust of Southland**), one out of the 33 established in Austria (**ERSTE Foundation**), and one out of the four created in the UK (**Lloyds TSB Foundation for England and Wales**).

- **c)** The creation of the huge **California Endowment** (and the related California Health Care Foundation) out of the conversion of the nonprofit health insurer, Blue Cross of California, into a for-profit company, establishing a template that has led to the creation of some 200 other so-called "conversion foundations" throughout the United States.

In addition to representing the full range of PtP types, an attempt was also made in the selection of these cases to achieve a reasonably broad representation of countries in which PtP transactions have taken place while keeping the scope of the work within reasonable bounds. Thus, case studies were undertaken in 11 of the 21 countries in which PtP cases have been identified, including all of the countries in which substantial PtP activity has been verified. The case study distribution also paralleled the population of known PtP cases in terms of the timing and scale of the transactions, with some of the largest foundations included, but also some of the smallest.

In the next three chapters we examine the lessons these cases seem to provide about how and why PtP processes occur, about the deals that led to these results, and about the structure, governance, and performance of the resulting institutions. We begin, not surprisingly, with the intriguing questions of how? And why?

[1] As noted earlier, the case studies actually focused on 21 foundations. However, one of these, the Foundation for Polish Science, actually experienced two very different forms of "philanthropication." Hence we have 22 transactions but 21 organizations.

[2] See, for example: Jürgen Kaiser and Alain Lambert, *Debt swaps for sustainable development*. (Gland, Switzerland, and Cambridge, UK: International Union for Conservation of Nature and Natural Resources/ EURODAD, 1996); and Ross P. Buckeley, "Debt-For-Development Exchanges: An Innovative Response to the Global Financial Crisis," *University of New South Wales Law Journal,* 32 (2009): 620 -645.

[3] Readers who are aware of such cases are invited to contact Project Director Lester Salamon at lsalamon@jhu.edu with a copy to Ms. Naomi Hansen at nhansen@ewmi.org. The list provided in Appendix A will be regularly updated at p-t-p.org.

[4] For the handful of foundations that receive the proceeds of privatization transactions in the form of a mandated stream of annual payments, we estimated the scale of assets that would be required to generate such a stream of revenue assuming an average annual rate of return of 4 percent.

[5] Unlike the Italian foundations of banking origin, the ownership shares secured by the foundations of banking origin in the U.K. were not full voting rights shares and did not entitle the foundations to a share of the profits of the banks. Rather, the U.K. foundations gained access to a stream of revenue initially set at one percent of the pre-tax profits of the banks.

[6] Based on data from Foundation Center's "Key Facts on U.S. Foundations."

[7] See: Lester M. Salamon, "The Rise of the Nonprofit Sector," *Foreign Affairs*, 73:4, (July/August, 1994), 109-122.

Chapter 4: HOW DID IT HAPPEN?

Explaining PtP Outcomes

If the message of the previous chapter is that the creation of charitable endowments out of the proceeds of various privatization transactions is far more widespread than previously recognized, the message of this chapter is that this outcome has still been far less common than might be hoped, and certainly far less common than it could have been, and still could be.

To put the 500-plus cases of PtP transactions into perspective, it is well to remember that the modern history of active privatization has been variously estimated to have involved 3,535 transactions and/or 75,000 medium and large enterprises, and these numbers almost certainly reflect only the privatization of state-owned *enterprises* and not the wider array of asset divestitures that this project includes within the ambit of "privatization."[1] At most, therefore, philanthropication transactions took place 10 percent of the time, and, perhaps, using the higher estimate of cases, in only one-half of 1 percent of the cases.

A first task in assessing this route to foundation formation, therefore, is to understand what factors made it possible where it did occur. This is no simple task, however. After all, as one set of authors has reminded us, privatization is "a very varied process in different parts of the world, seldom decided upon autonomously, more often forced by external factors and carried out reluctantly in the absence of suitable legal, political, and economic institutions."[2] This is so because privatization is a complex process, with multiple interests at stake, making it intensely political. As a component of privatization, we cannot realistically expect PtP to be any simpler, or to have a single explanation or even many common factors at work in all, or even most, locales. PtP arrangements have thus emerged to establish alternative structures through which to pursue public purposes and to avoid such alternatives; to facilitate the spin-off of state-owned enterprises and to thwart or avert such spin-offs in whole or in part; and for a variety of other contradictory considerations.

The only thing that seems clear is that philanthropication accompanies privatization where it seems necessary to do so, where it is advantageous for some key actors, or where it solves some problem that privatization faces and that philanthropication is able, if not to solve, at least to resolve. Put differently, privatization rarely takes place to accomplish philanthropication, but philanthropication often takes place to accomplish privatization. This is not an argument to oppose philanthropication in order to scuttle privatization, however, since there are typically other ways for the privatization juggernaut to overcome its obstacles and the philanthropication option is at least capable of delivering important side benefits. But it does give us a clue about where to look for explanations of how PtP happens. What, then, are the circumstances under which philanthropication can perform this function? Based on our 22 case studies, we can identify five major ones: (1) an ongoing or planned privatization process; (2) an asset with some peculiar characteristic; (3) a facilitative legal structure; (4) actual or anticipated opposition to privatization; and (5) the presence of PtP entrepreneurs and advocates. Let us examine each of these five factors in turn.

Philanthropication accompanies privatization where it is necessary, or advantageous to some key stakeholders, for it to do so.

5 KEY CIRCUMSTANCES CONDUCIVE TO PtP

1) Privatization under Way

In the first place, it is important to recognize that PtP is only possible where privatization is either under way or clearly in prospect. This may seem an obvious point, but only if one assumes that privatization is universal. In fact, however, it is not. Writing in the mid-1990s, in the midst of what was considered the heyday of privatization, World Bank researchers reported that:

> *"Bureaucrats are still in business. Despite more than a decade of divestiture efforts and the growing consensus that government performs less well than the private sector in a host of activities, state-owned enterprises (SOEs) account for nearly as large a share of developing economies today as twenty years ago. Indeed…the size of the state-owned enterprise sector has significantly diminished only in the former socialist economies and a few middle-income countries. In most developing countries, particularly the poorest, bureaucrats run as large a share of the economy as ever."*[3]

Philanthropication thru privatization is only possible where privatization is either under way or clearly in prospect.

A primary reason for this, the World Bank report noted, is *political*: governments lack the incentives, the support, and the credibility to pull off needed changes. A decade later, Bortolotti and Siniscalo reached a similar conclusion, noting that "[t]he privatization process has been partial and incomplete….

[D]espite proclamations and programmes only a small minority of countries have carried out a genuine privatization process—completely transferring ownership and control of SOEs to the private sector."[4]

Why privatization has been uneven. There are many reasons for this unevenness. Some are *philosophical*: direct government provision of certain key services is a way to ensure universal access to all citizens and achieve goals of equity and a level playing field for all citizens. If all highways and bridges become toll roads, and all schools fee-based, only the wealthy will be able to travel freely and educate their children. Other reasons are *economic*: some crucial services or commodities have the character of being so-called "public goods"—once they are produced everyone benefits from them.[5] If the production of such goods is left to the free market, everyone will suffer since "free rider" behavior will result as each consumer chooses to forego paying for the goods knowing that he or she can benefit even if his or her neighbor pays the cost. Finally, there are cruder *political reasons* for resisting privatization: state-owned enterprises provide jobs and subsidized services for citizens and thereby deliver followers and power to politicians.

Why privatization occurs where and when it does. Reflecting this, the cases of PtP we examined in depth occurred in settings where unusual events were unfolding—strong external pressures from the European Commission and IMF to reform financial systems in the cases of Italy, Austria, the U.K., and Germany; economy-wide transformations in the wake of regime change in Slovakia, the Czech Republic, Poland, and the eastern part of Germany; a new government committed to Thatcherite reforms of the economy in New Zealand; and a desire to pay homage to respected royals without tapping into over-drawn public budgets in the Netherlands and Belgium.

The restructuring of the savings banks in New Zealand, for example, was part of a much wider restructuring of the New Zealand public sector and economy undertaken by a new Labour government that came to power in 1984. The scope of this restructuring, as described in one summary account, was nothing short of sweeping:

> *Between 1984 and 1990 New Zealand's public sector underwent massive structural, organisational, and management changes. At the central government level these included the corporatisation and subsequent privatisation of state trading activities, the introduction of a new financial management regime, major changes to the machinery of government, a new system of appointing and remunerating senior*

> *public servants, substantial cuts in various government programs, significant changes to public sector industrial relations practices, a growing emphasis upon biculturalism and employment equity, and a much greater concern with accountability and performance assessment. At the local government level, too, major reforms were initiated, many of them paralleling those in the core public sector (e.g. commercialisation, corporatisation, the contracting-out of services, the decoupling of advisory, regulatory and delivery functions, and new accountability mechanisms).*[6]

A central part of this restructuring was reform of the New Zealand banking sector, which, at the time, was dominated by a range of government-owned and/or guaranteed institutions subject to very extensive and intrusive regulation. With regard to the savings banks that are the subject of our PtP case study, the substantive charges leading the government to propose a change in ownership were considerable:

→ The relatively poor commercial expertise of many of the trustees of the country's twelve savings banks;

→ The weak financial position of a number of the savings banks in part as a consequence of the requirement to hold a very substantial proportion of their assets in government stock which, at the time of the restructuring, was worth significantly less than book value;

→ The potential vulnerability of these banks in the deregulated financial environment being created;

→ The desirability of exiting from the open-ended guarantee with which the government was saddled on all of the deposits held by the savings banks; and

→ The mixed incentives of the savings bank trustees stemming from their dual roles as overseers of a banking business, and distributors of funds (when available) for good works within the community.

Many of these assets had some peculiarity about them that made a PtP outcome useful and desirable.

2) Assets with Special Features

On-going privatization activity may have been an obvious necessary condition for the PtP outcome in our 21 case studies, but it was hardly a sufficient one. A second key ingredient in the stew, at least in a number of the cases, was the *nature of the asset being privatized*. In a word, many of these assets had some peculiarity about them that made a PtP outcome useful and desirable, though the nature of that peculiarity varied.

A decisive determinant of the PtP outcome in the Volkswagen case was the conflict that existed between the German Federal Republic (GFR) and one of its provincial governments.

Jurisdictional disputes I: The Volkswagen case. In the case of the **Volkswagen Foundation**, one of the earliest examples of the PtP phenomenon, a decisive determinant of the PtP outcome was the conflict that existed between the German Federal Republic (GFR) and one of its provincial governments, the State of Lower Saxony, over the ownership of the Volkswagen Company (Volkswagenwerk), which was physically located in this state. This conflict arose because the British Military Government, which had responsibility for the portion of post-war Germany where the Volkswagen plant was located, split the difference in deciding which authority should control this enterprise after postwar military occupation ended, placing it under the trusteeship of the GFR but under the control and administration of the State of Lower Saxony.

For some, ownership of this company was an embarrassment for the country since the company had been created by the Nazi Party, operated as a party-owned enterprise, and turned into an armaments factory staffed by 20,000 forced laborers and prisoners during the war. Others felt ownership of a car factory was inappropriate for a government and saw the privatization of this company as a convenient instrument through which to pursue a bold "wealth for all" strategy that would usher in a new era in the development of a social market economy, distributing economic wealth broadly to the populace by selling them people's shares (Volksaktien) in a privatized Volkswagen Company. The fact that funding for the company originally came from resources that the Nazi Party confiscated from trade unions only added further impetus for this outcome. GFR officials in particular therefore began hatching plans to "privatize" the company.

The Sputnik incentive. With increasing concerns provoked in 1957 by the Soviet Sputnik launch that the Soviet Union might be gaining a scientific and engineering advantage over Germany, moreover, a new element entered the equation: the need to find resources to invest in German science and scientists. It was not long, therefore, before this new need was married to the idea of issuing people's shares in the Volkswagen Company, a marriage that was consummated in a campaign launched by a well-known journalist and Christian magazine editor, Giselher Wirsing, and transformed into a call to deposit the proceeds of the sale of the proposed Volkswagen people's shares into a new "National Foundation Volkswagenwerk" dedicated to strengthening German science.

Resolving the jurisdictional tug-of-war. There was only one problem with all these bold ideas: no one bothered to consult the State of Lower Saxony, which was convinced that the company being considered for sale by officials of the GFR actually belonged to Lower Saxony instead. This issue came to a head in 1959 when the federal government rejected the ownership claims of Lower Saxony and introduced legislation in the national Parliament to transform the Volkswagenwerk into a stock company and privatize it via the sale of people's shares, with the proceeds going into a fund to be controlled by the national government. This provoked the newly elected government of Lower Saxony to respond with its own proposal to transfer ownership of the Volkswagenwerk to a foundation controlled by the Government of Lower Saxony. With a foundation on the table on both sides, however, it became possible to work out a compromise. That compromise involved selling 60 percent of the shares of a privatized Volkswagenwerk to the German people, with the proceeds vested in a **Volkswagen Foundation** to be situated in Lower Saxony and dedicated to promoting German science, with particular emphasis on scientific development in its home State; and splitting the remaining 40 percent of the shares evenly between the GFR and the State.[7] In a sense, the foundation structure provided a convenient way to split the proceeds between the state and federal government while establishing a vehicle and set of resources to re-jump-start German science in the wake of the Sputnik embarrassment.

Jurisdictional disputes II: The Baden-Württemberg Stiftung. Jurisdictional squabbles also significantly influenced the choice of a PtP option in another German transaction—the case of the **Baden-Württemberg Foundation**. Under German tax law, the State of Baden-Württemberg was potentially liable for tax payments to the federal government on the capital gains involved in its proposed €2.4 billion sale of the state-owned energy company, EnBW, to French electric power company EDF. By transferring ownership of EnBW to a foundation before the sale, the Government of Baden-Württemberg was able to avoid some €200 million of tax payments to the Federal budget and retain this money in its own budget instead. The one downside was that the state had to make clear in its founding documents that the resulting foundation would abide by prevailing laws stipulating that it would not use the resources secured to support the core functions of the state. But its pledge to use them to make "useful and good investments in the future of Baden-Württemberg" probably amounted to much the same thing.

Jurisdictional disputes over ownership or revenue-sharing turn out to be one, but only one, of the features of privatized assets that seem to advantage PtP outcomes.

Government or private? The savings banks. Jurisdictional disputes over ownership or revenue-sharing turn out to be only one feature of privatized assets that seem to advantage PtP outcomes, however. Even more pervasive are other features that cloud the state's claim to ownership of assets, and therefore prompt a search for alternative arrangements, such as formation of a foundation, to assume ownership and thereby facilitate privatization. This was true, for example, of several of our most sizable cases, all of them banks. As it turns out, all of these banks claimed a similar lineage, utilized a similar structure, performed a similar dual role, and ultimately posed a common problem for would-be privatizers pressured to modernize their countries' banking systems. That problem consisted of two parts: first, these banks had no owners; and second, they were not only banks but also charitable institutions with strong philanthropic traditions.

All of these banks posed a common problem for would-be privatizers: they had no owners and were not only banks but also charities.

Early origins. Some of these banks had origins in the fifteenth or sixteenth centuries as outgrowths of Catholic social doctrine. Others originated in late eighteenth century Germany, with the creation of the Ersparniskasse in Hamburg. Another example can be found in early nineteenth century Dumfriesshire, Scotland, where a church minister with banking experience, Dr. Henry Duncan, established a small-scale savings institution to encourage thriftiness among his parishioners. Where the formal banks required substantial sums to start an account, Duncan encouraged micro deposits, invested the pooled money in a local bank at 5 percent interest, paid depositors 4 percent, and used the rest for charitable assistance to those in need. Duncan's bank did not have shareholders or owners in any conventional sense but were controlled by unpaid "trustees"—hence the term "trustee savings banks" to refer to them. As word of this development spread through the UK, other communities followed suit; by 1817, a mere 7 years after the formation of the first trustee savings bank, the UK Parliament passed the Trustee Savings Bank Law that extended a Bank of England guarantee to all trustee savings bank deposits. By 1861, 645 such trustee savings banks were operating in what is now the U.K.

More than this, much like micro-credit in our day, word of this experiment soon spread to other countries. By 1819, Viennese business leaders had created the Erste Osterreichische Spar-Casse in Wien, the First Austrian Savings Bank in Vienna, to enable common people to save for the future. Like its

Scottish counterpart, the bank was run by engaged volunteers, who formed an informal savings association and functioned as trustees of the savings institution, but did not truly own the institution. Indeed, the bank had no true "owner," just a group of well-meaning citizens who, in addition to attending to the bank, carried out a variety of philanthropic activities with whatever profit the savings organization generated. Soon, 33 such institutions were operating in Austria and many more elsewhere in the Austro-Hungarian Empire. When Austrian administrators entered what became Northern Italy following Austria's victory over Napoleon, they naturally carried the trustee bank concept with them. By 1823, a group of capable Milanese aristocrats had been recruited to start an Italian version of the Austrian version of the Scottish trustee savings bank, the Cassa de Risparmio delle Provincie Lombarde. By 1827, Torino had its own Cassa di Risparmio, and eventually 196 such entities were operating in Italy, forming in the process, the backbone of the Italian banking system. By the 1840s, the idea had spread to New Zealand, giving rise in 1847 to the Auckland Savings Bank, which, by the turn of the century, was transacting more than £1 million of business per year.

The rise of government involvement. From here, the evolution of these institutions began to diverge. By 1890, the Italian government began the process of bringing the Casse di Risparmio into the public sector. This process went into high gear in the 1920s with the emergence of the fascist government, which led to a radical consolidation of the savings banks and their placement under strict government control. The Czechoslovakian branch of the trustee savings bank family retained its independence somewhat longer but was swept under government ownership and control with the Communist takeover following World War II. In the UK, these banks retained their autonomy longer still, but in 1975 were obliged by the Parliament to consolidate. Then, in 1985, with bank modernization on the government's agenda, they were put under a common body, the Central Trustee Savings Bank, Ltd., and prepared for eventual privatization by being designated as state-owned entities rather than entities owned by their depositors. In each case, however, while the banks ended up being technically government-owned bodies, they also remained nonprofit institutions with strong philanthropic traditions and functions, their trustee boards still intact and operating both their banking and philanthropic activities.

Resolving the ownership dispute. When governments began the process of transforming these institutions into joint stock companies, therefore, they encountered push-back from the bank boards, who challenged their respective governments' claim of ownership. From all accounts, these battles were

Try as they might, the governments could not find solid ground on which to stake a claim to the proceeds of a sale of the banks for the government's coffers.

fought out separately in each locale, with little known communication, except between the New Zealand trusts and those in the U.K. Try as they might, however, the governments could not find solid ground on which to stake a claim to the proceeds of a sale of the banks for the government's coffers. The debate in New Zealand was particularly telling, with one Reserve Bank memo to the Prime Minister conceding that on the question of ownership:

> *"It would seem that no one has yet come up with a definitive response - the trustee banks eschew the question in their letter to you; officials are equally uncertain even after some legal opinion that the trustee banks may belong to 'the community' rather than to the Government, which has not invested any funds in the trustee banks at any stage (although the guarantee is effectively a form of equity), or to the trustee banks' depositors."*

In the end, therefore, all of the countries ended up choosing some version of the Italian solution—i.e. splitting off the charitable activities of the savings banks from the banking activities, converting the banks into joint stock companies, transforming the boards of the banks and their charitable activities into foundations, and placing (or leaving) all or, in the U.K. case, some of the stock of the new banking companies into the foundations, which ended up still owning all, or part, of the banks. The same process of immaculate conception that led to the emergence of 88 foundations of banking origin in Italy, thus also left behind 12 newly formed community trusts in New Zealand, 33 Sparkasse foundations in Austria, including the very large **ERSTE Foundation**, what became **Lloyds TSB (Trustee Savings Bank) Foundation for England and Wales**, the **Slovak Savings Bank Foundation**, the **Czech Savings Bank Foundation**, and doubtless others elsewhere.[8]

Other ownership issues. The nature of the privatized asset also seems to have played a role in some of the other PtP cases that we examined in depth, though each in slightly different ways. Thus:

→ It was easy to conceive of a foundation as the recipient of the privatized **La Scala** opera company in Italy since the opera house and company were originally built and owned by "palchettisti," private investors who bought theater boxes (*palchi* in Italian), paid for the construction of the theater, and remained in control of the operation as recently as the 1920s.

- What became the **Slovak Youth Foundation** could trace at least part of its origin to a rich array of youth-serving nonprofit organizations and charitable endowments that thrived in Czechoslovakia during the inter-war years before being swept up by successive waves of state confiscation, first of Jewish-led organizations during the Nazi era, then of German and Hungarian organizations in the immediate aftermath of World War II, and finally of all remaining such organizations by the Communist rulers who came to power in 1948.

- A similar story lay behind the decision to set aside one percent of the shares of all privatization sales in the Czech Republic in a special **Foundation Investment Fund** as partial restitution for the post-World War II Communist regime's confiscation of the assets and resources of the rich array of associations and foundations that operated during the inter-war years in the Czech portion of the former Czechoslovakia.

- Clearer still was the link between the formation of a foundation and the absorption of Blue Cross of California, California's major private nonprofit health insurance organization, by a private, for-profit insurer. This is so because these assets resulted in substantial part from exemptions the nonprofit had enjoyed from federal and state taxes and the tax deductions provided to the organization's charitable donors from the founding of the organization in 1937 up to its conversion into a for-profit company in 1996. Having the proceeds of this sale go into the pockets of the organization's Board members or the coffers of the acquiring for-profit therefore seemed inappropriate. Indeed, there were laws on the books requiring that any assets built up by a nonprofit continue to be used for the purpose pursued by that nonprofit if the nonprofit ceases to operate or converts to for-profit status.

Implications for future privatizations. Lest it be thought that this factor contributing to PtP outcomes restricts the PtP phenomenon to isolated historical curios, it is well to remember that many other types of assets now in the process of being privatized share a similar contested character. This is the case, for example, of the minerals lying beneath the surface of much of Africa. Such land has long been held in communal hands with power vested in traditional chiefs to allocate it among tribal members. But ownership of

Many other types of assets now in the process of being privatized share a similar contested character.

the land and ownership of the minerals lying beneath the surface turn out to be two different things and governments have been laying claim to the mineral rights and leasing these to mineral companies to prospect and develop. "Zambia: Land and mineral rights in conflict" is how the news outlet of the UN Office for the Coordination of Humanitarian Affairs has described the resulting dispute this has provoked in just one such country.[9] Conceivably, the original nature of this asset could support citizen claims to tap a portion of the streams of revenue such mineral rights leases are generating to support charitable foundations in the region, much as the national lottery in Belgium has been tapped to support the King Baudouin Foundation and other charities in Belgium.

3) Facilitative Legal Framework

While the nature of a privatized asset seems to play a significant role in allowing privatizations to end up creating new, or newly expanded, foundation endowments, other factors also play a role. One of these factors is the legal framework governing both privatization and foundations or other charitable institutions. The impact of law is complex, however, because it operates at many different levels. There is, first of all, the general legal framework, which affects the treatment of state-owned enterprises and thereby facilitates or discourages their existence. Then there is foundation law, which can affect the ease or difficulty of forming foundations and, through stipulations concerning transparency and conflicts of interest, the confidence that citizens have in such institutions. Finally, there are provisions of tax law that can incentivize or disincentivize transactions that involve foundations. What is more, in federal systems such as those in the U.S., Germany, and many other countries, these dimensions of law can vary significantly between the national level and the various subnational jurisdictions.

Given these complexities, we cannot expect any single uniform statement about the impact that legal provisions have on the likelihood that privatization activity will lead to PtP outcomes. Nevertheless, it seems clear from our case studies that those impacts can be substantial, and that they can operate in a number of different directions.

Laws advantaging philanthropication: The Blue Cross of California case. Perhaps the clearest example of the impact legal provisions can have in encouraging PtP outcomes is provided by the case of the absorption of the nonprofit Blue Cross of California (BCC) health insurer into the for-profit WellPoint Health Networks, Inc., in the United States. As already noted, that the conversion of BCC from a nonprofit organization into a for-profit company was accompanied by the formation of a new charitable foundation receiving all of BCC's assets was foreshadowed by the provisions of nonprofit law in the United States, as it is in many other countries.[10] Such law falls under state jurisdiction in the U.S., but virtually every state includes provisions stipulating that nonprofit public benefit corporations hold their assets in charitable trust and, as such, are bound to use their assets only for the particular charitable purposes they were established to pursue. California's law, for example, stipulated that nonprofits are required to include in their Articles of Incorporation a promise that the organization's assets will be "irrevocably dedicated" to specific enumerated charitable purposes. Under California law, if a private, charitable, nonprofit organization chooses to convert to for-profit status, it must transfer an amount equal to the total value of its assets to an organization that will devote them to charitable purposes fundamentally similar to those for which the original organization was created. Supporting this concept is the fact that the assets such organizations accumulate are due in part to various tax exemptions provided by government and to contributions made by the public. When BCC sought to transfer the majority of its assets to a for-profit entity in 1993, therefore, opponents had a strong legal basis for resisting this proposal, though, as we will see, it took more than that to prevail.

Laws stipulating that charitable assets must remain dedicated to the same charitable purposes they were established to pursue advantage PtP outcomes.

Common law vs. civil law considerations. While the privileged position of private nonprofit organizations in the U.S. helped encourage a PtP outcome in the California Blue Cross case and served as the template for the formation of what is now nearly 200 similar "health conversion foundations," other features of U.S. law paradoxically work in the opposite direction. They do this not by discouraging private foundations, but by failing to encourage state-owned enterprises, thus opening far fewer "windows" forPtP by limiting opportunities for privatization.[12] This is, in fact, a widespread feature of common law countries—countries with Anglo-Saxon legal traditions characterized by an emphasis on individualism and citizens' natural rights. By contrast, so-called civil law countries—influenced by the Napoleonic Code and Rousseauian notions of the common good, as well as Catholic concepts of solidarity—are much more supportive of state-owned enterprises. The 1946 French Constitution thus states that: "all property and enterprises of which the running has, or acquires, the character of national public service or of an actual monopoly are to become public property."[13] The Italian Constitution similarly grants the state "by means of expropriation and payment of compensation...categories of undertakings operating essential public services...or invested primarily with a character of general interest."[14]

Civil law countries tend to have larger state-owned enterprise sectors and therefore many more potential candidates to privatize.

Empirical research has confirmed that civil law countries, particularly those in the German civil law tradition—such as Austria, Germany, Japan, South Korea, and Taiwan—tend to have more interventionist governments and larger, state-owned enterprise sectors as a result.[15] When the wave of enthusiasm for privatization swept over the world in the 1990s, therefore, these civil law countries had many more potential candidates to privatize. Whether PtP outcomes resulted, however, depended also on the laws on foundations these countries had adopted. The fact that we discovered no cases of PtP in France, for example, may have something to do with the long-standing legal obstacles to the establishment of foundations in that country—a residue of the French Revolution's general hostility to nonprofit institutions, and particularly foundations, seeing them as undemocratic expressions of the particular will of groups rather than the general will of the entire citizenry. Until 1901, therefore, not only foundations, but all associations were officially outlawed in France. And long after that foundations have had to secure individual decrees from the Council of State to gain legal status.[16]

The "public law foundation" and related options in Germany. The situation in Germany is quite similar, but with one very important difference. As in France, foundations cannot gain legal status without a special act of a state government. But Germany has a category of "public law foundations," i.e., foundations established and operated by Lander, or state, governments. It is thus easier for German authorities to accept the transfer of formerly state-owned enterprises to the care of foundations. Indeed, such transfers to public law foundations can give the appearance of privatizing an asset while still retaining state control.

The concept of 'public law foundations' in Germany can give the appearance of privatizing an asset while still retaining state control.

The Volkswagen case. This consideration seems to have influenced the Volkswagen privatization process through the influence of Fritz Nordhoff, the managing director of the Volkswagen Company at the time of privatization, and Georg Strickrodt, who served between 1946 and 1950 as Minister of Finance in the State of Lower Saxony. Strickrodt was the chief exponent of a concept he called "The Foundation as a new form of incorporated enterprise," about which he wrote two books. The idea here was to combine the benefits of public sector oversight with the advantages of a certain arms-length separation between partly "privatized" public enterprises and their ultimate political masters. Nordhoff understandably found this concept appealing since it promised to leave him free to manage the Volkswagen Company while avoiding the splintering of ownership that might result from a stock sale on the open market or a takeover by an outside owner. It thus helped swing him over to supporting the foundation option in the Volkswagen privatization case.[17]

The Baden-Württemberg case. These features of German law permitting governmental ownership or control of foundations was also evident in the cases of two other German PtP transactions. First, in the case of the **Baden-Württemberg Foundation**, in addition to avoiding the threat of being taxed by the federal government on the capital gains from the sale of its state-owned energy company, Baden-Wüttemberg government leaders were motivated by a desire to build extra-governmental vehicles through which to promote development in their state. This concept of state-sponsored foundations was widely debated in the political arena and in the media during the period leading up to the PtP transaction. Over the objections of critics who charged that they were creating a nonprofit entity to play "Santa Claus" in the country without any parliamentary control, key politicians essentially created a foundation to serve as a holding company for a range of state-owned enterprises, the major one of which was the huge EnBW energy company, the shares of which were ultimately sold to EDF, the French electricity company. As part of the privatization process, the foundation was established as a nonprofit limited company under commercial law with a single shareholder, the State of Baden-Württemberg. Interestingly, as a sop to the opposition, the 18 governing board seats were split evenly between state government officials and members of the Baden-Württemberg Parliament from a wide array of political parties, giving the opposition parties a stake in the foundation's future. This political compromise was further solidified in 2005 when the new Christian Democratic Party Ministerpresident of Baden-Württemberg assumed the role of President of the foundation's Supervisory Board and named as the new Managing Director of the foundation a leading figure in the main opposition party in the state.

The Rheinland-Pfalz case. This notion of a foundation as a vehicle to serve public purposes being promoted by political elites was also clearly present in the creation and funding through privatization transactions of the **Rheinland-Pfalz Foundation for Innovation**, as well as its sister entities, the Rheinland-Pfalz Foundation for Culture and the Villa Musica. This was not simply a case of political leaders using their governmental positions to feather their own nests or throw valuable assets to supportive cronies, however, as happened with privatization processes in Russia and, for a time, in Slovakia.[18] Rather, political leaders from many parts of the political spectrum in the German State of Rheinland-Pfalz saw a need to modernize the state administration and found in the "new public management" concepts circulating in the late 1970s and early 1980s a set of ideas worth trying. Those ideas emphasized the need to introduce market-type principles of competition, incentive pay, and performance measurement into the work of government agencies. This could be achieved through the creation of "quasi-market" arrangements such as outsourcing and hiving off parts of the administrative machinery of the state into quasi-governmental entities.[19] In pursuit of these ideas, the government of the State of Rheinland-Pfalz created *fourteen different foundations* between 1979 and 2000, all with an eye to modernizing the state bureaucracy. These foundations actually pre-dated the major privatization sales in this state. The **Rheinland-Pfalz Foundation for Innovation**, for example, was created in 1991. But when the state found a buyer for its 50 percent ownership of the state's major bank, the Landesbank Rheinland-Pfalz, it was an easy decision to use the proceeds to support the work of the Foundation rather than leave it dependent on subventions from the state budget.

Especially attractive were features in foundation law that guaranteed that assets placed in a foundation would be dedicated in perpetuity to the purposes set in the founding documents.

Other facilitative features of law: The perpetuity requirement. In several of the other cases we examined as well, key features of foundation law smoothed the way for a PtP outcome. Especially attractive to some advocates of this option were features in foundation law that guaranteed that assets placed in a foundation would be dedicated in perpetuity to the purposes set in the founding documents rather than left to the whims of changing political fortunes if dumped into government budgets. Such provisions exist in German laws governing private, but not public, foundations and figured prominently in the decision to place the proceeds of the sale of the Volkswagen Company into a private-law foundation explicitly dedicated to the promotion of Germany science, an issue, as we have seen, of great public concern following the Sputnik launch in 1957.

This was a crucial incentive as well for a PtP outcome in the establishment of the **German Environmental Foundation** with the €1.3 billion proceeds from the sale of the state-owned steel group, Salzgitter AG, to another former state-owned company, Preussag Stahl. A key feature of this decision was the desire on the part of the then-Finance Minister, Dr. Theo Waigel, to secure these resources in perpetuity for the promotion of environmental improvements in Germany, an impulse that was apparently encouraged by his desire to appeal to environmentally oriented voters in advance of forthcoming German elections.

This argument was even more powerfully present in the decision to transfer the assets of the former Socialist Union of Youth to a new private-law **Slovak Youth Foundation**. What gave special force to this argument was the stunning record of mismanagement of the assets of this Union during the early post-Communist period, when they were placed under the management of the Ministry of Education in a Fund for Children and Youth overseen by a Board selected by the Slovak Parliament. By 2000, thanks to the use of this fund to provide private income to the relatives and friends of the board members or to offer advantages to friendly companies doing business with the Fund, the $40 million in net assets originally placed in this fund had dwindled to something closer to US$5 million. The idea to transfer these funds to a private foundation was heavily influenced by the fact that prevailing laws stipulated that this would protect the assets and ensure their use for the support of children and youth in perpetuity.

These examples underline the dangers of too-close-an-embrace of PtP foundations by government authorities and the importance of provisions that shelter such entities from governmental control, an issue to which this report returns in Chapter 7 below.

Legal deterrents to PtP outcomes. Not all features of prevailing law worked to encourage PtP outcomes, however. In some locales, prevailing law fails to require the kind of transparency on the part of foundations that citizens consider desirable. This issue featured prominently in several of the PtP transactions in Germany. Both the Green Party and the Social Democrats, for example, resisted the initial plans for the **German Environmental Foundation** on this ground, portraying German private law foundations as completely uncontrolled and undemocratic institutions because of an almost total lack of transparency requirements for them.[20] The federal Audit Office also opposed this legal form and Court officials recommended the formation of the proposed foundation under public law in order to ensure parliamentary and public control of the use of the assets. Critics also pointed to a legal case filed by the **Volkswagen Foundation** to free itself from intrusive regulation by both the Federal and Lower Saxony audit offices as evidence of the drive by private law foundations to avoid external review.[21] Reflecting the strength of this line of argument, the Government and the political majority in the Parliament agreed to incorporate into the law creating the DBU as a private-law foundation the stipulation that its budget management would be subject to review by the Federal Audit Office, as is the case with public law foundations.

Lack of legal requirements for foundation transparency can be a barrier to PtP outcomes.

The Czech case provides an object lesson in the importance of getting foundation law 'right' to ensure that PtP transactions create reliable and transparent institutions.

PtP as a lever to improve prevailing law: The Czech case. In the case of the **Czech Foundation Investment Fund**, rather than prevailing law *facilitating* a PtP outcome, the promise of a PtP outcome was used as a lever to *improve prevailing foundation law*. Prime Minister Václav Klaus in particular insisted that the transfer of the accumulated assets resulting from the dedication of one percent of the shares of all privatization sales to the support of Czech foundations could not occur until a new, post-Communist law on foundations was passed. This law prepared the ground for the distribution of the contributions from the **Czech Foundation Investment Fund** to a set of Czech foundations by distinguishing foundations more clearly from associations and businesses. It did so by identifying an endowment as a key constituting feature of a foundation; by making clear that such endowments had to be dedicated in perpetuity to publicly beneficial purpose; and by specifying that the earnings generated by such endowments had to be used at least in part to support other public-benefit organizations. This provided the needed assurances that foundation resources would be protected and dedicated to their legally defined appropriate uses. The Czech case thus provides an object lesson in the importance of getting foundation law "right" in order to ensure that the foundations created through PtP transactions forge the reliable and transparent institutions that are needed for PtP to serve its avowed purposes.

4) The Need to Defuse Opposition to Privatization

A fourth factor that facilitated the choice of a PtP solution in a number of the cases we examined was the need to defuse opposition to privatization. To be sure, most of the PtP foundations we examined for this project were formed during the heyday period of recent privatization, from the mid-1980s through 1999. During this period, the economic disaster of Soviet-style, state-run economies had become visible for all to see and served to fuel a powerful consensus in favor of privatization. This view gained important institutional support, moreover, from what has come to be called "the Washington consensus," the view among a number of the large multinational development agencies—such as the World Bank, the International Monetary Fund (IMF), and the Organization for Economic Cooperation and Development (OECD)—that state-owned enterprises were a drag on social and economic progress because, as a World Bank document put it, they: "absorb a large amount of funds that could be better spent on basic social services…capture a disproportionate share of credit…pollute more than privately owned factories…contribute significantly to public-sector deficits, and therefore significantly impede economic development."[22]

But it must not be thought that this consensus was universal. Even amidst the rah-rah, pro-privatization climate of the 1970s and 1980s, significant opposition to privatization was widespread. Thus, for example, 94 percent of the employees of the Saltzgitter firm voted against the sale of the firm in 1989, and 27,000 signed a petition denouncing the plan. Broad swaths of the Social Democratic parties in Europe opposed privatization. In Poland, a substantial portion of public opinion was against any kind or privatization of state-owned companies and it took the announcement that 2 percent of the stock of state-owned companies would be placed in a foundation dedicated to improving Polish science to calm opposition (even though that pledge was reversed two years after it was made).

In Poland, it took the announcement that two percent of the stock of state-owned companies would be placed in a foundation to calm opposition to privatization.

This same tactic won tacit support for privatization among Czech civil society leaders, who saw in the pledge of one percent of the shares of all privatization sales in the Czech Republic for Czech foundations one of the only hopes for creating a true, endowed foundation sector in the country within a reasonable timespan. This view was inspired by early leaders of the Velvet Revolution such as Václav Havel. As Havel put it in explaining the rationale for the one percent provision:

> *"The state should not be based on the idea that it, and it alone, knows best what society needs and that it alone should finance that area from centrally levied taxes. Centralized financing leads inevitably to centralized management. In this area, too, we should trust the citizens more and enable them to take on more responsibility. This means nothing less than delegating to other subjects, in a properly thought-out way, part of the function of redistributing resources."*[23]

"The state should not be based on the idea that it, and it alone, knows best what society needs."

~Václav Havel

This view was vigorously opposed by Czech Prime Minister Václav Klaus, who argued that "Publicly beneficial services should be provided primarily by the state (or local authority) because they are a civic matter and only public institutions represent us, the citizens, on the basis of the authority they have from democratic elections."[24]

Ultimately, Havel's view prevailed thanks to the support of Mr. Tomáš Ježek, the Minister for Privatization. In justifying the provision for setting aside this one percent of all privatization sales for foundations proposed in a 1992 amendment to the Czech privatization law, Ježek put the matter this way:

"We are the society at the beginning of the emergence of market structures, we are without rich individuals, without individual donors, those, who would support foundations from voluntary gifts. Therefore we believe that it would be good and useful to "nurture" the foundations in the process of privatization, to entrust them with part of the property so they could take care of it. By this step a useful, parallel financial structure would be established that exists in all market economies, which besides the public budget, takes care of publicly beneficial purposes as social, humanitarian, health, cultural and others." (Tomáš Ježek, May 5, 1992).[25]

Even in Baden-Württemberg, the government felt compelled to use the foundation to help make the case for the privatization.

In the case of the Blue Cross of California conversion as well, public concern about the private, for-profit takeover of the state's principal health insurance organization led to widespread concerns about possible increases in rates and restrictions on coverage. Unable to stop the corporatization, public concerns were at least partially addressed upon word that the privatization would result in the formation of two large state-wide foundations with missions to promote access to health care. Even in Baden-Württemberg, a state with a particularly robust state-owned enterprise sector whose government used foundations as mechanisms to stay in control of privatized enterprises, the government felt compelled to use the foundation to help make the case for the privatization, pointing out that the new Stiftung could be counted on to make "useful and good investments" in the State of Baden-Württemberg and arguing that the opportunity it created to support 80 million euros-worth of projects each year in the state in perpetuity constituted a form of "social compensation" for the sale of the state's energy company.

Ultimately decisive in PtP outcomes was the presence of some person or group of persons who embraced the PtP concept.

5) The Presence of PtP Entrepreneurs and Advocates

Despite the importance of the preceding four factors in explaining how privatization led to the creation or expansion of charitable endowments in the 22 cases we examined, ultimately it was the fifth factor that was decisive. This fifth factor was the presence of some person or group of persons who embraced the concept of using privatization proceeds to promote the creation or expansion of foundations, and who were in a position to push this concept forward.

That such persons came forward is somewhat remarkable in view of the fact that something called PtP had never truly been articulated in a coherent way. It is well to remember, moreover, that the concept of privatization itself was hardly a wholly indigenous idea. Rather, it had become a central component of the official policy consensus of some powerful international organizations, which dispatched teams of experts from country to country to promote this idea, and which often made the provision of needed financial resources contingent on government willingness to swallow the privatization medicine.[26]

From the evidence available, however, there is no indication that these teams of privatization consultants had anything remotely resembling the PtP concept in their toolbox of recommended privatization procedures. Nor is it the case that there was an independent set of PtP consultants traveling from country to country pushing this idea. To be sure, the Volkswagen case was well known within Germany. Supporters of the PtP option in New Zealand seem to have been aware of the trustee savings bank privatization process in the U.K. but not of the parallel, and much larger, process under way in Italy. And Austrian privatizers of the Sparkasse were somewhat aware of the Italian foundations of banking origin. But these were still fragments of insight and most of the more than 500 cases identified to date seem to have been driven by truly indigenous actors acting pretty much on their own with a variety of objectives in mind—suggesting the remarkable utility and adaptability of the PtP concept for resolving some of the conflicts that inevitably arise in a process as complicated and disruptive as privatization.

PtP as an "inside job." One common theme that emerges from the case studies is that the PtP idea was typically an "inside job," pushed by prominent insiders who saw in it a way to advance their own agendas in the privatization process.

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The Volkswagen case. In the case of the **Volkswagen Foundation**, a strange set of bedfellows came together to accomplish Germany's first known case of PtP. On the one side, as noted earlier, was Fritz Nordhoff, the managing director of the Volkswagen Company, who saw in the foundation idea a way to short-circuit a plan being pushed by the popular German Minister of Economy, Ludwig Erhard, to privatize the Volkswagen Company through the issuance of "peoples' shares,", which Nordhoff feared would splinter ownership of the company and put his position as managing director at risk. Instead, he bought into a concept originally advanced by the former Minister of Finance of the State of Lower Saxony, Georg Strickrodt, whose books on "the Foundation as a new form of incorporated enterprise" gave Nordhoff a way to head off this splintering of control by making a foundation the owner of the company, but without the right to manage what it owned. A third key player was the correspondent Giselher Wirsing, editor of "Christ and World," whose cause was the improvement of German science and engineering, which was thought to have fallen behind that in the socialist countries, and who saw in the resources that might be thrown off by the privatization of the Volkswagen Company a source of revenue for a "National Foundation Volkswagenwerk" devoted to science and the training of engineers—a position that Nordhoff was only too willing to help promote. To this combo was added another key actor in the person of the newly elected Social Democratic head of the Government of Lower Saxony, who saw in the idea of vesting ownership of the Volkswagen Company in a foundation a way to keep control of the company in Lower Saxony and a mechanism through which to "split the difference" with the federal government over ownership and control of the privatized firm.

The Foundation for Polish Science case. In the case of the **Foundation for Polish Science**, a key actor was Jan Janowski, the Vice Prime Minister in the first post-communist government and the head of the Office for Scientific and Technological Development. Not incidentally, Janowski was also the Rector of the AGH University of Science and Technology in Kraków, a position that made him keenly aware of the need for expanded funding for Polish science. Janowski was therefore an early supporter of the idea to transfer the resources that the Communist government had determined should be placed in a government-controlled Central Fund for Development of Science and Technology (CFD) into a private foundation free of government control. He therefore moved quickly to have the Parliament disband the CFD and just as quickly established a **Foundation for Polish Science** to receive the funds freed up as a consequence—a bonanza estimated to total the equivalent of US$90 million.[27]

This turned out to be only the first of two PtP transactions of which the Foundation for Polish Science was a beneficiary, however. At the suggestion of Leszek Balcerowicz, the influential Finance Minister of this same early post-Communist government, a decision was then made to double-down on this Foundation by making it one of two beneficiaries of two percent of all Polish privatization transactions—a commitment that the government decided to promote at least partly in order to win popular support for its bold privatization initiatives, though other factors also seem to have been involved.[28] As it turned out, however, this proved to be a costly decision because, by concentrating the proceeds of this PtP transaction in only one organization, Polish privatizers robbed the PtP concept in Poland of broader civil society support—a problem that advocates of the similar concept in the Czech Republic were wise enough to avoid.

Other PtP "angels." Other PtP "angels" included:

- *Mr. Theo Waigel*, the GFR Finance Minister, who was the principal champion of the idea of creating a **German Foundation for the Environment** out of the proceeds of the sale of the Salzgitter company.
- *Thomas Ježek*, Minister of Privatization in the first Czech post-Communist Government, who, as noted above, successfully pushed for the **Czech Foundation Investment Fund** as a way to build up resources for a robust foun-dation and civil society sector.
- *Senator and Professor Giuliano Amato*, who came up with the scheme to encourage the existing Italian savings banks to create separate joint stock banking companies and to retain in the "conferring entities" ownership of the bank stock and the philanthropic activities of the former banks.
- *Erste Banking Group CEO Andreas Treichl*, who created the **ERSTE Foundation** as a belated byproduct of the transformation of the Erste Sparkasse into a joint stock com-pany, and who, as a purchaser of privatized state savings banks elsewhere in Central Europe, had the foresight to honor their charitable histories by pledging to include the establishment of charitable funds or actual foundations as part of the bids he made on these banks during the privatization process. Partly as a result of this, the Erste Group was successful in winning the bids for several of these banks. The Czech Savings Bank Foundation and the **Slovak Savings Bank Foundation** stand as testimony to the foresight of this perceptive businessman.

The potential role of civil society. Interestingly, with one crucial exception, the voice of civil society was generally fairly muted in these debates, though that exception is revealing. To be sure, the trustee savings banks in New Zealand took the initiative in the face of government plans to restructure the country's banking system to start the process on their own initiative. They thus agreed in June 1986, well in advance of the government's action, to form a private holding company called the Trust Banks Holding, Ltd., and ulti-mately convert themselves into limited liability companies whose shares would be vested in corresponding community trusts.[29] The New Zealand government did not contest this plan, in part because it had bigger fish to fry in the transformation of the New Zealand banking system and could not, as noted earlier, find a compelling argument with which to object to the savings banks' argument that they were fundamentally community institutions and should remain community owned. There was thus no reason to rally the New Zealand voluntary and community sector to defend these institutions against a government takeover or threat to community control.

More overtly, youth-serving organizations played a significant role in convincing a newly elected Slovak government to transform its Fund for Youth and Children, which had been corruptly managed under the previous government, into a full-fledged **Slovak Youth Foundation** before all of its assets were dissipated; and their compatriots in the Czech foundation community certainly cheered the decision of the Czech Parliament to set aside one percent of the shares of all privatized companies in a **Czech Foundation Investment Fund** and resisted a proposal to place these proceeds into a single, new Czech National Foundation instead of into the newly formed, but still fledgling, existing Czech foundations. So, too, complaints by Dutch nonprofit organizations about the narrow band of beneficiaries supported by the Nationale Postcode Lotteryj, the private company licensed to operate the charity lotteries in the Netherlands, led to a government investigation and ultimately to the willingness of this lottery company to open the doors to a flow of funds to the **Oranje Foundation**.

But these were relatively minor parts in the larger drama of privatization unfolding, and the civil society groups were hardly main actors. Indeed, when the new Social Democratic government in Poland canceled the PtP law a prior Parliament had enacted two years earlier and transferred the flow of privatization resources from the **Foundation for Polish Science** to the State Committee for Scientific Research, Polish civil society organizations barely took the stage to protest. One apparent reason for this, as noted earlier, was that the initial flow of funds had been directed to a single nonprofit organization so that the rest of the civil society sector felt little apparent stake in the outcome, and no concept of a "philanthropication thru privatization" strategy was yet in existence to crystallize their thinking.

The one major exception to this relatively muted civil society engagement in the process of establishing a PtP outcome occurred, perhaps surprisingly, in the United States, where a robust foundation community was already in existence, and where the laws governing the privatization of quasi-public entities, as outlined earlier, were among the strongest and clearest anywhere.

Even here, however, the alarm that ultimately led to the PtP outcome, and in turn to a cascading sequence of them, was not sounded by one of the mainline nonprofit or foundation trade associations in the United States, but by the Consumers Union, an organization best known for its *Consumer Reports* magazine that reports on the organization's rigorous testing of all-manner of consumer products, from air conditioners to wrinkle creams. But what the Blue Cross of California case illustrates is that even strong, pro-PtP laws are not self-executing, and that civil society organizations can have a major impact in shaping privatization processes in ways that deliver benefits to the civil society sector and the causes they serve.

Civil society organizations can have a major impact in shaping privatization processes.

As noted previously, Blue Cross of California (BCC) was part of a large network of originally nonprofit health insurance companies in the United States created in the 1930s to offer low-cost health insurance to people throughout the country. Unlike most traditional insurance, Blue Cross established the concept of "community rating," under which everyone in a community was offered the same price for health insurance regardless of their age, health status, occupation, sex, or other characteristics. Key to this concept was coverage of all or most residents in a community by the Blue Cross Plans. Over the past 30-50 years, however, private, for-profit health insurers have entered the market, targeted the residents with the least health risks, and offered them insurance at rates lower than Blue Cross plans could offer. Over time, more and more healthier residents were attracted away from Blue Cross, leaving Blue Cross affiliates with the most costly participants and requiring them to raise their rates. At the same time, new "managed care plans" emerged on the market requiring costly data processing systems and development of networks of provider organizations to serve patients effectively. This put pressure on the Blue Cross plans to raise capital, a difficult proposition for nonprofits because of their inability to issue ownership shares or pay dividends to investors.

Blue Cross of California, like many other "Blues," consequently began exploring possible partnerships or outright sales to private, for-profit insurers. By July 1991 it had settled on a strategy that involved transferring 90 percent of its assets plus its entire managed care business to a new for-profit subsidiary called Wellpoint Health Networks. In documents submitted to the California Department of Corporations, the entity responsible for enforcement of the nonprofit law in California, BCC argued that this transaction did not constitute a privatization since BCC would still own a majority stake in the for-profit subsidiary.

Rather than sit idly by, consumer and health provider groups in California sprang into action.

Rather than sit idly by, however, consumer and health provider groups, led by Consumers Union and including the California Medical Association, sprang into action:

- → They submitted documents to the Department of Corporations challenging BCC's interpretation of its strategy, arguing that BCC's deal was a disguised conversion to for-profit status that should obligate it, under California nonprofit law, to turn over the full value of its assets to a charitable foundation or other charitable entity.
- → They developed a state-wide coalition around a relatively simple set of common demands.
- → They issued media statements to put pressure on the Department of Corporations to exercise public oversight.
- → When the Department initially approved the proposed restructuring after 18 months of consideration and made no mention of any BCC charitable obligations, they filed an administrative petition with the Department of Corporations to demand public hearings, transfer of BCC assets to a foundation, and development of regulations to govern health plan conversions.
- → They conducted legal research and published a policy report to popularize the issue and the consumer coalition positions.
- → They worked with legislators to encourage investigations and additional clarifying legislation.
- → They organized a petition campaign and secured signatures from over 100 consumer, legal, community, and labor organizations protesting the transfer of BCC assets to a for-profit company and urging BCC to comply with the law requiring them to turn over their assets to a foundation.
- → They mobilized coalition members to testify at administrative and legislative hearings.

In the midst of this battle, a new commissioner who seemed more open to the citizen and civil society perspective took over the California Department of Corporations. Still, it took more than a year of wrangling for BCC to concede, first, to create a separate foundation; second, to transfer all of its assets to it; and third, to withdraw a proposal to have its nonprofit board become the board of the new foundation. The consumer coalition also pressed BCC and regulators to accept the normal legal form that foundations take in the U.S. rather than a form proposed by BCC that would free the foundation from self-dealing and excess-holding regulations, normal foundation "payout" requirements, and requirements to report on compensation arrangements with executives, consultants, and others—all key protections provided in U.S. foundation law to foster transparency in foundation operations. The consumer and community groups also pushed for an independent board that would be diverse in gender, race, and ethnicity and accountable to the community.

The Blue Cross of California case illustrates the power that civil society groups can exercise when they recognize the enormous stakes they have in the disposition of what are, in some sense, the people's assets.

The upshot after another two years of back and forth was the creation of two foundations, endowed with over $3 billion in assets. The larger of the two (and the focus of our case study)—The **California Endowment**, a regular 501(3) foundation—after a complex series of transactions intended to avoid costly taxes, received an endowment of US$3.3 billion from the sale of 80 percent of the stock of BCC, making it one of the largest foundations in the U.S. The second foundation, the California HealthCare Foundation, was created as a 501(c)(4) organization, and was set up principally to handle the sale of the BCC stock without having to incur capital gains taxes, and then to pass 80 percent of the proceeds on to the **California Endowment**, retaining 20 percent of the proceeds—$500 million in all—to fund its own separate health-related initiatives.

Quite apart from its very large direct impact on the availability of charitable resources in California, the battle over the disposition of the Blue Cross of California created a template that other communities have used to handle the privatization not only of other nonprofit Blue Cross insurers, but also of a host of nonprofit hospitals as well. The result has been the eventual creation of approximately 200 health conversion foundations with total assets of $19.6 billion. More than that, this case illustrates the power that civil society groups can exercise when they focus their attention on privatization processes and recognize the enormous stakes they have in the disposition of what are, in some sense, the people's assets.

Philanthropication offered assurances that the resources generated by privatization would be devoted to legitimate public purposes.

CONCLUSION AND IMPLICATIONS

The factors and forces that led to the PtP outcomes examined here thus varied considerably. In part, this reflects the considerations driving the privatization process itself. For the early cases, such as the **Volkswagen Foundation**, privatization was driven by the peculiar circumstances of particular institutions. Later privatizations during the 1980s and 1990s were driven by broader ideological hostility to state ownership and particular popular revulsion against the poor performance of the Soviet economic experiment. Also at work were particular concerns about the often closed structure and under-capitalization of national financial systems and their resulting inability to accommodate the requirements of an increasingly globalized world economy. More recently, the driver of privatization has shifted to concerns about government debt. Each of these concerns has affected the focus of privatization efforts as well as the strength of the forces driving privatization forward.

To these variations in the drivers of privatization, however, the philanthropication option added its own variations. For the early cases, this option was not truly an avowed objective so much as a convenient byproduct. This was the case, for example, with the **Volkswagen Foundation**, where the creation of a foundation provided a way to solve a jurisdictional dispute between the national government and one of its states. So, too, in Italy, New Zealand, and the UK, the establishment of foundations was a byproduct of a strong push to restructure the financial system in a setting where one significant component of that system had a disputed ownership structure that could not be solved any other way—though in each of these cases a more explicit goal to keep charitable assets under the control of private citizens and local communities figured prominently in the outcome.

Another factor that figured strongly in the achievement of a PtP outcome was the greater assurance that philanthropication offered that the resources generated through privatization would be devoted to legitimate public purposes, and would be so devoted permanently. This consideration was certainly crucial in the cases of the **Volkswagen Foundation** and the **Foundation for Polish Science**, in both of which greater investment in science was the purpose to be protected; in the **German**

Environmental Foundation case, where it was environmental protection; in the **Slovak Youth Foundation** case, where it was offsetting the effects of a prior shift of resources into a corrupt governmental entity in order to improve the life chances for children; and in the Rheinland-Pfalz cases, where the purposes were, respectively, the promotion of innovation and of culture. Here we see, therefore, a first glimmer of recognition that foundations and civil society are capable of being something more than convenient facilitators of privatization, that they add a distinctive positive element in their own right, in this case serving as "lock boxes" for resources that could otherwise be diverted to other purposes.

By the early 1990s, a stronger positive case for PtP surfaced with the new-found interest in civil society and non-governmental organizations. Now it was possible to make a principled case for the philanthropication option, a case that rooted it in the positive role that foundations and civil society organizations can play in fostering democracy, building trust, and offering plural approaches to solving important social and economic problems. This view was articulated most explicitly, as we have seen, in the important case of the **Czech Foundation Investment Fund**. But it was powerfully present as well in the battle over the privatization of the Blue Cross of California, where the virtues of charitable endowments were counter-posed to the greedy behavior of commercially oriented health insurance executives.

By the early 1990s, a stronger positive case for PtP surfaced with the new-found interest in civil society and non-governmental organizations.

Several implications flow from these findings for the future course of PtP:

→ The first is to underline the *malleable nature* of the privatization process. This process does not follow a single, smooth, well-defined course everywhere. Rather it is situationally specific, full of fits and starts, and capable of unexpected sharp turns.

→ Second, this means that privatization outcomes are vulnerable to outside pressures, and this can include pressures from citizens, particularly if those citizens can point to some feature of the asset being privatized that suggests it has some public-serving character, or can identify some pressing purpose for which the asset is needed that might be in jeopardy if all of the proceeds were placed under governmental control or siphoned off by political actors.

The privatization process is "malleable," and "vulnerable to outside pressures."

→ Finally, as we will see more fully in subsequent chapters, the success of these arguments will hinge heavily on the ability to make a credible case that the institutions so rewarded will use the resources wisely and responsively, features that figured heavily in both the **California Endowment**/California Health Care Foundation and **Czech Foundation Investment Fund** cases.

With this analysis of the political and legal dynamics affecting the likelihood of a PtP transaction in view, we turn next to the characteristics of the deals through which this option has been executed and at the structure of the institutions created as a consequence in our search for clues about the factors likely to enhance the viability and value of the PtP option.

[1] The lower of these two estimates is presented in Bernardo Bortolotti and Domenico Siniscalco in *The Challenges of Privatization: An International Analysis.* (Oxford, UK: Oxford University Press, 2004), p. v. The estimate draws on data from *Privatization International* and *Securities Data Corporation* and cover transactions involving "the transfer of ownership rights from the public to the private sector." The 75,000 figure is presented in Nellis, "International Experience," 1 and includes enterprises formerly owned by states that have been either divested or turned over to private management.

[2] Bortolotti and Siniscalco, *Challenges of Privatization,* v.

[3] World Bank, *Bureaucrats in Business*, 1995, 1.

[4] Bortolotti and Siniscalo, *Challenges of Privatization,* 2004, 4.

[5] Classic examples of public goods include "clean air" and parks.

[6] Jonathan Boston, et al. *Reshaping the State: New Zealand's Bureaucratic Revolution* (Auckland: Oxford University Press, 1991).

[7] As will be noted below, the GFR required the Volkswagen Foundation to lend it the proceeds coming to it for a period of 20 years but paid the Foundation an interest rate of 5 percent on this loan. Ultimately, the GFR paid back this loan and also cashed out its share of Volkswagen stock and paid the proceeds into the Foundation's endowment. The State of Lower Saxony, however, continues to hold its share of Volkswagen stock.

[8] As will become clear below, not all of these institutions were structured identically. The ERSTE, Slovak, and Czech Foundations, for example, were created well after the privatization of their respective banks, largely at the initiative of Andres Triechl, the CEO of the Erste Group, which acquired the Slovak and Czech public savings banks but, true to his origins in the pre-existing Austrian Erste Sparkasse, included funding for charitable activities in his group's bids, and subsequently put substantial portions of these committed funds into foundations that the banks established. Similarly, while most of the resulting foundations received assets from privatization transactions, the Trustee Savings Bank Foundation for England and Wales got a commitment for a flow of profits from its associated Trustee Savings Bank for England and Wales.

[9] "Zambia: Land and mineral rights in conflict," IRIN, A Service of the UN Office for the Coordination of Humanitarian Affairs, August 30, 2010.

[10] See, for example: Salamon, *International Guide to Nonprofit Law*, 1997.

[11] As we will see in Chapter 7, the financial crisis created a mammoth exception to this observation by requiring the national government to "bail out" numerous private companies, especially in the financial services and automobile industries. But in its eagerness to unload these unwelcome state-owned enterprises, the U.S. has emerged in 2012 as the leading privatizer in the world, pointing up the need to surface the PtP concept in order to preserve some of the resulting billions of dollars of proceeds in foundations to support important national priorities, such as revitalizing the bankrupt city of Detroit and rebuilding failing infrastructure.

[12] Cosmo Graham and Tony Prosser, *Privatizing Public Enterprises*, (Oxford, UK: Clarendon Press, 1991), 76.

[13] See, for example: Salamon, *International Guide to Nonprofit Law*, 1997.

[14] Bernardo Bortolotti and Domenico Siniscalco, *The Challenges of Privatization: An International Analysis* (Oxford, UK: Oxford University Press, 2004), 50.

[15] Bortolotti and Saniscalo, *Challenges of Privatization*, 2004, 51.

[16] Salamon, *International Guide to Nonprofit Law*, 104. Unlike associations, foundations in France are subject to the state's tutelage and required to accept appointment of about a third of a foundation's administrative officers by the state.

[17] Ultimately, the Volkswagen Foundation was not established as a "public law foundation," but its early governance structure reflected the strong influence of legal provisions permitting extensive governmental involvement in its governance, a point discussed more fully below.

[18] On the Russian developments see: Bernard S. Black, Reinier H. Kraakman, and Anna Tarassova, "Russian Privatization and Corporate Governance: What Went Wrong?" *Stanford Law Review*, Vol. 52, 2000, 1731-1808.

[19] For a discussion of these "quasi-market" concepts, see: Julian Le Grand and Will Bartlett, *Quasi-Markets and Social Policy.* London: Macmillan Press, 1993.

[20] This feature of German law explains why the asset values on so many of our German PtP cases listed on the Master List in Appendix A are listed as "N.A." for Not Available, despite efforts to identify them through online searches and other means.

[21] This legal case was actually an attempt by the Volkswagen Foundation to avoid governmental dictation of the foundation's priorities and programs. Volkswagen is one of the German foundations that adheres to international standards of transparency.

[22] World Bank, *Bureaucrats in Business*, 1995, 1-2.

[23] Václav Havel, "New Year's Speech," January 1, 1994.

[24] Václav Klaus, "The more non-profit organizations, the more democracy," *Lidové noviny*, May 16, 1994.

[25] Quoted from the justification of the governmental bill, approved by the Parliament on May 5, 1992 under the #282/1992 that promulgated the provisions about the transfer of property for the purpose of support of foundations and amended the Act No. 171/1991 on the Authority of State Bodies of Czech Republic in the process of Transfer of Public Property.

[26] For an interesting account of this work in Central and Eastern Europe following the collapse of the Soviet regimes there, see: John Nellis, "Leaps of Faith: Launching the Privatization Process in Transition," in Ira W. Lieberman and Daniel J. Kopf (eds.) *Privatization in Transition Economies: The Ongoing Story,* Contemporary Studies in Economic and Financial Analysis, Volume 90, (Emerald Group Publishing Limited, 2007), 81–136.

[27] Details about the actual transactions leading to the transfer of funds to the Foundation for Polish Science are somewhat unclear. It appears that the funds transferred to the Foundation were late payments of funds that various ministries in the Polish government had been mandated to supply to the Central Fund for Development of Science and Technology (CFD) but were not delivered until after the CFD had been formally disbanded.

[28] The other beneficiary was the country's Industrial Development Agency, hardly a nonprofit entity. Gaining increased financial support for Polish science was also apparently a key motivation and the fact that a foundation was the vehicle chosen to accomplish this may have been an afterthought.

[29] Graham Scott, *Community Trusts in New Zealand: Looking Back and Looking Forward. A Report for the Twelve Community Trusts.* Wellington: Southern Cross International, Ltd., 2002.

Chapter 5:
THE PtP PROCESS
Laws, Deals, and Resulting Institutions

Because the PtP process in the cases we examined took place before a concept of philanthropication thru privatization was even conceived, let alone fully articulated, most cases took place almost as an afterthought to the primary privatization processes to which they were attached. Decisions about the shape of the PtP transactions or even the structure of the resulting foundations thus tended to be driven by the needs of privatization or by prevailing practice in the structuring of foundations rather than considerations designed to maximize the philanthropication objective.

This is potentially unfortunate for several reasons. First, national laws and policy treatment of foundations vary widely across the world. In England and Wales, for example, foundations can take any of 13 legal forms. In the U.S., by contrast, there was no legal definition of a foundation until 1969, while in Germany there can be not only civil law foundations, public law foundations, and church law foundations, but also limited companies that can be foundations and foundations that can own limited companies.[1]

More seriously, the laws governing foundations may be ill-suited to handle the foundations created out of privatization transactions. As just one illustration, German laws impose no transparency requirements—at least on civil law foundations—presumably on the assumption that as trusts established by donors to carry out purposes intended by their donors, such foundations have no obligation to report to the broader public about what they are doing with the donor's money. German foundations have therefore resisted the imposition of such requirements. The absence of such provisions may not be suitable, however, for entities whose assets originate in the public sector, where expectations for open and accountable operations are more stringent, at least in democratic countries.

Although the characteristics of the past PtP cases may not provide perfect models to be followed in any future PtP cases, however, they may still hold clues to structures and practices that can usefully guide such future applications of the concept. It is to these lessons that we therefore now turn. More specifically, we focus here on three important aspects of the processes involved in the creation of our 21 PtP case-study foundations: *first*, the legal process that established the institutions; *second*, the structure of the transactions themselves; and *third*, the legal form and governance structure of the resulting institutions. With this as background, we can then turn in the subsequent chapter to the *performance* of these institutions over time.

1) THE LEGAL DIMENSION

As with so much about the 21 PtP foundations and 22 PtP transactions we examined, great variation existed in the legal processes used to create them and transfer resources to them. As analysed by lawyer Chuck Bell in a summary prepared for this Project, in 11 of the cases, a special law was passed to authorize the PtP transaction. Of these, 8 applied to entire classes of organizations while the remaining three applied only to particular organizations. In the rest of the cases either no new law was required or the PtP option was covered in general privatization laws.[2]

Special Sector-Wide Laws

Sector-wide laws were most prevalent in the Type V PtP cases—those that involved quasi-public, private nonprofit, or mutual institutions that had previously benefitted from government assistance. In five of the six cases we examined the laws that were passed were sector-wide, applying to a large number of organizations—88 in the case of the Italian foundations of banking origin, 33 in the case of the Austrian savings banks, and 12 in the case of the New Zealand savings banks. In these cases, privatization was essentially blocked until a sector-wide law was passed to specifically enable it.

A similar process was used in the case of the 13 Italian lyric operas, a Type II transaction (transfer of a government building or similar asset to a nonprofit foundation) exemplified by the Teatro alla Scala of Milan, though here an entire new class of foundations was established for which the lyric operas were conceived as one example.

A sector-wide special law can establish common rules of the road that can be applied by regulatory agencies and/or the courts to govern the PtP process and institutions. There seems a strong case that when there are many organizations in the field—such as the 88 foundations established in the Italian savings bank case—they should be guided and treated similarly by the law. Disparate treatment of similar organizations could result in unfair competitive advantages for some organizations and regional disparities in services or resources.

The Czech Foundation Investment Fund case seems especially noteworthy.

The case of the **Czech Foundation Investment Fund** seems especially noteworthy because of the very strong legal framework that the parliament established. This framework involved the creation of an Investment Fund to receive one percent of the shares of newly privatized state-owned companies to hold until the shares could be sold and the proceeds distributed to a set of eligible Czech foundations.[3] The entire process was overseen by a Ministry of Privatization, which established a Fund for National Property to manage the process of preparing some 22,000 state-owned enterprises for sale through a combination of vouchers sold to the public and outright sales of enterprises. Some deputies, including Tomáš Ježek, the "father" of the idea of creating such an Investment Fund, favoured placing the resulting assets in a single Czech National Foundation. However, it was ultimately decided, in part at the urging of existing Czech foundations, to distribute the resources as endowments to existing Czech foundations that proved able to pass through a complicated vetting process, and even then only after a new law on foundations could be passed that would clarify the eligibility criteria for identification of foundations and crucial operating requirements to ensure the transparency and reliability of the resulting institutions.[4] Ultimately, the distribution of the resulting funds to some 73 foundations was handled through a highly transparent application process developed by a joint government-civil society Council and engaging seven working groups made up of government and civil society leaders.

This case stands in sharp contrast with that of the **Polish Foundation for Science**. Here, as noted earlier, a single foundation was selected to receive two percent of the shares of the country's privatization sales with no opportunity for other foundations to apply. When the program was abruptly ended a few years later, few Polish nonprofits came forward to protest the decision, interpreting the decision as a judgment on only one already-well-endowed organization rather that the termination of a process with enormous potential promise for the entire embryonic Polish nonprofit sector.

Special Laws for Particular Transactions

In several cases, a special law was passed to guide a single transaction. This was the case for the **Volkswagen Foundation**, the **German Environmental Foundation**, and the **Foundation for Polish Science** (both in 1991 and

2002). In these cases, a variety of unique circumstances had to be addressed and a wide array of contending perspectives accommodated. So it is not surprising that a specific deal had to be fashioned that incorporated key features of standard foundation law but added special features applicable to these particular institutions. Thus, for example, as indicated earlier, though a civil law foundation, the **Volkswagen Foundation** was subjected to audit by the Federal Audit Agency even though no such requirement applies to German civil-law foundations generally.

In another case, the **Foundation for Polish-German Cooperation**, the operative legal instrument was a treaty between two sovereign nations cancelling a "jumbo loan" that Poland owed to Germany, but obliging Poland to invest an equivalent amount of Polish currency into this newly established foundation.

While they are probably unavoidable, special laws focusing on single transactions may have serious potential weaknesses. For one thing, given frequent electoral changes, they can lead to significant unevenness in prevailing rules and procedures for different institutions of the same type. For another, enormous delays can occur as politicians re-visit issues that may already have been addressed in prior cases. This can cause endless delays as shown in the cases of the **Volkswagen Foundation** and the **Rheinland-Pfalz Foundation for Innovation**, consideration of which stretched on for several years. Political bargaining can also produce sometimes strange compromises that complicate the operation of the resulting foundations, such as overly complex and contentious governance structures. Special legislation also opens opportunities for special treatment of influential constituencies and can reduce the access and influence of citizen groups.

There are several serious potential weaknesses with special laws that guide a single transaction.

Use of Existing Laws

In the other cases examined here, existing laws were sufficient to handle the philanthropication action and provided a useful template into which the philanthropication could be fit. But even here special provisions or activities were sometimes still needed. In the case of the **King Baudouin Foundation (KBF)**, the lottery that was tapped to channel funds into this foundation had been created decades before to help relieve the suffering caused by the Great Depression for citizens of Belgium’s Congo colony. All that was initially needed to make funding from the Belgian National Lottery available to the KBF was a Royal Decree in 1989 honouring the 60th birthday of King Baudouin and the 40th year of his reign by dedicating a portion of the revenues from the Belgian national lottery to the **KBF**. The Belgian legislature subsequently confirmed the principle of annual allocation of lottery revenues to the Foundation through modifications of the lottery law enacted in 1991 and then re-confirmed this in 2002 following some changes to the lottery structure. While these laws established the **KBF**'s entitlement to lottery proceeds, however, they left the amounts up to royal decrees that had to be endorsed by the country's Council of Ministers and renewed every five years, somewhat undermining the status of these annual contributions as a form of endowment.

In the case of the **California Endowment**, concerns that tax laws would make the recipient foundation of the California Blue Cross' assets liable for payment of federal income taxes on the transfer made it necessary to create a second nonprofit institution—the California HealthCare Foundation—which was established to receive the assets and then transfer them to the grant-making **California Endowment**.[5]

In two other cases, existing laws making provision for philanthropication of privatized assets were not sufficient to guarantee the PtP outcome.

In two other cases, laws making provision for philanthropication of privatized assets were on the books, but this was not sufficient to guarantee that the institutions in question would receive them. In the case of the **Oranje Foundation**, the Foundation's access to the resources of the country's largest lottery ultimately came to depend on a protest lodged in 2004 by a number of Dutch charities against the company licensed by the government to manage this lottery. These charities charged that this company was retaining too much of its profits and not distributing them to a wide enough band of Dutch charities. Thanks in part to this protest, the **Oranje Foundation** was able to gain access to the revenues of this lottery two years later, thus guaranteeing it a 15 million euro annual flow of revenues.

In the case of the **California Endowment** and its sister organization, the California HealthCare Foundation, as we have seen, notwithstanding the existence of clear legal provisions requiring that nonprofit organizations undergoing conversions to for-profit status must transfer their charitable assets to an organization pursuing the same charitable purpose, an intense five-year battle spearheaded by consumer advocacy organizations was required to achieve this result.

Summary

A key conclusion that can be drawn from this discussion of the varied legal structures used to establish PtP arrangements is the need to approach such arrangements strategically and coherently rather than in an ad hoc fashion.

What is more, there is now considerable international experience in how to structure such arrangements to provide the best long-term prospects for the emergence of effective and reliable institutions. Of the cases examined here, the Italian and Czech ones offer perhaps the most suitable models, though any model will need to be adapted to existing local law and particular privatization realities.

2) THE DEALS

At least as important as the *structure* of the legal provisions establishing the philanthropication process is, of course, the *content* of those provisions. Two features of this content are especially important, moreover: *first*, the structure of the "deal" that transfers the asset; and *second,* the structure of the entity receiving it. We take up the first of these features here and turn to the latter in the next section.

Not surprisingly, given the multiple objectives being sought, each of the privatization deals under scrutiny here had its own characteristics. Nevertheless, two general features of these deals stand out as especially important. The first of these has to do with the sequence of actions through which the transfer was carried out. The second has to do with the form in which the proceeds were made available.

One-Step vs. Two-Step Processes

So far as the first issue is concerned, one significant difference among the various PtP cases we examined was whether the financial resources ultimately put into the hands of the PtP foundations reached them in *one* step or *two*.

One significant difference among the various PtP cases was whether the financial resources reached the PtP foundations in *one step or two*.

One-step lump-sum cash transfers. As noted in **TABLE 5.1**, in five of the 22 transactions we examined, the financial assets that formed the heart of the philanthropication process reached the foundations in the form of cash. In three of these cases, the asset involved was sold by some third party, typically a government agency, and the resulting cash, or some part of it, was conveyed to the foundation.[6] The way in which the privatization was handled differed among these three cases as well, with a sale of shares to a broad swath of the German public in the case of the **Volkswagen Foundation** and the purchase by a single outside entity in the cases of the **Rheinland-Pfalz Foundation for Innovation** and the **German Environmental Foundation**. In the Volkswagen case, the cash receipts likely grossly underestimated the true value of the asset being sold because the government set the initial price

TABLE 5.1
Nature of PtP transactions

TYPE OF TRANSACTION			
One step	**Two-step shares**	**Two-step other asset**	**Legally-mandated streams of revenue**
Volkswagen Foundation German Environmental Foundation Slovak Savings Bank Foundation Rheinland-Pfalz Foundation for Innovation Lombardy Foundation for the Environment	ASB Community Trust Community Trust of Southland Cariplo Foundation Compagnia di San Paolo Fondazione CRT California Endowment Baden-Wurttemberg Foundation Czech Foundation Investment Fund Foundation for Polish Science ERSTE Foundation	Slovak Youth Foundation Foundation for Polish Science La Scala Foundation	Lloyds TSB Foundation for England and Wales Oranje Foundation King Baudouin Foundation Foundation for Polish-German Cooperation

true value of the asset being sold because the government set the initial price of the Volkswagen Company shares sold to German citizens well below what turned out to be their actual market price once these shares began to be sold on the market.

In the remaining one-step cases—the **Slovak Savings Bank Foundation** and the **Lombardy Foundation for the Environment**—the transferred assets were already in cash form, a left-over philanthropic commitment made by the Erste Group when it purchased the Slovak Savings Bank, and part of the proceeds of a legal settlement against a chemical company implicated in an environmental disaster in the case of the **Lombardy Foundation for the Environment**. In all of these cases, however, the foundations received their assets in the form of cash.

The two-step process involved important advantages.

Two step arrangements. Far different was the process involved in conveying assets to another 13 of these PtP foundations. Here a *two-step process* was utilized in which the foundations became direct owners of the privatized assets that they later sold in whole or in part. In ten of these cases, the assets were shares in newly privatized joint-stock enterprises, or, in the **California Endowment** case, of an existing for-profit health insurance company.[7] In the three remaining two-step cases, the assets in question were different—hotels and other real estate holdings in the case of the **Slovak Youth Foundation**, a Central Fund for Development of Sciences and Technology in the case of the first tranche of resources for the **Foundation for Polish Science**, and an opera company as well as free use of the La Scala opera house in the case of the **La Scala Foundation**.

This two-step process turned out to involve important advantages both for the privatized companies and for the resulting PtP foundations. So far as the companies are concerned, analyses of privatization outcomes have shown that better outcomes are typically associated with concentrated ownership.[8] One virtue of vesting enterprise ownership, at least initially, in foundations instead of dispersing it through so-called "voucher privatization" sales or share give-aways to the general public, is that the assets remain under the control of boards accustomed to managing the enterprises. As we saw in the case of the Italian foundations of banking origin, many of these boards performed quite well in their new role as owners of joint stock companies and undertook a string of largely successful mergers that strengthened the core institutions. This same pattern was evident in the New Zealand case. In the case of Austria, the retention of the shares of the Erste Bank in the pre-existing association that ran the Erste savings bank opened the door for the new joint-stock Erste Bank to undertake a series of strategic acquisitions throughout Central Europe in the years following the privatization.

But this two-step process also brought benefits to the PtP foundations. As the value of the privatized companies began to increase—as it did in a number of cases—so too did the value of the shares held by the foundations. As a result, by the time the government of each country began urging the foundations to diversify their holdings and reduce their investments in the privatized companies, the value of these investments had appreciated substantially, leaving the foundations with much larger assets than they would have had had they initially received the cash value of these shares at the time of privatization.

The experience of the **ASB Community Trust** is particularly revealing in this regard. The asset it received as the recipient of 100 percent of the shares of the Auckland Savings Bank (ASB) in 1988 was valued at NZ$100 million. Within several years, the Trust was approached by its savings bank with a request to consider a sale of a substantial portion of its shares to the Commonwealth Bank of Australia (CBA), which wanted to purchase ASB but insisted on majority ownership. Ultimately, the Trust sold 75 percent of its shares in ASB for NZ$252 million, a gain of 2.25 times what they were originally estimated to be worth and leaving the Trust with a 25 percent share of a much larger institution. Several years later, the CBA approached the Trust about acquiring its remaining 25 percent share, leading in 2000 to the sale of these remaining shares for NZ$560 million. Within a little over a decade, the **ASB Community Trust** had thus parlayed its initial NZ$100 million endowment into an asset base approaching NZ$1 billion.

Contrast this with the experience of the **Volkswagen Foundation**, which, as noted above, received the proceeds of a broad-based sale of Volkswagen Company shares to the German public at prices that turned out to be heavily discounted by a factor of at least 7 to 1. What is more, under the terms of the privatization deal, the foundation then had to lend the money to the German Federal Republic for a period of 20 years and accept a return of only five percent per year.

Of course, not all of the foundations prospered as a result of two-step deals. Thus, some of the Italian foundations decided not to diversify their endowments, concentrating all of it in the original bank shares. When the financial crisis hit the global banking sector, these foundations experienced bad times. This underscores the need for good and effective regulations dealing with asset diversification of PtP foundations.

While the stream-of-revenue route has some advantages, it also suffers from significant drawbacks.

One-step arrangements involving annual flows of income. In the remaining four cases, the PtP foundations received something other than the cash value of stock in privatized companies *or* shares of the stock itself. They received *an annual flow of income.* For the **Lloyds TSB Foundation for England and Wales** this took the form of an annual stream of income set at one percent of the pre-tax profits of the Trustee Savings Bank for England and Wales (TSB).[9] For both the **Oranje** and **King Baudouin** foundations it took the form of a share of the earnings from their respective country's lotteries And in the case of the **Foundation for Polish-German Cooperation**, it took the form of payments that the Polish Government initially owed to the German Government for repayment of an earlier Jumbo Loan, but paid to the Foundation instead, in Polish zlotys instead of German marks or euros.

While this route has some advantages (e.g. the **Lloyds TSB Foundation for England and Wales** made out well when TSB merged with the Lloyds

Banking Group because it gained access to one percent of a much larger net income), it also suffers from significant drawbacks. Thus, when the 2008 fiscal crisis hit, undermining the Lloyds Banking Group's profits, the Lloyds TSB Foundation for England and Wales decided to switch, at least temporarily, to a fixed income instead. Similarly, the **King Baudouin Foundation** has to renegotiate its funding commitment with the national lottery every five years, and in two cases political and budgetary considerations led to year-long breaks in the stream of resources flowing to the Foundation. Finally, while the **Foundation for Polish-German Cooperation** received nearly US$270 million, this was shy of the US$384 million originally committed, and even then the Foundation had to wait ten years for the full amount to reach its coffers.

The issue of the timing of receipt of committed funding also arose in the case of the **Volkswagen Foundation**, but in a way that may suggest an option for reconciling PtP with what is now one of the major drivers of privatization: the effort to reduce government indebtedness. Although we earlier classified the Volkswagen case as manifesting a one-step process because the foundation received cash instead of company shares, in truth it might more accurately be characterized as a "one-half step" process because, as noted above, instead of immediately transferring the cash generated by the government's sale of 60 percent of Volkswagen Company stock to the foundation, as originally agreed, the German Federal Government insisted that the new Foundation "lend" it these resources for a 20-year period, with the Government paying the Foundation five percent interest on its "loan." This option removes the perceived conflict between PtP and the goal of using privatization proceeds to reduce government indebtedness, as is being pursued in heavily indebted countries such as Greece, Spain, and Portugal. If privatization assets were to be committed to foundations in these settings but lent back to the governments as long-term loans at interest rates lower than owed on outstanding debt, the countries could use the proceeds to pay down debt while getting their fiscal houses in order, making PtP consistent with reducing debt service costs and lowering country debt, particularly if the interest payments and ultimate principal payments to the foundations are made in local currency and the privatization proceeds paid in foreign exchange.

The Volkswagen Foundation deal illustrates a way to reconcile the PtP option with the goal of using privatization to reduce government indebtedness.

Of most concern is whether the entities created through the PtP process have evolved into reasonably autonomous philanthropic institutions.

3) THE STRUCTURE AND GOVERNANCE OF PtP FOUNDATIONS

In addition to generating important resources for a variety of public or philanthropic purposes, and frequently doing so in forms that allowed the foundations to benefit from appreciation in the value of their new assets, the transactions that generated these resources also established new, or newly expanded or structured, charitable institutions. What was the nature of these institutions? And to what extent did they constitute meaningfully autonomous philanthropic foundations, or at least evolve into such?

The answer to this question is complicated, of course, by the fact, noted earlier, that no international consensus exists about what the defining characteristics of a charitable foundation really are. In some countries grant-making is a defining criterion and in others it is not. In some countries, such as the United States and the UK, foundations are exempt from most taxes but in other countries, such as Italy and Austria, they are obliged to pay taxes like any commercial entity.

Whatever the legal situation of foundations in general, what is of most concern to us here is the extent to which the entities created through the PtP process have evolved into reasonably autonomous philanthropic institutions pursuing meaningful philanthropic purposes either by making grants or pursuing purposes and activities commonly regarded as philanthropic or charitable under the laws of their countries. Also of interest is how the institutions go about these tasks, and whether their operations are reasonably in accord with what have come to be considered basic norms of good behavior for charitable foundations.

A first step toward answering these questions is to find out who really controls these institutions. After all, previous research on privatization has shown that "governments are often reluctant to lose control of privatized firms," and have come up with a variety of "golden shares" to avoid this.[10] Is it possible that something similar could be true of the foundations resulting from philanthropication thru privatization, especially given the suggestion noted earlier that governments in some instances seem to have viewed the creation of a foundation as a way to retain control of an important enterprise by putting the foundation in control of the enterprise and the state in control of the foundation. If this is a widespread practice it would cast a pall on the meaningfulness of the PtP concept.

To examine this, we look here at two facets of the structure of these institutions—their legal form and their governance structure. In the next chapter, we then examine the operations and performance of these foundations to determine if the governance structures, whatever their form, have negatively affected their operations and roles.

The central conclusion that emerges from this examination is that the PtP foundations *have*, by and large, evolved into meaningfully autonomous charitable institutions operating in accord with emerging international standards of good behavior for such institutions and contributing positively to the quality of life in their countries or regions. Indeed, a number of them have become model institutions both in the way they go about their work and in the performance they have achieved.

PtP foundations *have*, by and large, evolved into meaningfully autonomous charitable institutions.

Legal Form[11]

A first approximation of the control structure of any organization can be determined from its legal form, which typically indicates what set of actors have rights to determine the organization's actions. To be sure, this is not a perfect indicator, particularly for foundations, and especially when international comparisons are involved since, as we have seen, such institutions operate under widely varying legal regimes in different countries. What is more, even within given countries, entities organized under one type of legal form can simultaneously be covered by another, and the legal form can even be redefined by special laws applying to a single entity or a whole class of entities. Thus, for example, the **Rheinland-Pfalz Foundation for Innovation** was incorporated as a "public-law foundation," which would suggest significant public sector involvement in its operations. But the laws of Rheinland-Pfalz place public-law foundations also under the civil law governing private foundations, presumably protecting it from excessive state intrusion into its governance. But notwithstanding this provision, the law establishing *this* foundation stipulated that it would be governed by a Board of Directors comprised exclusively of four senior officials of the Rheinland-Pfalz Government.[12] What is more, the staff of the foundation are actually employees of the state administration. So here we have a public law foundation subject to civil law rules but governed by four government ministers and run by employees of a government ministry—hardly a meaningfully autonomous institution. Similarly, the **Volkswagen Foundation**, chartered as a full-fledged civil law foundation, suggesting it is a private institution, is nevertheless governed by a 14-person Board of Trustees whose members are appointed half by officials in Germany's national government and half by officials in the state government of Lower Saxony. However, as we will see, operating arrangements have been put in place that give the foundation a meaningful, arms-length relationship with the two governments that ultimately control its Board composition.

While clearly not determinative, however, the legal form of the PtP foundations can at least provide hints as to the governance structures at work. More than that, as we will see, it can usefully tilt the ultimate outcome towards a more or less autonomous pattern of operation.

The vast majority of our case-study PtP foundations have the legal structure characteristic of private philanthropic institutions in their countries.

As **TABLE 5.2** shows, the vast majority—19 out of 21—of these foundations have a legal form that suggests that they are private institutions operating under standard legal structures long used to denote private philanthropic institutions in their countries. Thus, ten are civil law foundations, one is a private nonprofit organization under U.S. tax law,[13] and two are organized as "trusts," an ancient legal category signifying assets held in trust for an individual or estate. Another five entities receiving PtP assets were organized under recent special foundation laws or laws passed specifically for these

TABLE 5.2
Legal forms of the PtP case study foundations

LEGAL FORM	FOUNDATIONS
Civil law foundation (10)	Volkswagen Foundation German Environmental Foundation Foundation for Polish Science Slovak Savings Bank Foundation Lombardy Foundation for the Environment Oranje Foundation Foundation for German-Polish Cooperation ERSTE Foundation 72 recipients of Czech Investment Fund Assets Slovak Youth Foundation
Private nonprofit organization (1)	California Endowment
Private trust (2)	ASB Community Trust Community Trust of Southland
Private nonprofit foundation (5)	King Baudouin Foundation La Scala Foundation Cariplo Foundation Compagnia di Sao Paolo Fondazione CRT
Public law foundation (1)	Rheinland-Pfalz Foundation for Innovation
Limited company (2)	Baden-Württemberg Foundation Lloyds TSB Foundation for England and Wales

Source: PtP Foundation Master List, Appendix A.

entities. Included here are the Italian foundations of banking origin, the **King Baudouin Foundation** (whose share of lottery proceeds is governed by a legal provision in the lottery law), **La Scala Foundation**, and the **Slovak Youth Foundation**.[14]

The remaining three foundations took a somewhat more unusual structure either as public law foundations (allowed under German law) or limited companies (allowed under both U.K. and German law). In the German cases, these legal forms signaled a greater determination on the part of the relevant governmental units, in this case the states of Rheinland-Pfalz and Baden-Württemberg, to control the institutions.

Governance Structure: Towards New Models of Public Problem-Solving

As it turns out, however, these latter two were not the only PtP case study foundations in which government retained a significant managerial role. Rather, as shown in **TABLE 5.3**, in fully 14 of the 21 foundations we tracked, governments at various levels secured a significant—and in some cases a

TABLE 5.3
Government involvement in board selection, PtP case study foundations

Appoints some or all members	Board membership	Foundations
Yes	Yes	Volkswagen Foundation German Environmental Foundation Baden-Württemberg Foundation Rheinland-Pfalz Foundation for Innovation Lombardy Foundation for the Environment Foundation for German-Polish Cooperation Foundation for Polish Science Slovak Youth Foundation La Scala Foundation
Yes	No	ASB Community Trust Community Trust of Southland Cariplo Foundation Compagnia di Sao Paolo Fondazione CRT
No	Yes	Slovak Savings Bank Foundation King Baudouin Foundation
No	No	Lloyds TSB Foundation ASB Oranje Foundation California Endowment 72 Recipients of Czech Investment Fund Assets ERSTE Foundation

Source: PtP Foundation Master List, Appendix A clearly dominant—role in selecting the governing boards, notwithstanding the private legal structure under which these organizations were registered. And in nine of the cases, government officials not only played a role in appointing the boards but also picked at least some government officials to serve on them. In another two of the cases, governments did not select members of the boards, but such officials ended up on the boards anyway. In one of these cases, the **Slovak Savings Bank Foundation**, a Slovak Ministry of Finance official was put on the board at the initiative of the Slovak Savings Bank to provide assurances that the Erste Bank, which had acquired the Slovak institution, was fulfilling the pledge it made in its purchase agreement to contribute a certain amount of money to charitable purposes in Slovakia.[15] The other case was the decision of the founders of the **King Baudouin Foundation** to reserve two seats on the governing board of that institution for representatives of the King. This left only five cases out of 21 in which government had no role in the selection of foundation board members. And in one of these, what became the **Lloyds TSB Foundation for England and Wales**, the original charter placed the power to select the Board of Trustees in the hands of the bank, making this, along with the **Slovak Savings Bank Foundation**, structurally akin to a corporate foundation and therefore not truly an autonomous institution, at least at its founding.

Despite substantial formal government involvement, evolving operational realities suggest a different picture in most cases.

Evolving operational realities. Before jumping to the conclusion that most of the foundations emerging from PtP transactions are really sham facades behind which public authorities retain control of state enterprises or other resources, however, it is necessary to look a bit more closely at the actual operational realities and at how these realities evolved. To be sure, in two of the foundations in which governmental entities control board nominations and dominate the board positions—the **Baden-Württemberg Foundation** and the **Rheinland-Pfalz Foundation for Innovation**—the foundations operate as virtual arms of the state government. In both cases, however, they operate according to a specific remit aimed at promoting and commercializing scientific advance, activities connected to the improvement of the economy in their respective regions and which require the kind of long-term perspective that annual government budgeting frequently makes difficult, but that endowed foundations are more adept at promoting. What is more, both of these foundations seem to operate on the up and up, publishing lists of grants and providing information on their board members and sources of revenue. In addition, in the case of the **Baden-Württemberg Foundation**, while all of the board members are government officials, nine come from the Parliament and specific provisions are included to ensure representation of opposition parties as well as members of the governing coalition, creating some degree of pluralism and representation of different viewpoints.

Elsewhere, the actual governance structures have evolved in directions suggested by the legal form, creating, in a number of cases, *not only impressive institutions, but also innovative models* for how important public issues might usefully be addressed. Thus, for example:

- ***Volkswagen Foundation.*** As APPENDIX B shows, although all fourteen members of the **Volkswagen Foundation** governing board are chosen by government bodies, either federal or state, these entities have not restricted their selections to government officials. Rather, they have honored the Foundation's commitment to scientific advance by filling at least half of the Board seats with scientists and including other members from industry and the Confederation of German Trade Unions. In addition, the Foundation has established rigorous peer-review decision processes and managed to secure a decision from the Federal Administrative Court that barred the federal Audit Office from dictating criteria for the Foundation's funding strategies or grant-making activities.

- ***German Environmenal Foundation.*** Similarly, the **German Environmental Foundation** has held true to its early mission to use the proceeds from the sale of the Saltzgitter steel factory to promote environmental improvement. This focus has been reinforced by traditions reserving seats on the board for scientists, the president of Germany's leading environmental organization, and the president of a leading industrial organization focused on the environment.

- ***New Zealand trusts.*** In the case of **ASB Community Trust** and **Community Trust of Southland**, while governments have been reluctant to surrender the useful political "perk" that appointment to the board of one of the New Zealand Community Trusts offers, they have been willing to consult the Trusts to seek advice about the types of individuals that would be helpful to their work. In addition, since 1998 the Minister of Finance, who has the responsibility for naming the new Trustees, has been under a rule to avoid appointing sitting members of Parliament or officials of local government to these boards.[16]

- ***California Endowment.*** At the other end of the spectrum, in a number of cases significant battles were fought precisely to ensure citizen influence on the boards of these quasi-public foundations. The most obvious example was the **California Endowment** case, where, as we have seen, advocates spent four years pushing, first, for adherence to an existing law mandating the preservation for a similar charitable purpose of the assets of a nonprofit organization undergoing conversion to for-profit status; and then fending off efforts by the about-to-be converted nonprofit to retain control of the newly established foundation. Ultimately, legal provisions were established barring Board members of the for-profit from serving on the Endowment's Board and creating conflict of interest and payout requirements to protect the integrity of the resulting Endowment as well.

- ***Czech case.*** Given a chaotic muddle of provisions governing foundations in the Czech Republic, a decision was made early on not to distribute the proposed one percent of shares of major privatization transactions to Czech foundations until a proper new foundation law could be promulgated clarifying what a foundation is and what it is not. That law, ultimately passed in 1997, six years after the start of privatization, narrowed the definition of foundations to institutions with assets serving public purposes and making grants. The law further stipulated that such institutions had to operate transparently, with published grant guidelines, regular annual reports, disclosure of board members, and strong conflict of interest provisions—provisions that were often quite advanced compared to those in place in a number of other European countries. On top of this, an elaborate peer-review and rating process designed in cooperation with a Czech council of foundations was put in place for the ultimate distribution of the resources generated for foundations through the privatization process.

- ***Slovak Youth Foundation.*** In neighboring Slovakia, a similar process unfolded in the case of the **Slovak Youth Foundation**. Here as well, the formation of this new foundation occurred concurrently with the development of a new law providing suitable protection for the assets and purposes this foundation was intended to serve. Burned by the malfeasance and asset-stripping that accompanied the management of the assets of the former Socialist Union of Youth under the Meciar regime, youth advocates were determined to create an institution that would protect these assets. Accordingly, they managed to have inserted into the resolution establishing the new foundation a provision explicitly guaranteeing strong control over the resulting assets "by representatives reflecting the beneficiaries of these assets—youth and children organizations." The resulting Board structure reflected this. While reserving three seats on the 9-person board of the resulting foundation for appointment by the Ministry of Education, the bylaws simultaneously set aside three seats each for appointment by the nonprofit Youth Council of Slovakia and the University Students Organization—the body that first began the push to create a **Slovak Youth Foundation**.

Multi-stakeholder problem-solving: The special case of the Italian foundations of banking origin. Perhaps the most interesting example of the way in which the structuring of the PtP foundations protected principles of pluralism and openness, however, comes from Italy and the foundations of banking origin (FBOs); for, here the PtP process yielded its clearest example of a new institutional form that could well serve as a model for how societies should address complex social and economic problems into the future.[17] What this institutional form does is to bring together under one organizational roof most of the key stakeholders needed to gain traction on complex societal issues and endows them with significant enough resources to at least establish new directions for social action and to catalyze other actors to join in, creating a pattern of collaboration that this writer has elsewhere termed "the new governance."[18]

In Italy, the PtP process yielded its clearest example of a new institutional model for how societies should address complex social and economic problems.

Origins: Towards a new model of governance. This model did not, of course, spring full-blown from the heads of the authors of the Amato-Carli law. Rather, it evolved over a period of time, helped along by some key visionaries, such as Giuseppe Guzzetti, a prominent and highly respected Milanese attorney who became the president of the **Cariplo Foundation** and assumed the presidency of the Association of Savings Bank Foundations (ACRI) in 2000, at what turned out to be a critical turning point for the Italian FBOs.

What many people came to recognize was that the original solution to the problem of privatizing the Italian savings banks laid out in the Amato-Carli law was not tenable over the long run. For one thing, by making the new "conferring authorities," alias the foundations, the owners of all the stock of the banks, it limited the ability of the banks to raise capital and grow. For another, by putting the boards of the foundations in control of the boards of the banks, it limited the ability of the conferring entities to evolve into true, autonomous, charitable institutions. Between 1994 and 2000, therefore, a subtle but enormously significant metamorphosis took place among these new FBOs:

→ ***First,*** the foundations that had formerly been barred from selling their bank stock were strongly encouraged to begin doing so.

→ ***Second,*** "incompatibility constraints" were imposed on the foundations to eliminate overlapping memberships of the foundation and bank boards.

→ ***Third,*** strong emphasis was placed on making the boards of the foundations representative of all the key interests at work in the fields in which the foundations were focusing, including particularly civil society and business and not just government.

→ ***Fourth,*** the foundations were encouraged to professionalize their operations, separating the governing functions from the executive ones, and splitting the management of the programmatic operations from the management of the assets.

These features, promoted informally by the foundations and formally by a series of government regulations, were given firmer legal sanction through the 1998 Ciampi law, which completed the transformation of the conferring entities into true, autonomous, private foundations exclusively focused on socially oriented and economic development activities primarily in their local areas and guided by three key principles: first, *transparency*; second, *representativeness*; and third, *professionalism and honorability*.

In pursuit of these principles, the law:

- Barred the foundations from engaging in banking activities or financing for-profit entities (except those directly related to their missions).
- Barred foundation board members from serving on the boards of the banks.
- Discouraged the practice of involving local officials on the foundation boards and instead encouraged the recruitment of representatives of a broad swath of other relevant entities (e.g., civil society organizations).

- Stipulated that those named to the boards have professional qualifications in the fields in which the foundations were working.
- Established operational standards that included strong transparency and conflict of interest provisions.

As one manifestation of the resulting metamorphosis, by 2000 nearly half of the members of the governing boards of the FBOs were broadly representative of civil society—including cultural institutions, human service organizations, academic institutions, and many more. The other half were a diverse array of representatives of the local territories in which the foundations operated—the governments of communities, provinces, and regions, as well as Chambers of Commerce, health agencies, professional orders, and others—in short, all the entities that would need to come together to address important community problems.

Italy's failed backlash. Not surprisingly, not everyone was overjoyed by this escape of such influential and well-endowed institutions from government control. In 2001, therefore, the newly elected government of right-leaning Silvio Berlusconi tried to turn the clock back by enacting amendments to the Ciampi law designed to bring the Italian FBOs again under firmer government control. Rather than accept this verdict, however, the new Italian foundations fought back. Under the leadership of attorney Guzzetti—by this point serving as President of a newly revitalized ACRI—a suit was filed charging that the new provisions were unconstitutional because they failed to recognize the private character of the FBOs and unfairly proposed to treat these entities differently from other foundations.

What emerged from this case was a solution that established a new type of charitable foundation, and one that just happened to embody the notions of collaborative public problem-solving advanced by some public administration thinkers as the key to gaining traction on complex public issues. In the first place, the Constitutional Court unequivocally declared that the FBOs were private, nonprofit, autonomous entities, functioning "among the organizational components of a free society." Additionally, the Court articulated a principle of pluralism, declaring that the foundations needed to structure their governing boards so as to "assure an adequate presence of the entities that are representative of local communities," that these needed to include "both public and private entities," and that no entity or type of entity should be prevalent. Finally, the Court declared unconstitutional the prevalence on governing boards of local or regional government officials, though former officials remained eligible.

The Italian foundations of banking origin have acquired governing boards usefully representing most of the key stakeholders in their regions and fields of operation.

The resulting "new governance" model. As a byproduct of this string of decisions, the Italian FBOs have acquired governing boards that resemble mini-legislatures, usefully representing most of the key stakeholders in their regions and fields of operation in line with the principle of pluralism, and selected through processes that are highly participatory. Milan's **Cariplo Foundation**, for example, a US$9 billion institution, has 40 members on its governing Board, all of which are ultimately selected by the Foundation's outgoing Board, but through an elaborate process that reserves seats for nominees identified by particular constituencies with a stake in the Foundation's operations and seeks nominations for these seats from the constituencies themselves. Thus, fully half of the seats are reserved for nominees of different local authorities (the municipality of Milan, the Lombardy regional government, and various boards and commissions) each of which is entitled to submit three names from which the outgoing Board chooses one to take the designated seat. By common understanding, however, the representatives selected by the public authorities cannot themselves be government officials and must, like all Board members, meet relevant professional standards.

In addition to the 20 Board seats reserved for nominees from various public bodies, the **Cariplo Foundation** reserves 12 seats for nominees of various civil society and nonprofit organizations, each of which also submits three candidates from which the outgoing Board chooses one. The outgoing Board is then permitted to fill the remaining seats freely from its own identified nominees. All Board members must meet professional standards appropriate for the fields in which the Foundation is operating, must satisfy certain "incompatibility" or conflict of interest constraints, and must agree to function as trustees of the Foundation rather than as representatives of the entities that happened to nominate them.

Torino-based **Compagnia di Sao Paolo**—another nearly US$9 billion institution—has a similar governing Board structure and a similar set of requirements for Board members. Its 21 Governing Council members are chosen by constituencies similar to those tapped by the **Cariplo Foundation**, but directly by the constituencies rather than through the indirect nomination method described above. More specifically, the Compagnia Board is composed of four members chosen by the outgoing Council from its own nominees, five members selected by various units of local government such as the City of Torino, the Piedmont Regional Council, and the City of Genoa; and 12 members chosen by various nonprofit and business groups. The same prohibition on selection of sitting government officials also applies, however.

The upshot in both cases are governing boards that represent the key stakeholders from all three sectors—government, business, and civil society—required to be engaged in addressing complex societal problems.[19] While this yields somewhat unwieldy boards, procedures have been developed to break down the work into digestible chunks. The **Cariplo Foundation**, for example, works through a series of both functional and subject-matter committees. In the process, these institutions have created rare meeting grounds through which politically connected, community-based, and business leaders can find consensus approaches to addressing community problems and promoting the quality of community life.

CONCLUSIONS AND IMPLICATIONS

Four important conclusions flow from this discussion of the structure of the deals and institutions that resulted from the PtP transactions profiled here:

→ ***First,*** PtP can yield foundations of quite substantial size, but the resulting scale can be significantly affected by the way in which the deals financing these institutions are structured. Advocates of PtP should therefore pay close attention to such deal issues.

- As a general rule, deals that provide an endowment are preferable to deals that provide a stream of revenue.
- Among deals that provide assets, two-step deals, i.e., deals that provide ownership stakes—in shares, real estate, or other items of value—are more valuable than one-step deals that provide outright cash. This is because the assets involved in privatization processes are often not ideally structured at the time of privatization and are therefore likely to appreciate in value over time.
- The "privatization" involved in PtP transactions is not restricted to the sale or transfer of enterprises or property. It can also take the form of access to specialized streams of revenue available to governments—lottery sales, debt swaps, and proceeds from legal settlements can also be included. But so can proceeds from mineral rights or airwave licenses. In such cases it is wise to structure the deals so that they yield a share of proceeds rather than a lump sum such that the resulting foundation can benefit from any growth that occurs.

→ ***Second,*** legal and institutional structures of the beneficiary foundations are important. Care needs to be taken to use legal forms that most clearly stack the cards in favour of autonomous operation—even if early governance structures do not fully embody such autonomy. Similarly, care needs to be taken to incorporate operating rules emphasizing transparency and avoidance of conflicts of interest in order to build confidence in the resulting institutions.

→ ***Third,*** PtP creates important opportunities to fashion not only traditional grant-making foundations but also new models of public problem-solving institutions that engage multiple stakeholders in the search for novel solutions to community challenges. For this to be possible, however, norms of pluralism and collaboration need to be built explicitly into governance structures at an early stage.

→ ***Finally,*** despite claims to the contrary, no necessary conflict exists between PtP and capturing resources from privatization transactions for debt reduction. As the **Volkswagen Foundation** deal demonstrated, PtP foundations can become the owners of significant privatized assets but loan them to governments for a period of time to reduce external debt or reduce further foreign borrowing.

Against this background we can now turn to the performance of these case study foundations.

[1] The lower of these two estimates is presented in Bernardo Bortolotti and Domenico Siniscalco in *The Challenges of Privatization: An International Analysis.* (Oxford, UK: Oxford University Press, 2004), p. v. The estimate draws on data from *Privatization International* and *Securities Data Corporation* and cover transactions involving "the transfer of ownership rights from the public to the private sector." The 75,000 figure is presented in Nellis, "International Experience," 2012 and includes enterprises formerly owned by states that have been either divested or turned over to private management.

[2] Chuck Bell, "The How and Why of Philanthropication thru Privatization (PtP): The Legal and Political Context," *Philanthropication thru Privatization Project Working Paper No. 2*, (Baltimore: Johns Hopkins Center for Civil Society Studies, 2014).

[3] The original plan was for this Fund to serve as the portfolio manager of these stock holdings and to distribute earnings to the foundation, but this was later changed, the shares sold, and the proceeds distributed as endowments to the foundations.

[4] The requirement for a new law to clarify the functions of foundations was pushed by then-Prime Minister, Václav Klaus, who sought assurances that the resources would be placed in the hands of legitimate institutions adhering to sound standards of transparency and governance.

[5] As explained above, the organizers of the California Endowment were warned by counsel that, as a 501(c)(3) charitable organization, the Endowment would be subject to tax liabilities on the sale of the Blue Cross' assets whereas a 501(c)(4) organization could sell these assets and transfer the proceeds to the Endowment without encountering a tax liability.

[6] The assets involved were industrial companies in the cases of the Volkswagen Foundation and the German Environmental Foundation and a bank in the case of the Rheinland-Pfalz Foundation for Innovation.

[7] In the New Zealand, Italian, Austrian, and California cases, the foundations received 100 percent of the stock of the privatized companies. In both the Czech and Polish cases, the foundations received 1 and 2 percent, respectively, of stock resulting from the privatization of thousands of formerly state-owned enterprises. In the Polish case, as already noted, this two-step approach was canceled after two years and replaced with a one-step approach before the entire program of sharing the proceeds of privatization sales with a foundation was shut down by a new Polish government.

[8] Simeon Djankov and Peter Murrell, *The Determinants of enterprise restructuring in transition: An assessment of the evidence*, (Washington: World Bank, 2000), cited in Nellis, "Leaps of Faith," Chapter 2 in Lieberman Kopf, eds. *Privatization in Transition Economies*, 2007, 119-120.

[9] This foundation received 5 percent of the shares of the original TSB. However, these were restricted shares that entitled the foundation to no voting rights, no dividends, and no opportunity for exit by selling the shares. The commitment to a share of pre-tax profits was thus a way for the Bank to provide the Foundation something of value out of the transformation without having to surrender control of the institution.

[10] Bortolotti and Siniscalo, *Challenges of Privatization*, 2004, 97.

[11] Preparation of this section benefited considerably from a summary prepared by Rupert Graf Strachwitz of key features of the governance of the PtP foundations reported in the Project's case studies. See: Rupert Graf Strachwitz, "The Structure of Philanthropic Institutions Resulting from Privatization Deals," *Philanthropication thru Privatization Project Working Paper No. 3*, (Baltimore: Johns Hopkins Center for Civil Society Studies, 2014).

[12] Included here are the Minister for Research and Science, the Minister of Economy, the Finance Minister, and the Head of the State Chancellery.

[13] U.S. charitable nonprofit organizations are typically granted a tax exemption under section 501(c)(3) of the U.S. Tax Code, which typically covers foundations as well. However, in the case of the Blue Cross of California conversion, it was necessary, in order to avoid capital gains taxes on the sale of BCC shares, to place these shares first in a different category of tax-exempt entity, a 501(c)(4) organization created for this purpose. This entity, called the California HealthCare Foundation, then sold the shares on the market and transmitted the proceeds to the California Endowment, a regular foundation registered under Section 501(c)(3) of the tax code. Because the HealthCare Foundation was a byproduct of the larger transaction, it is not an explicit focus of this report, and is not included in the total of 21 case study foundations.

[14] In the Czech case, the new law closed a number of loop-holes under which essentially service organizations seeking funds were able to register as foundations. Under the 1997 law, the key attributes of foundations are (1) that they are collections of property or assets; (2) that they serve "publicly beneficial" purposes; and (3) that they do so through support of third parties, i.e. that they are grantmakers.

[15] The Slovak Savings Bank Foundation is not otherwise a fully autonomous foundation, however. Rather, the appointment power in this case rests with the savings bank, With the discontinuance of the practice of governmental participation on the board beginning in 2011, moreover, all of the board members of this foundation are bank officials, making this a curious hybrid between an independent foundation and a corporate foundation.

[16] This has not kept various Ministers from appointing various political party officials who are not formally in office to these boards, however. Thus, for example, seven of the current 15 trustees of the ASB Community Trust fit this pattern.

[17] As before, the discussion of the governance structure of the Italian FBOs here, though not necessarily the interpretation put on them, draws heavily on the excellent case study on three of these foundations completed for this Project by Dr. Gianpaolo Barbetta of the Catholic University of Milan.

[18] Lester M. Salamon, "The New Governance and the Tools of Public Action," Chapter 1 in *The Tools of Government: A Guide to the New Governance,* edited by Lester M. Salamon, (New York: Oxford University Press, 2002). See also: Lester M. Salamon, *Partners in Public Service: Government: Nonprofit Relations in the Modern Welfare State,* (Baltimore: Johns Hopkins University Press, 1996).

[19] A similar pattern is also evident in the design of the governance structure of the Fondazione Teatro alla Scala. This foundation has no fewer than five governing bodies, each one representing one or more of the stakeholders of this revered institution. This includes an Assembly of Founders, a Board of Administration, a President, a Sovrintendante, and a Board of Auditors of Accounts. The Board of Administration includes three members chosen by the Assembly of Founders, five others chosen by public institutions (e.g., the Regional Government of Lombardy, the Province of Milano, and the Lombardy Chamber of Commerce), plus the Mayor of Milano, who is President of the Foundation.

Chapter 6:
PtP FOUNDATION PERFORMANCE

Ultimately, the value of the PtP strategy must be judged on the basis of the performance that these institutions achieve.

Ultimately, the value of the PtP strategy must be judged not on the basis of the structure of the deals or the governance arrangements of the resulting foundations, but on the performance that these institutions achieve. Evaluating that performance is no small task, however. Systematic evaluation of the performance of charitable foundations is still very much in its infancy.[1] Even assessing the outcomes of individual programs is fraught with difficulties caused by external developments, limited time frames, and cost. Judging the entire body of work of entire institutions over what is often more than twenty years of existence, and doing so against some "control group" of similarly placed organizations, is therefore a fool's errand that this project, whether for better or worse, was never equipped to take on.

But it is possible to reach some tentative judgments about how these institutions performed. Broadly speaking, two broad areas of performance can be examined: first, *operational performance,* the extent to which these institutions established operational procedures consistent with best practice in the foundation field internationally; and second, *programmatic performance,* the extent to which these foundations gave evidence of developing systematic, proactive approaches to the problems they were addressing rather than the more traditional, reactive, "whatever the postman brings" approach to philanthropy. In this chapter we review the record of performance along these two dimensions.

OPERATIONAL PERFORMANCE

In recent years a variety of "best practice" standards have developed within the foundation community to ensure that foundations operate in a fair and responsible manner and thereby retain the public's trust. The most recent version of such standards formulated by the European Foundation Center (EFC) in its EFC Principles of Good Practice, for example, identifies four core "principles" of foundation operations: (1) independent governance, (2) sound management, (3) transparency, and (4) accountability. More specifically, the following summarizes some of the key attributes of well-functioning foundations that the EFC identifies as flowing from these principles[2]:

→ The foundation has an identifiable and independent decision-making body which acts with high ethical standards and whose members are nominated in accordance with established principles and procedures.

→ The board sets out its strategic objectives and ensures that programmes, operations and finances are in line with these objectives.

→ The foundation holds transparency at the core of all activities and makes its statutes, by-laws, guidelines for funding activities, as well as board and staff lists, annual reports, grant lists, and finances publicly and readily available. Information on grant programmes and application procedures are publicly-available and user-friendly.

→ Clear policies to address conflicts of interest exist for both board members and staff.

→ The foundation promotes effective and sustainable investment strategies.

→ Regular monitoring and evaluation of activities are a key part of the foundation's operations.

How well do the PtP foundations we have examined adhere to these principles and practices? To answer these questions, we review six features of the operational performance of our 21 case-study foundations:

1. The independence of their governance;
2. The presence and clarity of their mission and program statements;
3. The transparency of their operations;
4. Their conflict of interest policies and procedures;
5. The professionalization of their management; and
6. Their handling of their investment responsibilities.

Operationally, most of these foundations perform at what is likely the upper quadrant of charitable foundations globally.

In each case, we find that most of these foundations perform at what is likely the upper quadrant of charitable foundations globally, though this judgment is admittedly highly subjective given the absence of rigorous measurement of this aspect of foundation performance.

1) Independent Governance

As noted in Chapter 2 above, independent, or at least "meaningfully autonomous," operation is a core criterion for PtP foundations. As the previous chapter made clear, however, this is a difficult criterion to gauge in the case of PtP foundations because public sector institutions are their key founders and founder's will is usually determinative of the fundamental purpose and direction of every charitable foundation. Leaving aside this fundamental determination of basic purpose, which applies to all foundations, foundation boards typically have substantial latitude to determine the specific ways in which they will pursue these fundamental purposes. To what extent do they have a free hand to do so in the case of these foundations?

Based on the discussion in the previous chapter, it appears that for most of the foundations we have examined, the answer to this question is "fairly extensively." What is more, this applies even in the cases, which are quite numerous, in which governmental bodies still play major roles in the nomination or selection of foundation board members, but where procedures have been developed to establish arms' length relationships between the governments and the foundations.

In five of our case-study cases, however, serious questions arise about the autonomy of these foundations.

In five of our case-study cases, however, serious questions arise about the autonomy of these foundations. In the cases of both the **Rheinland-Pfalz Foundation for Innovation** and the **Baden-Württemberg Foundation**, public officials dominate the boards of directors. What is more, extensive staffing interconnections in the case of the former foundation, and extensive funding interaction in the case of the latter, continue to exist between the foundations and their respective state governments. In the **Baden-Württemberg** case, the foundation has been used to process privatization sales in order to avert federal taxation of the capital gains, and some of the proceeds have ended up in some of the State's special projects. Whatever the virtues of these foundations and their programs, their governance structure thus does not accord with the latest thinking about appropriate foundation governance arrangements.

In the case of the **Slovak Savings Bank Foundation**, it is the for-profit bank that infringes on the foundation's autonomy, with bank board members and executives occupying four of the five seats on the foundation's Supervisory Board, and the fifth seat vacant since the departure of the Ministry of Finance official from the Board in 2011. A similar situation existed with the **Lloyds TSB Foundation for England and Wales** up through the mid-1990s but has since been significantly reduced.

Finally, the case of the **Lombardy Foundation for the Environment** is a bit more complex. This Foundation started life in the mid-1980s with funding provided to the regional government of Lombardy by the Hoffman-La Roche chemical company to compensate for environmental damages caused by its Italian affiliate. While the earnings on these funds were initially sufficient to allow this foundation to operate as an autonomous research institution governed by a board consisting of Lombardy regional officials and representatives of three universities, by the second half of the nineties these resources were no longer sufficient to sustain a viable research program. Accordingly, the foundation turned to the Lombardy regional government for assistance, leading by 2006 to an agreement that fundamentally made it an "instrumental body" of the region committed to undertaking projects that can benefit the policy-making process of the regional authorities.

2) Mission Statements

Every one of the PtP case study foundations we examined has a "mission statement" of some type, typically reported on its website. Many of these were set in governing documents. For the most part, the purposes or objects of the foundations are framed fairly broadly, such as the **King Baudouin Foundation**'s catch-phrase: "Working together for a better society." The Italian FBOs are obliged to pursue "public benefit objectives" but have to focus on up to five themes from a list of 21 set in the legal act that created them—a list that includes everything from support of the arts to promotion of family and related values. A number of the foundations have more narrow remits, however. Most of the German PtP foundations have missions related

Every one of the PtP case-study foundations we examined has a "mission statement" of some type.

to the promotion of science. The **German Environmental Foundation**, by contrast, retains its focus on the environment, though in its early years that focus was somewhat muted by a heavier emphasis on promoting small and mid-sized enterprises—an objective promoted by one of the Foundation's early supporters and enshrined in the founding legislation. The **Oranje Foundation** also has a quite specific focus on promoting participation in society through support for social cohesion and social integration projects.

A number of these foundations have begun generating much more concrete and strategic mission statements on a periodic basis.

Quite apart from these general statements of purpose, a number of these foundations have begun generating much more concrete and strategic mission statements on a periodic basis tied to broader strategic planning exercises. Of the foundations examined here, the **Volkswagen Foundation** was one of the earliest to pursue such a strategic approach. After operating in a purely reactive mode responding to proposals, the Foundation Board in 1966 began a debate about the necessity to elaborate a coherent set of programs and a sustainable and focused strategy of funding. Out of this process came a funding framework emphasizing three themes—"reform," "building bridges," and "vital issues." Over the years, the Foundation has refined its framework, elaborating on the "building bridges" theme with a theme of "crossing borders." As the "Crossing Borders 2010" priorities document put it:

> *...The Foundation's funding concept is not static. This makes it possible to shift focus, to take the initiative, to provide sustainable impulses corresponding to the research needs and the challenges our societies face today....Those persons and ideas are especially welcome that dare to cross borders in more than one meaning of the phrase—borders between countries or continents, between disciplines or concepts of mind, between generations or societies.*

A similar effort to escape an earlier reactive mode of funding has prompted many of the other PtP foundations to move to a more coherent and strategic funding approach as well, often as a direct result of the added resources and visibility resulting from the PtP transaction and subsequent expansions of resources. The trigger in the case of New Zealand's Community Trust of Southland was the acquisition of this Trust's bank by a larger for-profit banking corporation, which tripled the Trust's grant budget and prompted its trustees to formulate a "total framework" approach complete with elaborated mission statement, key result areas, priorities, values, and vision. In the case of the ASB Community Trust the trigger came only a few years later when the then-general secretary, whose interest and experience focused on investment management, was replaced by a new chief executive with a more strategic orientation, leading to the formulation of a strategic plan that emphasized managing to outcomes and viewing the Trust as the "venture capital of social change."

The recipients of the proceeds of the **Czech Foundation Investment Fund** had to formulate such strategic mission statements from the start in order to be eligible for the Fund's contributions to their endowments. The statutes of the **King Baudouin Foundation** similarly call on it to "be attentive to renew periodically its action programs," a task the Foundation has taken up on a regular 3-5 year sequence since 1977. The **Foundation for Polish Science** similarly issues an "FNP Strategy and Program" every few years. The **Cariplo Foundation** goes even further, generating an entire sequence of interconnected planning documents to ensure that all of its activities are consistent with the Foundation's strategic objectives. These include a "Multi-year Framework Plan" set to the six-year term of each governing board; medium term "Action Plans," 16 of which have been generated to date to outline specific strategies and priority objectives; "Annual Framework Plans" that translate the objectives set out in the Action Plans into concrete actions and associated budgets; and "Project Plans" outlining the steps and ultimate objectives of each of the foundations' own projects. Similar sets of documents guide the work of the other major Italian FBOs as well.

In short, the PtP foundations are hardly back-of-the-envelope, check-writing machines doling out resources to favoured friends of prominent local figures. Most of them have matured into serious funding organizations operating according to carefully conceived funding strategies aimed at maximizing the impact of the resources at their disposal.

3) Transparency[3]

As the EFC Principles of Good Practice demonstrate, transparency has become an important norm in the foundation world. But it is also a controversial one. Many foundations believe that their work is private and therefore need not be divulged publicly. But this causes suspicions and charges of misuse of power, particularly since foundations typically enjoy a variety of tax advantages that imbue them with some public character.

Adherence to the norms of transparency is generally high among these foundations

In the case of PtP foundations, the pressures for transparency are particularly intense because the assets financing the foundations' work were at least partially quasi-public in either origin or subsequent evolution.

Perhaps because of this, adherence to the norms of transparency with regard to information activities, grant guidelines, governance, grants made, and so on is generally high among these foundations. Every foundation in this study has a website, and most, though not all, of the Foundations from non-English-speaking countries have English language versions of their websites. The one exception is the **Czech Foundation Investment Fund**, but various reports on the Fund and on the foundations it supports are on the Czech government website and most of the individual foundations supported by the Fund have their own websites (For a listing of the websites of the PtP foundations, see **TABLE 6.1**).

TABLE 6.1
PtP case-study foundation websites

FOUNDATION	WEBSITE
ASB Community Trust	asbcommunitytrust.org.nz
Baden-Württemberg Foundation	bwstiftung.de
California Endowment	calendow.org
Cariplo Foundation	fondazionecariplo.it
Community Trust of Southland	ctos.org.nz
Compagnia di San Paolo	compagnia.torino.it
ERSTE Foundation	erstestiftung.org
Fondazione CRT	fondazionecrt.it
Foundation for Polish Science	fnp.org.pl
Foundation for Polish-German Cooperation	de-pl.info
German Environmental Foundation	dbu.de
King Baudouin Foundation	kbs-frb.be
La Scala Foundation	teatroallascala.org/it/fondazione/fondazione.html
Lloyds TSB Foundation for England and Wales	lloydstsbfoundations.org.uk
Lombardy Foundation for the Environment	flanet.org
Oranje Foundation	oranjefonds.nl
Rheinland-Pfalz Foundation for Innovation	stiftung-innovation.rlp.de
Slovak Savings Bank Foundation	nadaciaslsp.sk
Slovak Youth Foundation	intenda.sk
Volkswagen Foundation	volkswagenstiftung.de

Information included on these websites typically includes the following:

→ ***Mission statements***—included on all websites.

→ ***Grant guidelines*****—**typically included, often in considerable detail and a few in more than one language. Where appropriate, application forms are downloadable.

→ ***Annual reports***—available on nearly all websites. In many cases, several years of back reports are available, and in some cases these are also available from the public regulator. The annual reports often include financial accounts, or in some cases these are published separately. The **La Scala Foundation** does not publish an annual report of its own, nor does the Teatro itself, although the website is informative. The **California Endowment** does not publish an annual report, but does post the annual financial information form it is required to submit to the tax authorities on its website.

→ ***Lists of grantees*****—**published by most PtP foundations. Some give information separately for each program, while others give a full alphabetical list. Some focus on examples to illustrate the nature of each program. Program-by-program lists do not of course guarantee that the lists are complete, as there may be exceptional grants outside the programs. Some lists are published separately but most are contained within annual reports. The **California Endowment** does not list its grants but such lists are available from its statutory returns, which are accessible on the website of the State Attorney General, who acts as regulator of foundations.

→ ***Statutes***—statutes, bylaws, or constitutions (the terminology varies) are available on nearly all foundation websites. These are generally downloadable. Those foundations where the statutes are not available are:

- **Baden-Württemberg Foundation**
- **Oranje Foundation** (although much information about governance is available)
- **King Baudouin Foundation**
- **ERSTE Foundation** (original statutes from 1819 are available but not more recent updates)
- **Lloyds TSB Foundation for England & Wales** (but much information about governance is available in the annual report, and the memorandum and articles of association are available from the registrar of companies)

→ ***Governance structure***—available on most of our case study foundations. All of them publish the names of their Board members. In most cases this is a legal requirement. Many foundations also publish a photograph and brief biography of each Board member. It is not always made clear on a foundation's website how its Board members came to be appointed, though information about terms of office and external appointing bodies is usually made known. Particular examples of openness include the following:

- The **ASB Community Trust** has a page of information on 'how to become a trustee.'
- The **California Endowment** publishes the charter for its Nominating Committee.
- The **Lloyds TSB Foundation for England and Wales** says that its trustees are appointed through public advertising, following which the respondents are interviewed by a Foundation-appointed nominations committee whose recommendations are followed by the Foundation Board and then by the Bank Board. The latter remains the formal appointing body but by this mechanism it has effectively relinquished the appointing power.

→ ***Sources of funds***—available for all but one foundation. In most cases the foundations are required to do so as part of their annual accounts. A few (e.g., the **Rheinland-Pfalz Foundation for Innovation**, the **Foundation for Polish-German Cooperation**, and the **ERSTE Foundation**) publish multi-year records of investment performance. The foundations funded by the **Czech Foundation Investment Fund** have been the subject of detailed research reports. The **California Endowment** provides only the briefest description of its financial origins.

→ ***Other information practices.*** Annual reports and grant guidelines are supplemented in several cases by other communication media, such as newsletters, other publications, and social media, with all but four of the case-study foundations maintaining at least one social media account including Facebook, Flickr, YouTube, and Twitter. **ASB Community Trust** publishes in several local languages and encourages its specialist staff to join appropriate networks. The **Community Trust of Southland** holds meetings with potential applicants.

4) Conflict of Interest Provisions

The PtP foundations we examined generally have standing policies and procedures to avoid conflicts of interest. Such policies and procedures prohibit the award of grants to board members or to organizations with which board members or staff are affiliated. Some have very strict formal policies. Others have no discoverable policy, but very strict practice. No information is available about policy or practice in the ***Slovak Savings Bank Foundation*** or the **Foundation for Polish-German Cooperation**. A sample of illustrative provisions in other foundations includes:

The PtP foundations we examined generally have standing policies and procedures to avoid conflicts of interest.

- The **Foundation for Polish Science** has a separate document detailing its conflict of interest provisions. The Foundation cannot make grants or loans to Board members or employees or their relatives (with detailed definitions of what constitutes a relative). Nor may assets be transferred to such people. Employees cannot belong to the Board. The statutes also contain a code of ethics.

- Since 2002, the **Oranje Foundation** has conducted annual assessments of each Board member for conflicts of interest, mainly about whether the Board member has ties to grant recipients or providers of capital and holds staff members to the same standards.

- The **King Baudouin Foundation** has two internal censors (appointed by the Board) who monitor conflicts of interest over legacies and ensure that the wishes of donors are fulfilled. The Board does not make decisions on grants, which is done by an independent jury.

- The law establishing the Italian foundations of banking origin provides rules to prevent and deal with conflicts of interest on the part of board members of the foundations. Beyond the legal rules, some foundations have also adopted conflict of interest policies within their respective codes of ethics. This is the case, for example, with the **Cariplo Foundation**, whose code of ethics contains a conflict of interest policy binding all employees and Board members. Moreover, in 2012, ACRI approved the "Carta delle Fondazioni," a voluntary code of conduct (but compulsory for members of the Association), which deals with issues of governance, accountability, transparency, asset management, and conflicts of interest.

- The **Volkswagen Foundation** is potentially vulnerable to political influence through its Board of Trustees, but has taken steps to mitigate or counteract this. Board decisions are by two-thirds majority, so neither of the appointing governments can predominate. A code of "twenty principles of good practice," adopted in 2006, binds members of staff and the Board of Trustees, and ensures that nobody takes part in decisions which may involve any institution to which they are linked. Standard grant procedures provide for peer review of applications by experts, who are not allowed to apply for grants themselves or to assist applicants.

→ The New Zealand community trusts have rules written into each deed of trust to prevent conflicts of interest. These provide for disclosure of interests by all Trustees and staff in relation to grant applications and contracts. Disclosures at meetings are requested by the Chair and any disclosures are minuted. A Trustee with an "interest" must absent himself or herself not only from any votes but also from discussion or consideration of the matter on grounds that participation in the discussion could substantially influence the outcome.

A handful of these organizations have confronted, or still confront, some conflict of interest issues.

On the other hand, a handful of these organizations have confronted, or still confront, some conflict of interest issues. In particular:

→ The **Baden-Württemberg Foundation** has no conflict of interest policy, is not seen as independent of government, and often has its affairs discussed in the provincial Parliament.

→ The **Rheinland-Pfalz Foundation for Innovation** is subject to an 'administrative procedures' law which regulates conflicts of interest. In 1999, it was criticized by the State Audit Office for breaches of this law by the Foundation's chief executive, who, as noted previously, was a paid member of the staff of the Ministry of Science and sat on the Boards of other scientific institutions that benefited from Foundation grants—to the tune of €2.3 million. However, no personal advantages were alleged, and the Foundation changed its procedures to respond to the criticisms.

→ For the **ERSTE Foundation**, there is an inherent conflict of interest in the double mission of the Foundation, which is not only to invest in the common good, but also to safeguard the future of the Erste Group. The Employees Council and the Supervisory Board of the Erste Group are in effect represented on the Supervisory Board of the Foundation. The Chairman of the Management Board of Erste Group served until recently as the Chairman of the Managing Board of the **ERSTE Foundation**. The conflict is handled in part by activity which serves both interests: e.g., the establishment of projects involving financial market instruments for the development of poorer regions or for heavily indebted people.

5) Professionalization

In order to handle this set of management tasks, the PtP foundations have had to build administrative structures and recruit competent staff. This has been true even of the foundations that inherited charitable functions carried out by previously existing savings banks.

In the case of the Italian FBOs, for example, the charitable departments of the pre-existing banks were fairly elementary in organizational terms, relying heavily on personnel in the banks, who either carried out many of the needed functions or were seconded to the foundations. Due to the changes introduced by the privatization process, particularly after 2000, important modifications had to be made. For one thing, the foundations had to create internal rules and procedures for carrying out the functions mandated in their articles of confederation.

Thus, for example, **Compagnia di San Paolo** drafted a series of operating rules, including: (1) criteria for the allocation of resources to institutional activities; (2) rules for the planning, approval, and management of grants; and (3) procedures for informing grant-seekers about its programs. The **Cariplo Foundation** similarly formulated a series of internal rules on investment policy, annual meetings, nomination and election of board members, cessation and suspension of officers, and accounting and control.

Other foundations faced these same organizational development challenges. The **ERSTE Foundation** thus took two years between its founding and its first round of grants. During this period its newly hired executive director visited major foundations around the world to learn about best practices in foundation management and set to work establishing a regulatory and organizational framework including new prototypes of grant-making contracts and review procedures. The **Community Trust of Southland** similarly formulated a "total framework" and a comprehensive grantmaking policy laying out specific criteria, such as equity and community benefit, for assessing grant applications.

Particularly as they moved from reactive to pro-active modes of operation, the foundations also had to recruit experts acquainted with the fields in which they were operating. In addition, different organizational units had to be created to handle the growing array of functions that the foundations had to perform—grant-making, asset management, strategic planning, public relations, accounting, cash management, human services, and evaluation. Thus, for example, the **Cariplo Foundation** now has ten different units handling these different functions.

The foundations have had to build administrative structures, recruit competent staff, and create internal rules for carrying out their functions.

These foundations remain fairly thinly staffed by international standards.

While the staff of these foundations have necessarily grown as a consequence (the employees of the Italian foundations of banking origin, for example, more than doubled between 2000 and 2012, from 408 to 1014), these foundations remain fairly thinly staffed by international standards. Leaving aside the **La Scala Foundation**, which is really an operating foundation, only one of these PtP foundations (the **German Environmental Foundation**) has more than 100 employees. The others are considerably smaller. Thus, the **Cariplo Foundation**, with an asset base of US$9 billion, employs only 61 people. **Compagnia di San Paolo**, another nearly US$9 billion institution, employs 89. By contrast, the Rockefeller Foundation in the U.S., a US$ 3.5 billion asset foundation, employs over 140 people, 120 of them in its New York headquarters. One reason for the smaller scale of these PtP foundation staffs is that these foundations have tended to hive off operational units as they develop, and to rely extensively on outsourced services. Thus, for example, the **Cariplo Foundation** established a separate Social Housing Foundation to take over the operation of its innovative social housing program once this program became fully operational. But the contrast in the scale of staffing is still striking.

Considerable professionalization has taken place among these foundations in the management of their assets as well.

6) Investment Management

In addition to the management of the foundation's programs, a number—but not all—of our PtP case study foundations have endowment assets to manage.[4] Like the other functions described above, with a few notable exceptions considerable professionalization has taken place among these foundations in the management of their assets, though this has sometimes taken a while to be fully realized given the fact that the foundations started out owning only a single asset in the form of shares of the privatized company and were under some pressure to avoid diversifying too rapidly to avoid causing the stock price to fall. Nevertheless, most of the foundations, and certainly most of the larger ones, have taken steps consistent with widespread practice in the foundation world more generally to establish professional asset management procedures. In particular:

→ In all but two cases, each a German Type I foundation, investment is controlled by the respective foundation's board and overseen by a designated investment committee.

→ Most boards have adopted investment policies that look to the preservation of the value of the organizations' assets in perpetuity after taking account of their desired grant levels, which in the Italian case were stipulated in their founding law. This has usually meant the pursuit of diversified investments, though the PtP foundations seem to have been fairly conservative investors.

→ The board generally appoints external investment managers, normally through open competition, but subjects these managers to periodic review and supervision by a sub-committee of the board.

→ Details of diversified portfolios are visible through various forms of reporting, but typically include a spread of shares, bonds, derivatives, and cash, though some of the foundations have operated under some constraints, such as the desire to remain connected in part to their original banks.

→ Investment performances have not been unusual, that is to say they have provided for preservation of real capital values against inflation and an income sufficient to cover operating costs and provide for generally increasing levels of grantmaking.

In the case of the **Compagnia di San Paolo**, for example, in addition to its holdings in Italy's sizable banking company, IntesaSanPaolo, which was formed through the merger of the bank formerly belonging to the foundation with several other banks—a holding that constitutes 42 percent of its assets—Compagnia holds a diversified portfolio of securities in investment funds managed by Fondaco SGR, a specialized company used by other foundations as well and also directly manages a small private equity portfolio. The **Cariplo Foundation** manages its investments similarly but uses another management company, Polaris SA, which it created in cooperation with a group of nonprofits.

The investment performance of the Italian foundations of banking origin as a group has been notably strong, in important part thanks to the second privatization law, which mandated diversification of the foundations' holdings and sale of their controlling interests in the banks just before the banking crisis of the late 2000s hit. As a result of these rulings, 22 of these foundations no longer have any direct investments in their originating banks. Fifty-three have minority shareholdings, while the other 13—generally smaller, regional foundations permitted to keep their shares—have majority shareholdings. Initially, the foundations did quite well with their bank shares since these shares escalated in value during the period when the foundations owned them. More recently, in the wake of the 2007-2009 financial crisis, returns on the bank stock have lagged behind other investments. Thus, in year

2012 the non-bank investments other than property have performed better than the bank shares, providing 70.9 percent of the income (before deducting portfolio management costs) from 60.4 percent of the assets, as against 29.1 percent coming from the bank shares, which make up 39.6 percent of the assets.

The investment performance of the **ERSTE Foundation** tells a somewhat different story. Very likely because of the early escalation of the share value of the Erste Group as it acquired a series of Central and Eastern European banks during the 1990s, the 25 percent ownership share that the Foundation has in the Erste Bank and Erste Group grew in value by 2.77 times between 2003 and 2009, prior to the financial crisis—a good investment return. But since these shares still constitute 99 percent of the assets of the **ERSTE Foundation** it is likely that the financial crisis has slowed this growth considerably.

Mergers and acquisitions of original bank holdings also boosted the asset growth of the New Zealand savings banks, and careful asset management has allowed them to grow after the sale of their bank stock. But some other PtP foundations did not fare quite so well, though not always due to ineffective investment management. Rather, governmental interference constrained foundation choices in a number of cases. For example:

- For its first 20 years, as already noted, the **Volkswagen Foundation** was required to lend its funds to the German Federal State at a fixed 5 percent rate. This rate provided less income than could have been expected from normal investment and indeed the real value of the endowment fell. Moreover, the Foundation did not receive all the proceeds from the Federal Government's shares in the Company. A solution was negotiated in 1989, and for the following eight years the Federal Government paid a notional dividend on the share value as it slowly made good on its pledge to deposit the proceeds from its share of the Volkswagen Company stock in the foundation. Since then, the Foundation has invested its capital normally, with a spread of securities, bonds and national/ international investments.

- The investments of the **German Environmental Foundation** have been under the strong influence of the Federal Finance Ministry, which tapped the assets of this foundation to invest in FDR government bonds. As a result, the investments have under-performed the market. Growth from 1997 to 2009 was only 1.81 percent per year, less than inflation. Annual reports indicate that in 2009 equities comprised only 21.5 percent of the asset allocation and that derivatives were not used until at least 2007.

- The investments of the **Baden-Württemberg Foundation** have similarly been controlled by the state Ministry of Finance. Investments, mainly in real estate, securities, stocks and bonds, have underperformed against inflation, reducing the value of the endowment. Also contributing to this result was the use of portions of the assets for grants and the claim of the State government to some of the returns on sales of companies that had been transferred to the foundation. This led to criticisms in 2005 in the State Parliament and by the State Audit Officer.

- The **Rheinland-Pfalz Foundation for Innovation** also has encountered difficulties due in part to pressures from the state government, which controls its Board. The foundation has rarely covered its asset record in its annual reports. Particularly notable was a decision in 1994 to buy a large quantity of State government bonds. Questions in the State Parliament have met with the response from the relevant ministry that information about the Foundation's investments is confidential.

Mission-related investing. Increasingly in recent years, leading foundations around the world have come to recognize that achieving maximum financial returns may not be the sole or even principal goal of foundation investment policy. As institutions established to promote public-benefit objectives, foundations may have a special obligation to avoid supporting with their investment programs companies that are acting in ways that undercut the goals of their grant programs—e.g., by paying starvation wages, endangering employees, fouling the environment, or producing unsafe products. What is more, a small group of foundations is recognizing the limitations of grants as a vehicle to advance social and environmental objectives and have begun functioning as virtual "philanthropic banks," or investment companies, utilizing other financial instruments such as loans, loan guarantees, bond guarantees and the like, often in conjunction with private investors, in an effort to leverage a greater flow of capital into social-purpose activities.[5] Known generally as "mission-related investing," this activity takes two concrete forms: *first,* the application of social, environmental, and governance "screens" to foundation

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investment decisions; and *second*, social and environmental impact investing, which involves the use of multiple investment vehicles to support nonprofit organizations, social enterprises or social cooperatives that are using market-type approaches to promote social or environmental purposes.

While both of these developments are growing, they remain embryonic, at least within the foundation community. Thus, the Forum for Sustainable and Responsible Investment (US SIF), the affinity group that tracks the use of environmental, social, or governance (ESG) screens among institutional investors, was able to identify only 95 U.S. foundations out of the country's 76,545 such institutions—a mere 1/10th of 1 percent of the foundations—that reported applying ESG criteria to their investments as of 2012.[6] And only a handful of U.S. foundations are using either their grant budgets or their endowments to make pro-active social-impact investments. Even the most popular of the vehicles for such investments, so-called "program-related investments," or "PRIs," have never attracted even 3/10^{ths} of 1 percent of all U.S. foundations—less than 200 institutions in all—in even their peak year.[7]

The record of the PtP foundations in utilizing innovative forms of mission investing, while far from universal, is extraordinarily robust.

Set against this experience in the U.S., the record of the PtP foundations in utilizing these two innovative forms of mission investing, while far from universal, is extraordinarily robust. Focusing first on the application of investment screens, compared to the 1/10th of 1 percent of U.S. foundations that reported using such screens, a striking 29 percent of our PtP case study foundations (six of the 21 cases) were found to be applying such screens on their investments. Included here are: **ASB Community Trust**, **Community Trust of Southland**, **Oranje Foundation**, **King Baudouin Foundation**, **Cariplo Foundation**, and **Fondazione CRT**. The two New Zealand trusts, for example, have signed on to the United Nations Principles for Responsible Investment and both are members of the Responsible Investment Association of Australasia. The **ASB Community Trust** is also a signatory of the Carbon Disclosure Project. The **Oranje Foundation** has careful screens on investment of its endowment to ensure that investments adhere to six principles set out in the foundation's mission statement—i.e., "relevance, reputation, relaxation, results, risks, and returns." Of these, 'reputation' brings the greatest imposition of constraints. The **King Baudouin Foundation** a focuses its screens a bit more narrowly on investments in companies producing landmines and cluster bombs. The **Cariplo Foundation** has perhaps the most far-reaching ESG screening approach, barring investments in companies that violate the main international conventions regarding human rights, the environment, and producing weapons of mass destruction.

With regard to social-impact investing, the record among PtP foundations is also quite impressive. At least four of the 21 PtP cases we examined (nearly 20 percent) have already begun functioning as "philanthropic banks" in this fashion. One of the earliest to do so was the **Community Trust of Southland**, which in the late 1990s established a 50/50 joint venture called Invest South Ltd. with the Southland Building Society (now the SBS Bank) as a vehicle through which to provide equity support for promising local businesses. More recently, it assumed 100 percent ownership of Invest South, and now has $8 million of the trust's capital invested through that initiative.

With regard to social-impact investing, the record among PtP foundations is also quite impressive.

Another early convert to this mode of operation was **Fondazione CRT**, one of the Italian foundations of banking origin, which created a separate entity, the Fondazione Sviluppo e Crescita (Foundation for Development and Growth) through which to channel equity investments into social ventures in the Torino region. The foundation has committed €220 million (US$286 million) to this fund. As explained by then-Secretary General Angelo Miglietta, this marked "a new, significant change in the way [Fondazione CRT] allocates funds. Previous operational methods—non-refundable grants, development of own projects—are now accompanied by a quite innovative approach in the Italian philanthropic scenario...inspired by 'venture philanthropy' [involving] a comprehensive investment strategy."[8] **Fondazione CRT** was also one of the first Italian foundations to join the European Venture Philanthropy Association, a group of foundations and social investment funds promoting the concepts of high-engagement philanthropy and the use of a broad array of investment vehicles to advance social purposes. Also entering this social investment space has been the **King Baudouin Foundation**, which has committed €65 million of its endowment to mission-related investments and recently made a €250,000 investment in an innovative UK Social Impact Bond initiative.

Of all the PtP case study foundations, however, the one that has made the largest commitment to social-impact investing is the **Cariplo Foundation**. Cariplo started down this road as early as 1999 when it launched its Social Housing Project, which utilized a combination of loans and grants to stimulate the development of low-cost housing for disadvantaged persons and help them achieve autonomy. From this start, the Foundation has developed a robust social-impact investment program operating in four areas—domestic social housing, international microfinance, domestic venture capital, and domestic infrastructure. The Foundation has committed €510 million (US$665 million) to these activities and operates through an array of social-impact investment funds such as the Fondo Immobiliare di Lombardia in the field of social housing, and TTVenture in the field of technology transfer.[9] Reflecting the involvement of the **Cariplo Foundation** and **Fondazione CRT** among others, mission-related investments now account for over 8 percent of the total assets of Italian FBOs, putting them among the global leaders in this new field of foundation operations.

Ultimately, the most significant thing we would like to know about the PtP foundations is whether they have effectively promoted the public good.

PROGRAMMATIC PERFORMANCE

Ultimately, the most significant thing we would like to know about the PtP foundations is whether they were good stewards of the resources put in their hands, whether they have effectively promoted the public good, and whether they have done so better than would have occurred if the same resources had simply been dumped into government budgets. But if this is the most significant question to answer, it is also the most difficult, though not because of any doubt about the existence of positive contributions. The problem is rather that the benefits are so extensive and diverse that it is hard to provide a comprehensive overview with a proper sense of scale. Two major challenges are that the foundations lack a common framework of categories of benefits and that the quality of reporting, though generally high, is not consistent. What is more, impact measurement methodology remains very much a "work in progress" due to the complexity of social interventions and the difficulties of assessing benefits even in single program areas, let alone across them.[10] What is more, developing a methodology to compare the contributions of the PtP foundations to what would have been accomplished by governments with the same resources seems thoroughly unrealistic and certainly beyond the resources available for this project.

What is possible, however, is to identify at least the main lines of work that these foundations have pursued and some features of the style they have brought to them. More specifically, we believe the evidence supports four general observations about the programmatic performance of our case study foundations.

1) PtP Foundations Bring Important Resources into the Civil Society Communities in which They Operate

With the exception of the **La Scala Foundation**, which is basically an operating foundation running a world-renowned opera company, all of the PtP foundations examined here are essentially grant-making foundations. What is more, except for the **Baden-Württemberg Foundation**, the grants issued by these foundations generally flowed heavily to nonprofit, or civil society, organizations, though a significant portion of the research grants went to government research institutions. What is more, these grants have been substantial—in many cases significantly transforming and strengthening local civil society sectors. A preliminary rough and partial estimate of the grants made by these institutions over their lives totals at least US$32 billion; however, this includes all the Italian FBOs but not all of the U.S. conversion foundations, or all of the Austrian, New Zealand, or German cases.

In addition to their dominant grant-making activities, moreover, many of these foundations have launched a variety of directly operated programs, some of which they have since hived off to newly established nonprofits, thus broadening the base of civil society capabilities. This reflects the determination of many of these institutions to be more than mere reactive check-writers, to be sources as well of positive change in their areas of work. Thus, the **Campagnia di San Paolo** complements its regular grantmaking through a number of operating bodies that include the Fondazione per la Scuola, the Ufficio Pio, the Collegio Carlo Alberto, and the Istituto Superiore sui Sistemi Territoriali per l'Innovazione. Similarly, the **Fondazione CRT** pursues cultural objectives through the Cittá e Catterdrali Project, education and scientific research through its "Reading Economics" and "Master dei Talenti" projects, and social welfare promotion through the "Safety Vehicle Project." Likewise, the **King Baudouin Foundation** created a Centre for Philanthropy to promote giving in Belgium and to stimulate the establishment of donor advised funds; and the ERSTE Foundation established a new bank, the Zweite Sparkasse, to help disadvantaged people get out of debt and secure a favourable credit rating.

2) PtP Foundations Tend to be Regionally Focused

The importance of the sizable scale of the PtP foundations and of the grant-making that they generate is magnified by the limited geographical areas in which they tend to focus their activities. Most of the PtP case study foundations are locally focused—serving regions, states within nations, or provinces (see **FIGURE 6.1**). A significant minority serve whole nations, though these tend to be in smaller countries. Where there are exceptions to this pattern, it is usually because the original 'deal' provided for some international grant-making.

Thanks to their regional focus, the PtP foundations have an outsized impact on the robustness of nonprofit life, and indeed on public problem-solving.

Thanks to this geographic focus, the PtP foundations have an outsized impact on the robustness of nonprofit life, and indeed on public problem-solving more generally, in their localities. At the high end of the scale, each German PtP foundation is the largest or second largest in its province.

FIGURE 6.1
Most PtP foundations are locally focused

The **Volkswagen Foundation** (with combined national/provincial funding and an endowment of €2.6bn) is highly significant in the context of Germany as a whole, but half of its funding is focused on the State of Lower Saxony, where the original Volkswagen Company factories were located. The Italian FBOs, with cumulative assets of over €42 billion (US$65 billion) as of 2012, are concentrated in the north of the country and focus heavily on their respective regions, though the larger of these have chosen to help fund a Foundation of the South to share the wealth with the lagging southern region of the country and also ventured into international work. The City of Torino alone has two huge foundations of banking origin, **Campagnia di San Paolo** and **Fondazione CRT**. While the equivalent value of the endowments of the two New Zealand foundations is many times smaller (around US$950 million together), each is highly significant in its region. The endowment of the **Slovak Savings Bank Foundation**, though similarly small (about 1/100th of the size of the NZ cases), is still large enough to make this foundation a highly significant funder in Slovakia. And, of course, the **Baden-Württemberg Foundation** and the **Rheinland-Pfalz for Innovation** were created in important part to ensure that significant resources associated with state-owned enterprises located in their respective states remained in the states.

The one clear deviation from this pattern is the **German Environmental Foundation**, which claims to be the world's largest environmental foundation. But here, too, regional considerations have been at work in locating the foundation's headquarters in the State of Lower Saxony where the original company, Salzgitter AG, was located.

This regional focus is a natural byproduct of the origin of the assets whose privatization led to the creation of these foundations—for example savings banks with local or regional origins, regional health institutions, and regional energy companies. But, of course, most privatizations involve enterprises that have a regional or local footprint, making it possible for residents of these areas to encourage some degree of local focus to any foundations resulting from privatization transactions, particularly where local politicians come forward to support the idea. The PtP concept may therefore be eminently suited to the promotion of community foundations or other community-based philanthropic entities, a point to which we will return in the next chapter.

3) PtP Foundations Operate in a Broad Array of Areas, Many of which Reflect Classic Conceptions of the Special Contributions that Foundation Institutions Can Make

Nearly all of our PtP case study foundations reflect, through their grant-making and operational programs, some or all of the general programmatic characteristics that make foundations so valuable, as outlined in **BOX 6.1**. Not all foundations reflect all of these features at the same time, however. Indeed, among the PtP case study foundations it is possible to detect two broad patterns of substantive activity. First, the majority of these foundations follow what might be termed a *generalist pattern* characterized by a broad mandate to pursue public purposes. But a sizable minority of the foundations adhere to what might be termed a *specialist pattern*, focusing on a specific field of activity.[11]

This naturally reflects the origins of these institutions. As we have seen, the PtP option often gained traction in circumstances in which a persuasive individual saw a need to protect resources in order to promote a specific national or regional objective considered to be too important to be left to the whims of political decision-making or strategically important in wooing potential voters. Such objectives included the promotion of science in the cases of the **Volkswagen Foundation**, the **Baden-Württemberg Foundation**, the **Rheinland-Pfalz Foundation for Innovation**, and the **Foundation for Polish Science**; the protection of the environment in the case of the **German Environmental Foundation**; and the promotion of health in the case of the **California Endowment** and the numerous other health conversion foundations in the U.S.

BOX 6.1
Why Do We Need Foundations?

Foundations provide funding that is independent of government or commerce, and is managed and directed by independent trustees.

Foundations tend to fund at a level that is much smaller than government but is nonetheless very significant because it contributes to pluralistic approaches and pluralistic societies by supporting:

1. **Research, particularly 'blue skies' research that often requires freedom from short-term political and commercial constraints.**
2. **Experimental programs involving risk-taking and often requiring long periods to test.**
3. **Cultural activity and institutions that contribute to the vitality of community life.**
4. **Minorities or disadvantaged groups that are often overlooked by large government programmes or pose new needs or live in remote areas.**
5. **Citizen engagement and advocacy that nourishes democracy and gives voice to the voiceless.**
6. **A vibrant third sector that keeps alive the special importance of volunteering and charitable giving, fosters bonds of trust, and nourishes the important value of private initiative for the common good.**

Adapted with permission from a summary prepared for the PtP Project by Nigel Siederer, Good Foundations Consultancy.

BOX 6.2

Permissible Fields of Activity of Italian Foundations of Banking Origin

1. Family and related values
2. Youth training
3. Education, learning, and training
4. Volunteering, philanthropy, and charity
5. Religion and spiritual development
6. Assistance to the elderly
7. Civil rights
8. Crime prevention and safety
9. Food safety and quality agriculture
10. Local development and low income housing
11. Consumer protection
12. Civil protection
13. Public health, preventive and rehabilitative medicine
14. Sport activities
15. Addiction prevention and recovery
16. Psychic and mental pathologies and disorders
17. Scientific and technological research
18. Environmental protection and quality
19. Art, cultural activities, and heritage
20. Public or public utility works
21. Infrastructures

In other cases, the nature and origin of the assets had a bigger impact on the result, as seems to have been the case in the broad charitable objectives adopted by the foundations growing out of the privatization of the savings banks in New Zealand, Italy, Austria, and England and Wales, all of which maintained broad charitable remits focused on particular local areas, reminiscent of the charitable activities of the original banks.

Not surprisingly, the fields of activity of these generalist foundations are consequently exceedingly diverse, though one of the critical tasks for any such foundation is to carve out a meaningful niche where it can make a difference. The Italian FBOs, for example, have the option to work in any of 21 different fields laid out in the law establishing them (see **BOX 6.2**). However, Italian lawmakers were prescient enough to stipulate that each foundation had to allocate at least 50% of its grants to no more than five of these fields, which can be changed every three years.

Taken together, the grant-making pattern of these PtP foundations therefore presents a picture of considerable breadth and diversity, though gaining a clear overview of these funding patterns is extremely difficult since the foundations, having grown up independently of each other, have no common base for collecting statistics. What is more, not all report on their funding patterns and some that do report provide cumulative totals while others do not.

Despite these challenges, it is possible to get a very preliminary and partial view of the funding patterns of our PtP case study foundations by drawing on records kept by many of the individual foundations studied, and from a full survey of all the Italian FBOs completed in 2012. However, the Italian foundations account for 74.1% of all giving we have been able to track, so using their full results tends to distort the overview.[12] Accordingly, **TABLE 6.2**, which records the results of this analysis, reports these results with and without the Italian foundations of banking origin, though it cannot be known which group is

TABLE 6.2
Distribution of grants by PtP foundations*

	All cases studied			**Excluding Italian foundations of banking origin** (which gave 74.1% of the total)		
	Generalist foundations	*Specialist foundations*	*All*	Generalist foundations	Specialist foundations	All
% of all Foundations:	***85.8%***	***14.2%***	***100%***	**45.4%**	**54.6%**	**100%**
Area of giving	***% of giving***	***% of giving***	***% of giving***	**% of giving**	**% of giving**	**% of giving**
Culture	*28.3*	*2.6*	*24.6*	1.9	2.6	2.3
Social responsibility and welfare	*13.2*	*18.6*	*13.9*	12.6	18.6	15.9
Scientific research and education	*12.6*	*20.3*	*13.7*	12.5	20.3	16.8
Education	*15*	*0.4*	*12.9*	12.6	0.4	5.9
Nonprofit sector and philanthropic activity	*11.1*	*0*	*9.5*	1.2	0	1.1
Community and civic projects	*10.4*	*0*	*8.9*	38.9	0	17.7
Health	*5.3*	*23.6*	*7.9*	1.8	23.6	13. 7
Environment	*0.9*	*32.1*	*5.3*	2.4	32.1	18.6
Children, young people, and family	*1.1*	*0.9*	*1.1*	3.8	0.9	2.2
Human rights / Holocaust victims	*0.9*	*0*	*0.8*	6.76	0	3.1
Leisure and sport	*0.7*	*0*	*0.6*	1.02	0	0.5
International	*0.5*	*0*	*0.4*	3.36	0	1.5
Historic monuments	*0*	*1.2*	*0.2*	0.07	1.2	0.7
In-house projects	*0*	*0.3*	*0.04*	0	0.3	0.2

**Data reported here are somewhat inconsistent, covering the full life of individual PtP case study foundations where such data were provided but including all foundations of banking origin in the case of Italy.*

Source: Compiled by Nigel Siederer from PtP Project Field Guides.

more typical of PtP foundations generally. We also differentiate the results for the generalist foundations from those for the specialist ones since these differed considerably in orientation.[13]

Bearing in mind the caveats noted above, it seems possible to draw several observations from these data:

→ ***First,*** it is clear that the PtP foundations as a group support a broad span of fields, ranging from culture and education to social responsibility and general support for the third sector and philanthropy.

→ ***Second,*** the specialist foundations, as expected, focus much more heavily on their particular areas of specialization, with one important exception. Thus, the specialist foundations as a group are much more heavily focused than the generalist foundations on scientific affairs, health, and the environment. Somewhat surprisingly, however, they are also at least slightly more focused than the generalist foundations on "social responsibility and welfare," though this may be an artifact of the categorization used for these data.

→ ***Third,*** some significant differences appear between the Italian FBOs and the other generalist foundations. In the first place, the Italian PtP foundations seem more heavily oriented to culture and the arts than are the other generalist foundations. This may reflect an historic commitment stretching back to the philanthropic activities of the former banks. On the other hand, they are more supportive of general nonprofit and philanthropic activity, though here again classification problems may be at work since the other foundations may have classified their support for the third sector under "community and civic projects." Finally, human rights activities seem to receive less focus on the part of the Italian foundations than on the part of the other generalist foundations.

The PtP foundations that we have examined exhibit an impressive track record of innovation.

4) The PtP Foundations have been Innovators

One final observation that can usefully be made about the PtP case study foundations we have examined here is that they have an impressive track record of innovation. This is not to say that they have been more innovative, or even *as* innovative, as other foundations. Data to support, or refute, such claims are simply unavailable. What is more, judgments about what is truly innovative are inevitably open to disagreements. The suggestion here, rather, is that there is enough evidence of interesting, off-the-beaten-path programming activity on the part of the PtP foundations we have examined to dispute any suggestion that they are merely check-writing operations passing out money to friends and relatives of influential politicians and board members. Interesting innovations surfaced in our research are:

→ The **Volkswagen Foundation**'s "Knowledge for Tomorrow" initiative aimed at African countries south of the Sahara;

- The **Baden-Württemberg Foundation**'s "Funding the Future" program;
- The **Foundation for Polish Science**'s "PARENT/BRIDGE" program, which is designed to enable the best researchers who are raising young children to return to advanced research work;
- The **King Baudouin Foundation**'s "BELvue" initiative designed to bolster confidence in democracy and stimulate critical thinking on democracy's big challenges;
- The **Cariplo Foundation**'s "Etre project" designed to support young companies specializing in theatrical production, or its "EST project" aimed at kindling interest in science among elementary and middle school students;
- The **California Endowment**'s "Building Healthy Communities" initiative, a 10-year initiative to help 14 pilot communities across the State of California become places where children and youth are "healthy, safe, and ready to learn;" and
- The **Community Trust of Southland**'s "community-led development" initiative intended to engage a range of community stakeholders in comprehensive community development efforts.

CONCLUSION

The PtP foundations that we have examined thus exhibit an impressive track record of achievement. With just a few exceptions, these organizations have matured as institutions and have incorporated some of the leading-edge concepts about how to operate a modern foundation. Thus, they have developed respectable transparency procedures, solid conflict of interest protections, and internal guidance systems organized around coherent and regularly updated mission statements. In their investment activities as well these foundations have created reliable, if somewhat conservative, procedures and policies, and an impressively sizable proportion of them have moved to the head of the foundation community globally in experimenting with ways to leverage their resources through the use of non-grant forms of assistance. Finally, they have contributed significant resources to their local regions and fields of activity, remaining true to their founding missions but finding often-innovative and proactive ways to promote them. While it is impossible to say whether their impact has been greater than might have been achieved by putting the resources they gained into the hands of governmental bodies, their record seems to be sufficiently strong to make this at least a plausible conclusion.

[1] For example, see: Paul Brest and Hal Harvey, *Money Well Spent: A Strategic Plan for Smart Philanthropy,* (New York: Bloomberg Press, 2008).

[2] European Foundation Center, "EFC Principles of Good Practice," (accessed 1 September 2013.) Some of the language has been summarized here for space reasons.

[3] This section draws on material compiled by Nigel Siederer from the PtP case studies prepared by Project Associates. See: Nigel Siederer, "Operations and Activities of Charitable Institutions Created by PtP," *Philanthropication thru Privatization Project Working Paper No.1*, (Baltimore: Johns Hopkins Center for Civil Society Studies, 2014).

[4] The PtP case study foundations that do not have asset management responsibilities include the ERSTE Foundation, which is obliged to retain, and not sell, its shares in the Erste Bank, which constitutes its entire corpus; and Lloyds TSB Foundation for England and Wales, which holds 5 percent of the shares of the Lloyds TSB but is forbidden from selling them. The two cases involving lotteries receive their PtP-related funds in the form of annual revenue rather than a lump-sum endowment, but both of the foundations involved have other assets that they manage.

[5] For an analysis of this mode of foundation behavior, see: Lester M. Salamon and William Burckart, "Foundations as Philanthropic Banks," Chapter 5 in *New Frontiers of Philanthropy: The New Actors and Tools Reshaping Global Philanthropy and Social Investment,* edited by Lester M. Salamon, (New York: Oxford University Press, 2014). For a more general introduction to such approaches, see: Lester M. Salamon, *Leverage for Good: An Introduction to the New Frontiers of Philanthropy and Social Investing,* (New York: Oxford University Press, 2014).

[6] Meg Voorhes, Joshua Humphries, and Ann Solomon, *Report on Sustainable and Responsible Investing Trends in the United States,* (Washington, DC: US SIF Foundation, 2012), 11.

[7] Steven Lawrence and Reina Mukai, *Key Facts on Mission Investing*, (New York: The Foundation Center, 2011).

[8] Angelo Miglietta "New ideas and experiences in granting and supporting social investment: the 'strange' case of Fondazione CRT and its network," Unpublished paper, n.d.

[9] "Mission Connected Investments: Fondazione Cariplo's Experience," PowerPoint Presentation. (Milano: Fondazione Cariplo, February 2013).

[10] On the challenges of social impact assessment, see: Brian Trelstad, "The Elusive Quest for Impact: The Evolving Practice of Social Impact Measurement," Chapter 22 in *New Frontiers of Philanthropy: The New Actors and Tools Reshaping Global Philanthropy and Social Investing,* edited by Lester M. Salamon (New York: Oxford University Press, 2014).

[11] I am indebted to Nigel Siederer for identifying this distinction and analyzing our case study foundations in terms of it. See: Siederer, "Operations and Activities of Charitable Institutions Created by PtP," 2014.

[12] Also included were the results of a similar survey of all foundations funded by the Czech Foundation Investment Fund, but their data (1.91% of giving by value) do not distort the results.

[13] Based on analysis offered by Siederer, "Operations and Activities of Charitable Institutions Created by PtP," 2014.

Chapter 7: CONCLUSION
Does PtP Have a Future?

The fact that a significant number of foundations have been formed or strengthened as a result of philanthropication thru privatization transactions and that these institutions have amassed a quite respectable record of both procedural and substantive performance is still no guarantee that this option can operate in the future. For one thing, there is a widespread belief that privatization is a thing of the past and that the major wave of privatization is behind us. This view is amplified by the growing evidence of popular resistance to privatization visible throughout the world, resistance fueled by convictions that privatization has not "worked." Finally, foundations remain, at best, poorly understood and, at worst, objects of suspicion in many locales. Convincing people to put substantial resources into charitable foundations can therefore be a hard sell.

Notwithstanding these reasonable arguments, there remain some compelling reasons for believing that PtP not only has a future, but a dramatically expanded one, in the years ahead. But this expanded future will not arrive automatically; rather, it will require concerted action on the part of all of those with a stake in its further development. And, as noted below, this paradoxically includes not only civil society activists and promoters of charitable giving, but also businesses and governments contemplating or engaged in privatization activities.

THE CASE FOR PtP's FUTURE

What, then, are the reasons for believing in a potentially robust future for PtP? Fundamentally, there are five.

1) The Myth of the End of Privatization

In the first place, the widespread belief that privatization is somehow "over" ignores a number of crucial developments and realities.

→ ***The wave of privatization of state-owned enterprises that swept the world in the 1980s and 1990s did not come close to exhausting the range of such enterprises in existence.*** To quote again from the 1995 World Bank report cited earlier, "[d]espite more than a decade of divestiture efforts and the growing consensus that government performs less well than the private sector in a host of activities, state-owned enterprises account for nearly as large a share of developing economies today as twenty years ago."[1] Returning to this same topic nearly a decade later, in 2004, Bartolotti and Siniscalo reached a similar conclusion, noting that "The privatization process has been partial and incomplete.... According to available research there are a huge number of companies to be privatized....The lessons of history have, therefore, plenty of room for application."[2]

→ ***Far from diminishing, the range of state-owned companies expanded during the recent economic crisis*** as governments "bulked up" on private companies in crucial industries—from financial services to auto manufacturing—that were viewed as "too big to fail" and therefore in need of government take-over or bail-outs. It seems likely that governments will begin to unload the assets they acquired during this process as economic conditions improve, as has already begun to happen.

→ ***The heavy indebtedness that is dragging down economies in Europe and elsewhere has added a new rationale to the privatization argument.*** What is more, it has added new external pressures on countries to bite the privatization bullet as the so-called "troika" of the IMF, the European Central Bank, and the EU have made continued bail-outs and loans to troubled countries such as Greece, Spain, Portugal, and Ireland contingent on active decoupling of country budgets from inefficient and capital-starved, state-owned enterprises.

→ ***Developing countries as well face continuing debt problems and are under pressure to entice outside investment into their economies.*** Sales of partial or full ownership shares of publicly owned and operated electricity grids, banks, cell phone franchises, mineral deposits, and other under-performing assets thus provide attractive targets.

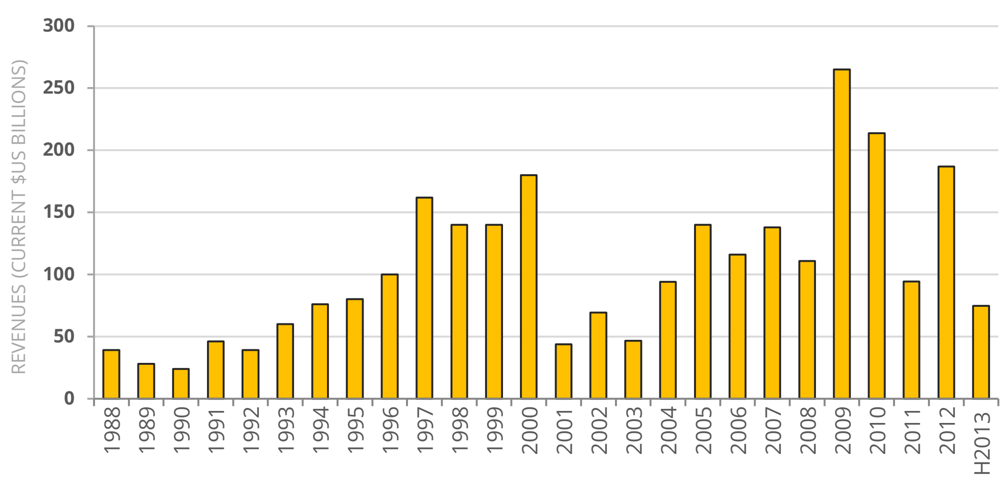
→ ***There continues to be widespread belief among economists and finance experts that privatization makes good economic sense*** and that countries with heavy layers of state-owned businesses cannot prosper in the new global economy. One recent weighing of the vast literature that has surfaced about privatization acknowledges the distributional problems that privatization often creates but nevertheless concludes that "privatization contributes to aggregate welfare, meaning that the process does contribute to gains in total available economic resources in a society."[3]

A major new global privatization wave may be forming.

Reflecting these and other considerations, privatization has recently spiked upward again. Indeed, recently released data reveal that 2012 was the third highest year for privatization deals since data began to be assembled in the late 1980s. In particular, as shown in **FIGURE 7.1**, global privatization deals in 2012 totaled close to US$187 billion—behind only 2009's $265 billion and 2010's nearly $214 billion, but well ahead of the $140-$160 billion levels in the supposed heydays of privatization in the late 1990s.[4]

One reason for this was the beginning of the unwinding of government ownership of bailed-out firms, propelling the United States into the lead among privatizers in 2012 as it unloaded its enormous investments in the AIG company and in General Motors. But other leading countries included China, Brazil, and Portugal, suggesting the shift in privatization activity away from Europe and toward the Far East and the BRIC countries.

FIGURE 7.1
Worldwide revenues from privatizations, 1988-1H2013



Source: William Megginson, "Privatization Trends," in *The PB Report 2012*.

What is more, data from the first half of 2013 already suggest that this trend is likely to continue, especially given announcements of major privatization plans in countries as diverse as Greece, Italy, Spain, Portugal Romania, Ukraine, Sweden, Slovenia, the U.K., New Zealand, Brazil, Korea, Japan, Tunisia, Russia, India, and Japan.[5] As summarized by privatization expert Dr. William Megginson, "[t]he large number...and value...of privatizations executed during the first half of 2013, coupled with several massive planned sale announcements, suggests that ***a major new global privatization wave may be forming***."[6] [Emphasis added]

2) The Paradox of Popular Opposition to Privatization

In addition to the evidence of continued and even accelerating growth of privatization, a second reason for believing that PtP may have a bright future arises, paradoxically enough, from the growing evidence of significant opposition to privatization. As one observer has put it: "After 2000, some of the bloom came off the privatization rose....Privatization everywhere remains a very hard political sell."[97] One recent survey in Central and Eastern Europe, for example, revealed that 80 percent of respondents opposed the status quo achieved through privatization and wanted to change it in some way. Interestingly, only 29 percent favored returning the assets to government control, suggesting that respondents favour private ownership if they can see some more tangible benefit from the transactions that lead to it.[8] Surveys carried out by Latinobarometer covering 19,000 people in 18 Latin American countries found that the percentage of respondents who disagree or disagree strongly with the statement that "privatization of state enterprise has been beneficial for the country" rose from 54 percent in 1978 to 78 percent in 2003 and stayed close to 65 percent in four surveys taken since then.[9]

But scientific research is not needed to demonstrate the push-back on privatization. Citizens have increasingly taken to the streets to demonstrate it. The original deal for Ukraine's Kryvorizhstal steel plant, for example, helped generate Ukraine's Orange Revolution. Such protests have even penetrated China, as one Chinese provincial government was forced to halt the privatization of a state-owned steel mill in mid-2010 after thousands of workers took to the streets, this on the heels of another protest three weeks earlier in another Chinese province that led to the beating death of an executive overseeing the sale of another state-owned steel company.[10]

These protests and negative sentiments have made privatization politically treacherous. The fall-out is not only political, however. The consequences can also be economic. Thus, there were a significant number of failed, There were a significant number of failed, withdrawn, or cancelled privatization sales in 2012, following an even more dismal record in 2010.

withdrawn, or cancelled privatization sales in 2012, following an even more dismal record in 2010. Such events can be highly disruptive to the affected investors and highly damaging to country reputations, discouraging future investors from committing and lowering prospective prices on tendered assets.

To the extent that PtP provides a way to respond to this citizen push-back it can thus create enormous win-win possibilities for communities, governments, and investors alike. But what makes us think philanthropication thru privatization can achieve this result?

Several students of privatization have suggested at least a part of the answer to this question. According to these observers, the dilemma of privatization is not that it does not deliver real benefits to countries. Rather, the dilemma is that the benefits are *upside-down*. As one observer points out: "the societal benefits of privatization, while cumulatively significant, are individually small." What is more, the small winners—consumers and taxpayers—only gain in the medium to long term, whereas those potentially or actually impacted negatively—typically those employed by, or living in close proximity to, the privatized firms—are affected almost immediately.[11]

The dilemma of privatization is not that it does not deliver real benefits to countries. Rather, the dilemma is that the benefits are upside-down.

The solution to this dilemma, several other students of the topic have concluded, is "to give to the population at large a stake in the success of the policy itself."[12]

But this is precisely what PtP can accomplish: it gives the population a stake in the success of privatization by creating permanent tangible benefits for them from the process. What is more, it does so more visibly, and more reliably, than dumping the same quantity of resources into government budgets, where they often disappear without a trace.

As the discussion above has demonstrated, PtP foundations can easily be structured to target their benefits on particular locales, such as the locales where the firms being privatized are located, thus cancelling the upside-down effects of privatization by delivering the greatest benefits to the citizens at greatest risk of being adversely affected. What is more, such foundations can be reliably dedicated to purposes most likely to be useful to these populations, such as worker retraining or economic revitalization, purposes that the existing PtP foundations have demonstrated a capability to pursue fairly effectively. Further, these outcomes can be more confidently guaranteed by designing the governance structures of the resulting institutions in ways that guarantee citizens and their organizations meaningful voices in the management and operations of the foundations, something that a number of the PtP foundations have also found ways to achieve.

The positive effects such strategies can achieve were already evident in the case studies examined earlier. In each of the PtP cases we examined, the success of the privatization initiative was critically dependent on the direct link that the PtP option made it possible to draw between the privatization process and tangible benefits for citizens. This was the case for:

→ The dedication of one percent of all privatized company shares to a Foundation Investment Fund in the Czech Republic and the ultimate distribution of the proceeds of these shares to 73 foundations.

→ The similar initial commitment of two percent of the shares of privatized companies in Poland to a foundation dedicated to scientific advance.

→ The creation of a private foundation to safeguard the remaining assets of the Socialist Union of Youth in Slovakia.

→ The dedication of the proceeds of the sale of the Salzgitter complex to environmental improvement and of the Volkswagen Company sale to the promotion of science in Germany.

→ The creation of two huge foundations dedicated to the health of California citizens as the price of allowing Blue Cross of California to convert into a for-profit company.

All of these achieved win-win results for those interested in the transformation of important industries as well as those determined to protect the achievement of important, people-oriented benefits, not only on a temporary basis, but over the long term.

Evidence of the positive impact such linkages can produce have been visible as well in such examples as the decision of the recent Sarkozy government in France to pledge the €3.7 billion in proceeds from its 2007 sale of Electricité de France to capital investments in the country's aged university facilities as a way to silence opposition to the sale.[13] One wonders if this result would have been more believable to the French population had it been accompanied by a plan to vest the resources in a foundation with this as its chartered purpose.

3) Assets in Line for Privatization that Seem Particularly Appropriate for PtP

As the discussion of prior PtP cases above suggests, one factor facilitating PtP transactions are assets in line for privatization that have some peculiar character to them that legitimizes citizen claims for putting at least a share of the proceeds from their sale into a private institution governed by private citizens. The local character, historically private control, and philanthropic traditions of the savings banks in Italy, New Zealand, Austria, and the UK; the image of the Volkswagen Company as a "peoples" factory producing the peoples' cars; the character of the assets of the Socialist Union of Youth as belonging to the youth of Slovakia; the nonprofit legal structure and history of public subsidy in the case of Blue Cross of California—all of these strengthened the case for establishing private foundations to manage the assets resulting from the privatization or conversion of these entities. To what extent do similar situations exist in current privatization activity?

These assets belong, in some fundamental sense, to the people of the country in which they are located.

The answer, it seems is "to a considerable extent." In some sense, of course, a case could be made about any state-owned enterprise or other asset. These assets belong, in some fundamental sense, to the people of the country in which they are located. It is their sweat and toil that built the enterprises and their taxes that helped finance them. It seems only right that they should share in the proceeds and do so in some rough proportion to whatever pain the privatization process inflicts. As noted above, charitable foundations are one way to achieve this reliably, and to target the benefits on those most affected, provided, of course, that the governance mechanisms are designed in such a way as to facilitate and ensure this.

But beyond this general case, there are a number of more specific circumstances that seem ideally suited for PtP outcomes. Included here are:

A fierce battle is under way at the present time over mineral rights from Central Asia through much of Africa.

Mineral rights. A fierce battle is under way over mineral rights in numerous places throughout the world, from Central Asia through much of Africa. In Africa, for example, in order to facilitate mineral exploration and extraction and the resulting mineral rights payments, countries have been laying claim to ownership of land—or at least the minerals that lie beneath it—challenging long-standing traditional tribal rights to the lands. In the Republic of Zambia, for example, land is held by customary tenure, and although the government has encouraged citizens to take formal legal title to their land, many are unaware of the need to do so and the state has appropriated to itself the authority to revoke any untitled land awarded by traditional rulers and lease it to prospectors. Reports of prospectors forcing farmers off their land have thus become commonplace in Luapula Province of Zambia, a region rich in copper and other minerals. Although mineral excavation has enriched government coffers and a privileged few, almost none of the benefits have flowed down to the rural poor, most of whom subsist on less than US$1 per day.[14]

Similar disputes have broken out in South Africa leading to a major legal case over that country's Petroleum Resources Development Act of 2002, which similarly deprived landowners of the ownership of unexplored mineral and petroleum products and proclaimed such resources to be "the common heritage of all the people of South Africa" with the State as the custodian and "old order" rights required to be converted into "new order" rights within radical time constraints that few poor farmers could meet.[15] Although a Constitutional Court decision in April of 2013 rejected a challenge by a group of South African farmers, it seems likely that this issue will not quickly go away. And other countries are facing similar disputes.[16]

Here seems to be an ideal setting to press a Type III PtP solution to ensure that the proceeds of any mineral rights licenses or extraction fees extended by governments would flow to a legitimate, private foundation dedicated to improving the economic and social prospects of the people most affected rather than being absorbed without a trace into government budgets.

Public airwaves. Another arena that seems ready-made for a PtP solution is the sale of licenses for use of a country's air waves. As use of cell phones becomes the dominant form of communication, particularly in developing regions, the need for expanded access to a country's air waves has become intense. In the U.S., legislation has recently been passed to give mobile phone operators access to airwave frequencies formerly allocated for television broadcasts. Such spectrum frequencies are sold at auctions with the proceeds flowing to the government. But what if foundations dedicated to improving literacy and installing telecommunication capabilities in schools were to receive all or a significant portion of the proceeds instead? After all, what do citizens have a clearer right to than the air?

If there has become a way to monetize the air, why not create privately run public-benefit organizations to receive and use for public benefit some of the resulting proceeds? We are talking here, moreover, about substantial resources. The spectrum auctions authorized by the new U.S. law are expected to yield an impressive $25 billion in proceeds, enough to create another Bill and Melinda Gates-sized charitable foundation, with similar, though likely smaller scale, entities possible in many other countries around the world.[17]

If there has become a way to monetize the air, why not create privately run public-benefit organizations to receive and use for public benefit some of the resulting proceeds?

Public utilities. Much of the new privatization action taking place around the world at the present time is focused on what can reasonably be thought of as public utilities. Included here are ports, airports, postal services, water systems, as well as financial service institutions. These are frequently institutions built with citizen resources and serving broad public purposes. Here, as well, citizen claims to a portion of the resources flowing from the privatization of these facilities and their use to seed charitable endowments dedicated to various public-benefit purposes seem especially strong. Imagine if the sale of the Royal Mail in the U.K. had gone to finance a foundation dedicated to bringing high-speed internet to remote rural regions, a task that has long been on the government's agenda but that has made far too little progress.

A fourth reason to be modestly bullish about the prospects for further PtP transactions derives from the present project and its explicit conceptualization of the PtP concept.

4) The Presence of the PtP Concept

A fourth reason to be modestly bullish about the prospects for further PtP transactions derives, immodestly enough, from the present project and its explicit conceptualization of the PtP concept and documentation of the respectable outcome of previous PtP transactions around the world. In the absence of such a conceptualization, it has been all too easy to overlook this possibility for seeding significant charitable endowments out of the proceeds of privatization transactions and achieving valid public purposes in the process. What the formulation of the PtP concept and the documentation of its consequences does is to crystalize a seemingly disconnected series of random transactions into a coherent strategy for substantially buttressing the philanthropic landscape of countries and further legitimize the process by documenting the generally positive outcomes it has achieved to date.

But taking advantage of this conceptual breakthrough will not occur automatically. Creating the concept and disseminating the concept are two quite different things. To move from one to the other, moreover, it will be necessary to articulate the case that needs to be made to the various stakeholders involved. It is to this question that we therefore now turn.

5) PtP: A Win-Win Proposition for Key Stakeholders

For the PtP concept to have a future it will have to do more than make sense, of course. It will also have to meet the needs, and serve the interests, of key stakeholders. As the previous discussion makes clear, however, there is strong reason to believe that PtP offers unique "win-win" possibilities for all of the key stakeholders. This is perhaps the best argument for PtP's future. But what are those "win-win" possibilities.

Perhaps the best argument for PtP's future is the "win-win" opportunity it offers to key stakeholders.

PtP's benefits for investors. One key set of stakeholders in privatization transactions is obviously potential investors in privatized assets and those who advise them. Privatization deals are enormously complex with great uncertainties for investors. Layering PtP on top of the other challenges of fashioning a privatization deal will therefore not necessarily be welcome by investors. How might they be persuaded not only to go along but to help sell the idea? Several powerful answers seem available to this question.

- ✓ ***Assurance of community support and consequent avoidance of failed or delayed sales.*** One important part of this answer goes back to the earlier discussion of popular opposition. Time is money in the business world and few investors will jump into deals in the face of potential opposition that might stretch the decision process out forever and leave the business with a bad reputation and consequent inability to operate successfully. PtP can provide businesses a license to acquire by providing concrete evidence of the short- and medium-term benefits communities can secure as a consequence of privatization deals.

PtP can be presented as a way to win a license to acquire for investors.

- ✓ ***Resulting advantages in the bidding process.*** Investors may also find that their bids to acquire assets in line for privatization can be enhanced by including explicit PtP pledges in their bids, as the Erste Bank Group found in its bids for a number of Central European banks.

- ✓ ***Early good will with employees, potential customers, and suppliers.*** Investors are naturally interested not only in the acquisition of potentially valuable assets, but also in the ability to operate the resulting businesses after they are acquired. PtP can facilitate this by promoting a more promising business climate for the privatized firm or extractive industry. Firms will come on the scene as partners of communities not as unwanted invaders.

- ✓ ***Positive international reputation.*** Investors have to be concerned not only about their local reputations in the communities and countries in which they establish operations, but also about their international reputations. PtP offers important potential benefits here as well. A strong Advisory Panel for the PtP Project has been formed under the chairmanship of Dr. Wilhelm Krull, Secretary General of the Volkswagen Foundation and a leading figure in European philanthropic circles. This Panel has committed itself to publicizing the PtP concept and highlighting efforts to apply it around the world. Already, the *Economist* magazine has taken notice of the idea and endorsed it in a recent article. Implementers of the PtP concept can thus be assured of positive international publicity for their efforts at no cost to themselves. See **APPENDIX D** for a list of founding Advisory Committee members.

PtP also offers benefits to governments.

PtP's benefits for governments. Investors are not the only stakeholders that can gain important benefits from philanthropication thru privatization. Cash-strapped governments can also benefit substantially. Several features of the PtP option account for such benefits:

- ✓ ***Improved ability to attract investors.*** Investors have naturally grown wary of making substantial investments in countries where the investment climate is hostile and popular sentiment not supportive. Support for PtP is a way for governments to signal a cooperative investment climate and a partnership approach both with businesses and local communities. As such, government encouragement of PtP arrangements as part of major investment deals can help give confidence to potential investors.

- ✓ ***Avoidance of failed sales.*** Privatization officials are well aware that privatization transactions are far from sure things. A number of governments have had the embarrassment of having to cancel announced privatizations because investors did not show interest or did not bid high enough. In fact, a full quarter of announced privatization sales had to be cancelled in 2011 and, while the figure was lower in 2012, it was far from zero.[18] PtP provides a way to get "ahead of the curve" on one of the common causes of failed or delayed sales: citizen opposition or the opposition of key political figures. As such, PtP offers one way to reduce the chances of a failed sale.

- ✓ ***Guaranteed support for long-term priorities.*** Beyond this, it is not unlikely that some government officials with particular subject-matter interests can see in the PtP option a way to capture long-term resources for particular policy purposes—particularly those that require sustained attention and deliver results only over the long run and therefore often get shoved aside in immediate budget battles. Included here are purposes such as fostering scientific advance, extending internet access, promoting social innovation, encouraging high-tech development, improving the environment, or investing in education. Policy entrepreneurs with vision can therefore find in PtP unique opportunities to plant seeds with substantial long-term benefits for their societies.

- ✓ ***Reducing burdens on government.*** More generally, governments might welcome the possibility of gaining important partners that can share the burden of dealing with a wide variety of national or local problems, such as urban regeneration, economic development in lagging regions, educating disadvantaged citizens, or overcoming recidivism. Not incidentally, moreover, politicians can gain important visibility and credibility with voters in return for taking innovative steps to set aside resources clearly devoted to such purposes.

- ✓ ***Improved international reputation for probity and innovativeness.*** Companies are not the only entities with a need to maintain a positive international reputation. In the current globalized world, countries eager to attract investors and retain talented workers must do so as well. PtP offers a way to signal a different style of privatization—one that is respectful of citizen needs and carried out in an open and responsible fashion.

- ✓ ***Reconciling PtP with government debt reduction.*** Finally, there are ways, as the Volkswagen case examined here revealed, for governments to combine a PtP transaction with partial debt relief by holding the privatization proceeds at least temporarily on its own books, paying off higher cost foreign loans, and paying a lower interest rate to the PtP foundation for the use of its money.

PtP's benefits for communities and citizens. Citizens and their communities also stand to gain from PtP. For them, PtP means:

Citizens and their communities also stand to gain from PtP.

- ✓ ***Tangible and immediate benefits from privatization.*** As noted, communities are often impacted negatively in the short term from privatization activity but rarely see the concrete benefits that privatization can often bring when the proceeds are simply absorbed into government budgets. PtP reverses this upside-down impact of privatization by capturing at least some of these proceeds in community-oriented charitable endowments dedicated to particular communities or common-good purposes.

- ✓ ***New resources for community problem-solving.*** PtP foundations can channel important resources of talent and money into solving community problems. What is more, the resources are available over the long run since PtP establishes secure endowments or endowment-like flows of revenue.

- ✓ ***New opportunities for participation in community problem-solving.*** PtP establishes new community-based, citizen-controlled institutions that can play a role in the shaping of public policy, the development of new approaches, and the identification of community needs.

PtP also offers significant benefits to civil society organizations.

PtP's benefits for civil society. Finally, PtP also offers significant benefits to civil society organizations. These benefits, too, take a variety of forms:

- ✓ ***Liberation from sole dependence on external funding.*** A key advantage of PtP from the point of view of civil society is the establishment of an independent, indigenous source of funding for it. This is important to free civil society from sole dependence on external sources and allow it to perform its important social accountability functions.

- ✓ ***Broadened promotion of charitable giving and philanthropy.*** As private charitable institutions, PtP foundations will have a stake in promoting charitable giving and accessing the new streams of social-impact capital as a way to increase the pool of private resources dedicated to advancing their missions. Such promotion often requires a secure institutional base, and PtP foundations can provide that base of talent, energy, and time. This will further strengthen civil society and bring more resources to bear on societal problems. This has certainly been the case of the existing PtP foundations examined for this report.

- ✓ ***Improved public image.*** By helping to root civil society more fully in indigenous sources of support, PtP can also improve civil society's image among local citizens and government officials, who, in countries lacking indigenous philanthropic resources, sometimes view civil society as too beholden to external sources.

✓ ***Improved access to policy decision-making.*** The presence of a financially secure, autonomously governed PtP foundation can also be an asset in opening channels of communication more generally between civil society and government. This can lead to important policy partnerships and improved understanding on both sides.

GUIDING PRINCIPLES FOR EFFECTIVE PtP TRANSACTIONS

For PtP to deliver the benefits of which it is capable—for citizens, governments, and investors alike—great care must be taken in the design and operation of PtP foundations, as well as in the selection of privatization transactions to which it can appropriately be attached. Otherwise, this promising strategy for "win-win" outcomes can come to be seen as merely a fig leaf covering up unsavoury back-room surrenders of important public property. Details on the guiding principles that should apply will likely need to be worked out in consultation among parties active in the privatization arena. But the cases examined here suggest at least a starting list of the considerations that should be brought to bear, both for the privatization deals themselves and for the foundations or other philanthropic institutions that result in whole or in part from them.

Great care must be taken in the design and operation of PtP foundations, as well as in the management and design of the privatization transactions to which it is attached.

Key Criteria for Deciding Which Privatizations are Suitable for PtP Transactions

No ready guide to the appropriate design of privatization processes has been formally agreed to by stakeholders involved in this type of transaction, at least that we have been able to identify. Some useful advice is available, however, in a Legal Guidelines for Privatization Programs document available from the World Bank.[19] From this and other sources,[20] four key recommendations seem to emerge for good practice in privatization transactions that advocates of PtP could usefully insist on:

A coherent and explicit legal and organizational structure. Privatization is a complex process with billions of dollars often at stake and significant dangers of corruption present. To deal with the complexities, and avoid the dangers, explicit and officially sanctioned processes must be in place. This includes the clear designation of an official body with responsibility for privatization, professional staffing of that body, establishment of a framework of law to guide the process, and protection of the due process of all participants in carrying it out, including access to the courts in case of conflicts.

Open and transparent procedures. Full and complete transparency is crucial for any privatization process that hopes to secure public trust and support. The PtP process cannot achieve the benefits it seeks, therefore, without such transparency. Transparency here includes a variety of procedural and operational features:

- Clear public disclosure of the agencies with responsibility for privatization decisions, the basis on which those decisions will be made, and the timetable and schedule for those decisions;
- Competitive bidding open to all potential bidders;
- Full disclosure of all details of proposed sales to all potential interested parties, including timetables and criteria for decision;
- Full disclosure of winning bidders or purchasers and the basis of the resulting decisions; and
- Clear explanation of proposed uses of funds secured through privatization transactions.

Attention to market conditions or structures that might lead to negative outcomes. Included here are features such as:

- Protections against monopoly behavior on the part of privatized firms;
- Establishment of regulatory structures in cases of public utilities enjoying natural monopolies;
- Removal of trade or other barriers that might impede competition; and
- Protections against "asset stripping."

Inclusion of a "social package." This would include:

- Clarification of expectations for environmental protections, investment commitments, and pay and other benefits for employees;
- Employee maintenance arrangements as well as guarantees for severance and other benefits for workers let go;
- Prohibition on unfair trade practices; and
- Provisions for channeling all or a share of the resources generated into activities that benefit citizens, preferably through creation of one or more meaningfully autonomous PtP charitable endowments.

Key Features Desired in PtP Foundations

If the success of PtP depends heavily on the character of the privatization process to which it is attached, it depends at least equally on the structure and operation of the PtP foundations themselves. Several rules or principles of good practice have emerged in the international foundation community to guide foundations in their operations, though not all of these are embodied in law or practice. Indeed, there is not complete consensus within the foundation community over what principles should apply.

Some argue, for example, that foundations, as private sector organizations created to carry out the will of a donor, have no obligation to report publicly—and certainly no obligation to report to government—on their activities. Others point out that foundations often enjoy tax and other privileges that ultimately depend on public trust and support. Without some transparency and openness about their operations, foundations can dissipate that trust and become vulnerable to more severe restrictions than those relating to transparency.[21]

Whatever the case for applying strong principles of good practice to foundations in general, an even stronger case exists for applying such principles to PtP foundations. This is so because the assets used to seed PtP endowments are in origin often publicly owned or at least publicly subsidized. As such, they have a special claim on protections from secretive or special-interest uses. What is more, since the decision to place such resources into private foundations instead of into governmental institutions is based on a certain desire for diversity in approaches and reliability about the uses to which such assets will be put, special care has to be taken to ensure the autonomy of these institutions vis-à-vis governmental influence or control. Under these circumstances, establishing a clear set of principles to guide the creation of PtP foundations acquires special importance. But what should these principles be?

> Whatever the case for applying principles of good practice to foundations in general, an even stronger case exists for applying such principles to PtP foundations.

A useful starting point can be found in the "Principles of Good Practice" for foundations formulated by the European Foundation Centre, as discussed earlier.[22] While acknowledging the diversity of foundations and of foundation laws, the EFC nevertheless recommends adherence by all foundations to four major principles:

Independent governance. PtP foundations must be structured in a way that guarantees "arm's length" relationships with both the privatized company and governmental authorities. To be sure, given the public-sector origins of PtP assets, we can expect a larger role for government officials or their proxies in the governance of PtP foundations, at least in their early years, than in foundations more generally. But government officials should not dominate the boards. This can be minimized, however, by limiting the board involvement of both government and company officials and guaranteeing, through nomination procedures and by-laws, that board members, however chosen, understand that their primary orientation must be to the care and protection of the foundations and not to the care or support of the interests of any organization that may have nominated them. Several examples of how existing PtP foundations have striven to achieve such autonomy are found in the case studies reported on in this report.

Professional management. PtP foundations must develop the systems and personnel to operate in a professional fashion. This will require the articulation of clear strategic objectives and the development of programs and operations in line with these objectives; recruitment of personnel with relevant expertise and experience both for the programmatic and investment components of the foundation's operations; and clear engagement of the board in setting strategic directions and monitoring progress toward achieving them.

Transparency. To retain public trust, PtP foundations must operate with complete transparency, making their statutes, by-laws, guidelines for funding activities, information on grant programs, application procedures, board and staff lists, annual reports, grant lists, and finances publicly and readily available and accessible. "Sunlight," it has been said, "is the ultimate disinfectant," and PtP foundations need to be seen as "squeaky clean." Also required will be strict conflict of interest provisions written into foundation by-laws and operating rules to ensure that members of governing boards and staffs do not use these positions to further their personal interests.

Accountability. As a corollary to their commitment to transparency, PtP foundations are wise to be proactive in assessing what they are accomplishing on a regular basis and reporting on this to their various stakeholders. Regular review of activities and reassessment of strategies should be an on-going function to offer regular feedback to those who stand to benefit from foundation activities.

In addition to these principles articulated by the European Foundation Center for foundations in general, two additional principles can usefully be applied to PtP foundations given their particular origins:

Representativeness. The governance structures of PtP foundations not only need to be meaningfully autonomous *vis-à-vis* government and privatized firms; they also need to be meaningfully representative of the constituencies they are designed to serve. As the case studies examined here have shown, this can be achieved by giving particular constituencies the privilege of nominating candidate representatives to the boards or simply by establishing by-law provisions requiring the inclusion of representatives of key constituencies or competencies on governing bodies. Also important will be strict terms of office for governing body members and regular turnover. These steps will help protect these foundations from being perceived as closed shops controlled by narrow bands of insiders.

Grantmaking. Finally, one rationale for channeling all or part of the resources from privatization transactions into charitable foundations instead of into government budgets is the impact this can potentially have on strengthening the civil society sector by providing indigenous sources of support for local not-for-profit organizations. Such organizations have been found to contribute to democratic governance and, because of their contribution to "social capital," to building the climate of trust that successful market systems require. The experience of several of the PtP foundations examined in this report suggests that such foundations can play an important role in fostering effective civil society organizations and sectors—which in turn can boost charitable giving, promote volunteering, and strengthen bonds of trust among people. For this to be possible, however, PtP foundations must operate at least in substantial part through grant programs open to nonprofit organizations.

NEXT STEPS FOR PtP

Even if these criteria for promoting PtP are all accepted, however, it is unlikely that the potential win-win outcomes will occur on their own. For the PtP concept to gain traction, a number of key steps will be necessary, some of which are already under way. Included here are the following:

→ Active online dissemination of this report and its Executive Summary;

→ Preparation of shorter information pieces on the concept;

→ Presentations and discussion of the PtP concept at gatherings of foundations, civil society organizations, and industries actively involved in PtP transactions, including both investors as well as advisors and those structuring the deals;

It is unlikely that PtP's potential win-win outcomes will occur on their own.

- → Development of a series of initial pilot implementation projects to put the PtP concept pro-actively to work;
- → Formation of a PtP Implementation Advisory Team to assist countries and communities interested in applying the PtP concept with the technical requirements involved;
- → Development of a book analysing key facets of the PtP phenomenon to further legitimize the PtP concept and introduce it to the academic community and to students of the third sector, philanthropy, and privatization;
- → Development of training and guidance materials to equip local PtP champions to promote the concept and to actualize PtP outcomes;
- → Continued development of the PtP website (p-t-p.org) to track progress, post examples of interesting innovations being pursued by existing PtP foundations, and provide a central repository for guidance, training, and scholarly materials relating to the PtP concept; and
- → Identification of funding sources to support these activities.

PtP will need local champions willing to promote the concept and able to point out the potential benefits to the various stakeholders.

Most importantly, however, PtP will need local champions willing to promote the concept and able to point out the potential benefits to the various stakeholders. One important source of such champions, as noted earlier, may be policy entrepreneurs from within governments, who come to see in PtP an opportunity to advance particular policy priorities. The Volkswagen Foundation, German Environmental Foundation, and Foundation for Polish Science cases provide important illustrations of this phenomenon.

Another source of such champions may be enlightened investors interested in securing a firm basis for operating their newly privatized businesses. The cases of the Slovak and Czech Savings Bank Foundations provide revealing examples of this route spearheaded by the progressive chairman of the acquiring Erste Bank Group.

Ultimately, however, in many settings, the role of making the case for PtP and ensuring that the PtP option is implemented responsibly and effectively will fall to civil society. This was the example highlighted in this report by the case of the California Blue Cross, where the nonprofit Consumers Union spearheaded the campaign that led to the creation of a major PtP foundation and set the pattern, in the process, for an entire string of "conversion foundations" in the United States.

The obvious dilemma here, however, is that few civil society leaders or organizations have historically been at all involved in privatization transactions, except, perhaps, after-the-fact in leading protests to stop the privatization process. Such organizations will face a steep learning curve, therefore, in gaining the knowledge and experience to operate effectively in the highly charged privatization arena. They will also require resources to engage actively in privatization debates and reach out for the help they will need.

Ultimately, in many settings, the role of making the case for PtP and ensuring that the PtP option is implemented responsibly and effectively will fall to civil society.

A key question for the future of the concept, therefore, is where the resources of both knowledge and finances will come from to support these champions as they penetrate the privatization processes in their countries and press the case for consideration of the PtP option. One source, at least of knowledge, will be the associates that have been assembled through this project, and an advisory capacity is being developed to achieve this.

But another source of potential talent and resources is the set of existing PtP institutions whose histories and achievements will be validated by the future spread of the PtP idea. These institutions certainly have the legitimacy to help disseminate the PtP concept. More than that, their experience building successful institutions through the PtP process is one of the most valuable assets they can bring to bear to assist civil society and philanthropic sectors in regions where such institutions are still struggling to establish themselves sustainably. In a real sense, they have found ways to turn base privatization into charitable gold. A key question is how fully they will be willing to share this resource with others, as a number of them have already begun to do through this project.

Existing PtP institutions have the legitimacy to help disseminate the PtP concept.

CONCLUSION

The current efforts to build community foundations and other community-based philanthropic endowments in less developed regions of the world hold enormous promise for unleashing new energies for social problem-solving. But these efforts could end up generating deep frustration if meaningful sources of capital do not become available to sustain them. While some of this capital needs to come from local citizens and corporations, it seems clear that relying on these sources alone may well consign these fledgling institutions to a long path toward viability and effectiveness.

This is all the more frustrating in view of the fact that side-by-side with these efforts in many of these same countries enormous privatization sales are being pursued with the potential of transferring billions of dollars of the *peoples'* assets into private hands and generating significant proceeds for governments in the process. But these efforts, too, are encountering challenges as citizen support for privatization has become increasingly problematic.

PtP offers a unique win-win solution to both of these challenges, allowing countries to benefit from needed investment while ensuring that significant shares of the resources resulting from such investments are permanently dedicated to improving the life-chances of citizens and strengthening indigenous civil society.

The existing PtP foundations examined here have, by their example, opened our eyes to the feasibility of just such an approach. By documenting the numerous past cases of such Philanthropication thru Privatization, disseminating these experiences broadly, carefully generating materials showing how this option can be applied, and undertaking a series of pilot implementation efforts, it is our hope that the initiative undertaken here, inspired by the experiences of the existing PtP foundations, will significantly increase the chances that this option for building independent charitable endowments will receive a reasonable hearing wherever privatization activity occurs in the future.

To be sure, there is nothing automatic about such an outcome. Convincing governments to part with even a fraction of the proceeds of privatization sales may be a difficult sales job. But the privatization juggernaut has hit enough bumps in the road around the world to open the minds of even the most resistant governments to the need for new approaches, and the option of accompanying future sales with the creation of sizable charitable endowments targeted on the needs of local citizens could help soothe some of the hostility that privatization has engendered. This, at any rate, is the hope that this project is projecting. With billions of privatization deals in play, and enormous problems confronting the very countries where many of these deals are going forward, it surely seems an option worth putting to the test.

With billions of privatization deals in play, and enormous problems confronting the very countries where many of these deals are going forward, the Philanthropication thru Privatization option surely seems worth putting to the test.

[1] World Bank, *Bureaucrats in Business,* 1995, 1.

[2] Bortolotti and Siniscalo, *Challenges of Privatization, 2004,* 1, 4.

[3] Nellis, "International Experience with Privatization," 2012, 15.

[4] Megginson, "Privatization Trends," 2012, 2.

[5] Ibid, 18-20.

[6] Ibid, 1.

[7] Nellis, "International Experience with Privatization," 2012, 11, 24.

[8] Timothy Frye and Ekaterina Zhuravskaya, "Support for Revising Privatization in the Post-communist World," *The PB Report 2007,* (Milan: Fondazione Eni Enrico Mattei, 2008), 49-50.

[9] Corporación Latinobarometer, *2010 Report,* cited in Nellis, "International Experience with Privatization," 2012, 20. See also: Carol Graham and Sandip Sukhtankar, "Does Economic Crisis Reduce Support for Markets and Democracy in Latin America?" *Journal of Latin American Studies,* 36 (2004) 349-377.

[10] Keith Bradsher, "Bowing to Protests, China Halts Sale of Steel Mill," *New York Times,* August 17, 2009.

[11] Nellis, "International Experience with Privatization," 2012, 20-21.

[12] Bortolotti and Siniscalo, *Challenges of Privatization,* 2004, 19-20. See also: Mary Shirley, "Why is Sector Reform So Unpopular in Latin America?" *The Ronald Coase Institute Working Paper #4*, 2004.

[13] William Megginson, "Major Deals of 2007: A Tale of Two Semesters," *The PB Report 2007,* (Milan: Fondazione Eni Enrico Mattei, 2008), 22.

[14] IRIN Africa, "Zambia: Land and Mineral Rights in Conflict."

[15] Johan D van der Vyver**, "**Nationalisation of mineral rights in South Africa," *De Jure,* 45, Vol. 1 (2012).

[16] Jaco Visser "S. Africa's Highest Court Dismisses Agri SA Mineral Rights Case," April 18, 2013.

[17] Edward Wyatt and Jennifer Steinhauer, "Congress to Sell Public Airwaves to Pay Benefits," *New York Times,* February 17, 2012.

[18] Megginson, "Privatization Trends," 2012, 1.

[19] World Bank Legal Guidelines for Privatization Programs, accessed January 13, 2014.

[20] See, for example, In the Public Interest, an organization dedicated to protecting the public interest in privatization and outsourcing arrangements.

[21] For a discussion of the battle over these competing perspectives in the context of the United States, see: Peter Dobkin Hall, "Resolving the Dilemmas of Democratic Governance: The Historical Development of Trusteeship in America, 1636-1996," in *Philanthropic Foundations: New Scholarship, New Possibilities,* edited by Ellen Condliffe Lagemann, (Bloomington: Indiana University Press, 1999), 3-42.

[22] Another useful set of principles to guide PtP foundations can be found in the Volkswagen Foundation's "20 Principles." See also the Siederer "Best Practices in PtP Foundation Design and Operation," 2014.

APPENDIX A

Preliminary master list of identified PtP cases

NAME OF FOUNDATION	PTP TYPE/ # OF CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
AUSTRIA						
Erste Foundation	V	2003	$4,699,314,536		Financial	Culture; Environment; Science
Privatstiftung der Sparkasse Innsbruck Hall, Tiroler Sparkasse	V	2004	N.A.		Financial	Culture; Environment; Science
Privatstiftung Karntner Sparkasse	V	1999	$72,000,854		Financial	Culture; Environment; Science
Privatstiftung Lienzer Sparkasse	V	2003	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Bludenz	V	2004	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Frankenmarkt	V	2000	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Hainfeld	V	2001	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Krems	V	1999	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Kremstal-Pyhrn	V	2001	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Mittersill	V	2003	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Neuhofen	V	2001	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Niederosterreich	V	2000	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Pollau	V	2003	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Rattenberg	V	1999	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Reutte	V	2007	N.A.		Financial	Culture; Environment; Science
Privatstiftung Sparkasse Voitsberg-Koflach	V	2003	N.A.		Financial	Culture; Environment; Science
Privatstiftung Weinviertler Sparkasse	V	2002	N.A.		Financial	Culture; Environment; Science
Privatstiftung zur Verwaltung von Anteilsrechten	V	2001	$54,823,257		Financial	Science
Sparkasse Bad Ischl Privatstiftung	V	2002	N.A.		Financial	Culture; Environment; Science
Sparkasse der Stadt GroB-Siegharts Privatstiftung	V	2003	N.A.		Financial	Culture; Environment; Science
Sparkasse der Stadt Knittelfeld Privatstiftung	V	1999	N.A.		Financial	Culture; Environment; Science
Sparkasse Eggenburg Privatstiftung	V	2001	N.A.		Financial	Culture; Environment; Science
Sparkasse Gfohl Privatstiftung	V	2000	N.A.		Financial	Culture; Environment; Science
Sparkasse GroB-Gerungs Privatstiftung	V	2000	N.A.		Financial	Culture; Environment; Science
Sparkasse Hainburg Privatstiftung	V	1999	N.A.		Financial	Culture; Environment; Science
Sparkasse Imst Privatstiftung	V	2006	$56,804,179	2012	Financial	Culture; Environment; Science
Sparkasse Korneuburg Privatstiftung	V	2008	N.A.		Financial	Culture; Environment; Science
Sparkasse Poysdorf Privatstiftung	V	2002	N.A.		Financial	Culture; Environment; Science
Sparkasse Pregarten-Unterweissenbach Privatstiftung	V	2003	N.A.		Financial	Culture; Environment; Science
Sparkasse Ravelsbach Privatstiftung	V	2000	N.A.		Financial	Culture; Environment; Science
Sparkasse Scheibbs Privatstiftung	V	2002	N.A.		Financial	Culture; Environment; Science
Sparkasse Waldviertel-Mitte Privatstiftung	V	1999	N.A.		Financial	Culture; Environment; Science
Sparkasse Weitra Privatstiftung	V	2005	N.A.		Financial	Culture; Environment; Science
SUBTOTAL, Austria	**33**		**$4,882,942,825**			

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
BELGIUM						
King Baudouin Foundation*	III	1976	$408,157,050	2012	Lottery	General public benefit
SUBTOTAL, Belgium	**1**		**$408,157,050**			
BOLIVIA						
Fundacion Jisunu		1994	N.A.			
SUBTOTAL, Bolivia	**1**		**$0**			
BRAZIL						
Fundação Banco do Brasil**	II	1998	$881,467,408	2007	Financial	General public benefit
Fundação Telefônica**	I	1999			Public Utility	
Vale do Rio Doce**	I	1997	$1,661,333,191	2007	Public Utility	Education; Environment
SUBTOTAL, Brazil	**3**		**$2,542,800,600**			
CANADA						
Change Foundation	V	1996	$52,979,413	2012	Health Inst.	Education; Health; Science
SUBTOTAL, Canada	**1**		**$52,979,413**			
CHILE						
Fundacion Chile**	I	1976	N.A.		Public Utility	
SUBTOTAL, Chile	**1**		**$0**			
700 years of city Plzeň Foundation	I	1993	$2,438,182	2012	Various SOEs	General public benefit
ADRA Foundation	I	1992	$2,383,231	2011	Various SOEs	Social welfare
Bone Marrow Transplant Foundation	I	1992	$6,445,279	2012	Various SOEs	Health
Čapík Foundation in Putima	I			-	Various SOEs	Environment
Civil Society Development Foundation	I	1993	$6,393,352	2012	Various SOEs	Social welfare
Czech Foundation Investment Fund	I	1997	$206,748,270	2012	Various SOEs	General public benefit
F-foundation	I	1994	$2,174,193	2011	Various SOEs	Culture; Education
Foundation "CS CABOT"	I	1997	$1,401,969	2012	Various SOEs	Education
Foundation "Talent of Josef, Maria and Zdeňka Hlávek"	I	1904	$18,857,990	2012	Various SOEs	Education
Foundation ARBOR VITAE	I			-	Various SOEs	Culture
Foundation Art for Health	I	1991		-	Various SOEs	Culture; Health
Foundation Bohemiae	I	1992		-	Various SOEs	
Foundation BONA	I	1992	$2,401,377	2012	Various SOEs	Health
Foundation Cardiocenter České Budějovice	I	1992	$1,228,548	2011	Various SOEs	Health
Foundation CERGE-IE	I	1991	$2,016,773	2012	Various SOEs	Economic development; Education
Foundation Children's Brain	I	1992	$2,865,353	2011	Various SOEs	Health
Foundation Czech Literary Fund	II	1994	$8,304,017	2011	Cultural Inst.	Culture
Foundation Czech Music Fund	II	1994	$12,395,129	2012	Cultural Inst.	Culture
Foundation Czech Visual Arts Fund	II	1994		-	Cultural Inst.	Culture
Foundation EURONISA	I	1995	$2,517,276	2012	Various SOEs	Culture; Social welfare

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
Foundation for Animal Protection	I		$1,249,001	2012	Various SOEs	Social welfare
Foundation for Building a Centre for Youth in Brno-Líšeň	I	1990	$1,815,834	2012	Various SOEs	
Foundation for Children with Infantile Paralysis	I	1991		-	Various SOEs	Health; Social welfare
Foundation for Contemporary Arts	I	1999	$1,853,408	2012	Various SOEs	Culture
Foundation for development in the area of artificial nurture, metabolism and gerontology	I	1994	$1,305,540	2012	Various SOEs	Health
Foundation for Health Development	I	1999	$2,187,931	2011	Various SOEs	Health
Foundation for Saving and Revitalising Jizera Mountains	I	1993	$2,447,370	2012	Various SOEs	Environment
Foundation for Support of Firefighting Movement in CR	I		$1,461,287	2009	Various SOEs	Social welfare
Foundation Hospital in Jablonec nad Nisou	I	1993	$1,056,981	2012	Various SOEs	Health
Foundation International Needs	I	1995	$1,534,724	2012	Various SOEs	
Foundation Javorník	I	1997		-	Various SOEs	Environment
Foundation Life of an Artist	I	1992		-	Various SOEs	Culture
Foundation Mariastar Humanity	I	1990		-	Various SOEs	Social welfare
Foundation of Baroque Theatre in Český Krumlov Castle	I	1992	$1,889,956	2009	Various SOEs	Culture
Foundation of Charter 77	I	1978	$8,689,134	2012	Various SOEs	Health; Social welfare
Foundation of Czech Architecture	I	1997	$4,446,754	2012	Various SOEs	Culture
Foundation of Letovice City	I	1995		-	Various SOEs	
Foundation of Orienteering	I	1994	$1,490,795	2012	Various SOEs	Sports
Foundation of Prague Philharmonia	I	1994	$466,210	2012	Various SOEs	Culture
Foundation of Rudolf Löwy and Plzeň's jews	I	1994		-	Various SOEs	Culture
Foundation of Soccer Internationalists	I	1993		-	Various SOEs	Sports
Foundation of st. Fransis of Assisi	I	1993	$755,356	2012	Various SOEs	Economic development; Health
Foundation of Vyškov Grammar school	I	1994	$1,180,415	2012	Various SOEs	Culture; Education; Social welfare
Foundation Pangea	I	1991	$896,537	2011	Various SOEs	Culture; Education; Social welfare
Foundation Partnership	I	1991	$16,520,380	2012	Various SOEs	Environment
Foundation Patriae	I	1993		-	Various SOEs	Culture; Education; Social welfare
Foundation Preciosa	I	1993	$14,414,004	2012	Various SOEs	General public benefit
Foundation Safe Olomouc	I	1994	$964,303	2008	Various SOEs	Social welfare
Foundation Universitas Masarykiana	I	1993		-	Various SOEs	Education; Science
Foundation VERONICA	I	1992	$1,959,588	2011	Various SOEs	Environment
Foundation VIA	I	1997	$2,977,010	2012	Various SOEs	Education; Social welfare
Foundation VISION 97	I	1997	$8,398,746	2011	Various SOEs	General public benefit
Good Work of Sisters of Ch. Borromeo Foundation	I	1993		-	Various SOEs	
Health for Moravia Foundation	I		$1,866,223	2011	Various SOEs	Health
Jan Hus Educational Foundation	I	1990	$4,289,591	2011	Various SOEs	Education; Social welfare
Jedlicek Sanatorium Foundation	I	1990	$4,743,908	2012	Various SOEs	Social welfare
Karel Pavlik's Foundation	I	1992	N.A.	-	Various SOEs	Health
Landek Ostrava Foundation	I	1994	N.A.	-	Various SOEs	Culture
Náchoda Cultural and Sports Foundation	I		N.A.	-	Various SOEs	Culture; Sports
Olive's Foundation	I	1896	$2,273,842	2012	Various SOEs	Health; Social welfare
Open Society Fund Praha Foundation	I	1992	$8,702,051	2012	Various SOEs	Social welfare

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Our Child Foundation	I	1993	$3,913,086	2012	Various SOEs	Social welfare
Professor Vejdovský Foundation	I	1992	$1,748,069	2010	Various SOEs	Science
Purkyn's Foundation	I	1992	$3,775,812	2011	Various SOEs	Culture
Tereza Max Foundation	I	1997	$734,992	2012	Various SOEs	Health, Social welfare
The Association of Czech Republic Libraries Foundation	I	1998	$78,069	2011	Various SOEs	Education
The Civic Forum Foundation	I	1990	$3,495,573	2011	Various SOEs	Culture
The Crossroad Foundation	I	1995		-	Various SOEs	Health
The ICN Foundation	I	1992	$442,784	2012	Various SOEs	General public benefit
The Sporting Youth Foundation	I	1993	$1,899,593	2012	Various SOEs	Sports
The Thomas Bata Foundation	I		$4,575,314	2011	Various SOEs	Culture; Education
The Ústí Community Foundation	I	1993	$2,109,304	2012	Various SOEs	Social welfare
VDV - Olga Havel's Foundation	I	1992	$8,615,730	2012	Various SOEs	Health; Social welfare
Wild Geese Foundation	I	1997	$1,700,397	2012	Various SOEs	General public benefit
SUBTOTAL, Czech Republic	**74**		**$413,496,541**			
GERMANY						
Baden-Wurttemberg Stiftung	I	2000	$3,304,970,413			Education; Science; Social welfare
Bayerische Forschungsstiftung	I	1999	$457,251,644	2008	Public Utility	Science
Bayerische Landesstiftung	V	1972	$1,094,771,449	2012	Financial	Culture
Bayerischer Naturschutzfonds	III	1982	$22,721,672	2012	Lottery	Environment
Behring-Röntgen-Stiftung	I	2006	$137,052,992	2012	Health Inst.	Health; Science
Berchtesgadener Landesstiftung	II	1960	N.A.		Cultural Inst.	Culture
Bundesarbeitsgemeinschaft der freien Wohlfahrtspflege	III	1976	N.A.	2011	Cultural Inst.	Social welfare
Contergan Stiftung für behinderte Menschen	II	1971	$112,105,809	2011	Lottery	Social welfare
DEFA-STIFTUNG	II	1996	N.A.		Cultural Inst.	Culture
Deutsche Bundesstiftung Umwelt	I	1991	$2,891,849,111	2012	Various SOEs	Environment
Deutsche Stiftung Denkmalschutz	III	1991	$116,876,269	2011	Cultural Inst.	Culture
Deutscher Olympischer Sportbund	III	1972	N.A.		Cultural Inst.	Sports
Erchtesgadener State Foundation		1960	N.A.		Cultural Inst.	Education; Health
Flutopfer-Stiftung von 1962	II	1962	N.A.		Financial	Social welfare
Gemeinnützige Sparkassenstiftung zu Lübeck	V	2004	$267,237,842	2012	Financial	General public benefit
Hessenstiftung Familie hat Zukunft	I	2001	$19,262,225	2001	Real Estate	Social welfare
Kulturstiftung des Freistaates Sachsen	III	1993	$26,700,340	2012	Cultural Inst.	Culture
Kulturstiftung Haus Europa	II	1990	N.A.	1996	Cultural Inst.	Culture
Landesstiftung Baden-Württemberg	I	2000	$3,304,970,413	2012	Various SOEs	General public benefit
Niedersächsische Bingostiftung für Umwelt und Entwicklung	III	1989	$25,282,509	2013	Lottery	Environment
Stiftung Deutsches Hygienemuseum	II	1999	N.A.		Cultural Inst.	Culture; Education; Science
Stiftung Industrie- und Alltagskultur	II	1990	N.A.		Public Utility	Culture
Stiftung Industrieforschung	V	1974	N.A.		Financial	Economic development
Stiftung Innovation (Rheinland-Pfalz)	I	1991	$141,612,965	2009	Various SOEs	Economic development
Stiftung Kultur	I	1991	$249,606,287	1996	Various SOEs	Culture

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
Stiftung Neue Kultur	II	1990	$698,898	1996	Cultural Inst.	Culture
Stiftung Preußische Seehandlung	V	1983	$48,062,981	1983	Financial	Culture; Education; Science
Stiftung Preußischer Kulturbesitz	II	1957	N.A.		Cultural Inst.	Culture
Volkswagen Stiftung	I	1961	$3,451,084,000	2012	Various SOEs	Science
SUBTOTAL, Germany	**29**		**$15,672,117,818**			
HUNGARY						
Transfer of property of communist youth organization	II	1995	N.A.		Real Estate	
SUBTOTAL, Hungary	**1**		**$0**			
ITALY						
Compagnia di San Paolo	V	1991	$8,625,533,324	2012	Financial	General public benefit
Ente Cassa di Risparmio di Firenze	V	1991	$2,033,327,485	2012	Financial	General public benefit
Fondazione Accademia Nazionale di Santa Cecilia	II	1998	$90,011,052	2010	Cultural Inst.	General public benefit
Fondazione Agostino De Mari - Cassa di Risparmio di Savona	V	1991	$256,606,574	2012	Financial	General public benefit
Fondazione Arena di Verona Spettacoli Lirici	II	1998	$59,553,919	2010	Cultural Inst.	General public benefit
Fondazione Banca del Monte di Lombardia	V	1991	$1,173,904,187	2012	Financial	General public benefit
Fondazione Banca del Monte di Lucca	V	1991	$119,567,432	2012	Financial	General public benefit
Fondazione Banca del Monte di Rovigo	V	1991	$9,896,341	2012	Financial	General public benefit
Fondazione Banca del Monte Domenico Siniscalco Ceci di Foggia	V	1990	$46,020,122	2012	Financial	General public benefit
Fondazione Banca del Monte e Cassa di Risparmio Faenza	V	1991	$26,602,491	2012	Financial	General public benefit
Fondazione Banca Nazionale delle Comunicazioni	V	1991	$140,722,597	2012	Financial	General public benefit
Fondazione Banco di Sardegna	V	1991	$1,285,735,404	2012	Financial	General public benefit
Fondazione Banco di Sicilia	V	1991	$228,043,313	2012	Financial	General public benefit
Fondazione Carivit	V	1991	$60,915,187	2012	Financial	General public benefit
Fondazione Cassa dei Risparmi di Forli	V	1991	$629,993,584	2012	Financial	General public benefit
Fondazione Cassa di Risparmi di Livorno	V	1991	$307,268,224	2012	Financial	Culture
Fondazione Cassa di Risparmio della Provincia dell'Aquila	V	1991	$198,123,871	2012	Financial	General public benefit
Fondazione Cassa di Risparmio della Provincia di Chieti	V	1991	$133,840,361	2012	Financial	General public benefit
Fondazione Cassa di Risparmio della Provincia di Macerata	V	1991	$368,404,185	2012	Financial	General public benefit
Fondazione Cassa di Risparmio della Provincia di Teramo	V	1991	$244,868,532	2012	Financial	General public benefit
Fondazione Cassa di Risparmio della Spezia	V	1991	$2,907,553,958	2012	Financial	General public benefit
Fondazione Cassa di Risparmio delle Provincie Lombarde (Cariplo)	V	1991	$9,749,756,798	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Alessandria	V	1991	$530,196,928	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Ascoli Piceno	V	1991	$294,591,539	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Asti	V	1991	$294,517,162	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Biella	V	1991	$328,652,110	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Bolzano	V	1991	$1,069,748,561	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Bra	V	1991	$35,787,204	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Calabria e di Lucania	V	1991	$106,550,389	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Carpi	V	1991	$459,642,079	2012	Financial	General public benefit

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Fondazione Cassa di Risparmio di Carrara	V	1991	$184,295,963	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Cento	V	1991	$86,459,476	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Cesena	V	1991	$178,212,630	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Citta di Castello	V	1991	$38,365,798	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Civitavecchia	V	1991	$73,105,539	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Cuneo	V	1991	$1,978,779,460	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Fabriano e Cupramontana	V	1991	$121,782,690	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Fano	V	1991	$255,291,820	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Fermo	V	1991	$129,324,751	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Ferrara	V	1991	$292,715,463	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Foligno	V	1991	$127,401,755	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Fossano	V	1991	$74,337,451	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Genova e Imperia	V	1991	$1,938,020,389	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Gorizia	V	1991	$244,699,512	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Imola	V	1991	$334,401,395	2012	Financial	Culture; Economic development
Fondazione Cassa di Risparmio di Jesi	V	1991	$168,044,618	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Loreto	V	1991	$42,280,410	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Lucca	V	1991	$1,944,058,361	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Mirandola	V	1991	$177,931,202	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Modena	V	1991	$1,294,911,283	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Orvieto	V	1991	$98,563,333	2012	Financial	Culture
Fondazione Cassa di Risparmio di Padova e Rovigo	V	1991	$3,023,339,675	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Parma e M.C.P. di Busseto	V	1991	$1,323,764,188	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Perugia	V	1991	$876,627,899	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Pesaro	V	1991	$402,258,430	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Pisa	V	1991	$896,141,364	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Pistoia e Pescia	V	1991	$584,402,994	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Prato	V	1991	$133,793,603	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Puglia	V	1991	$186,570,450	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Ravenna	V	1991	$243,111,526	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Reggio Emilia - Pietro Manodori	V	1991	$261,099,333	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Rimini	V	1991	$224,258,318	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Salernitana	V	1991	$55,359,682	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Saluzzo	V	1991	$62,110,361	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di San Miniato	V	1991	$234,180,537	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Savigliano	V	1991	$49,995,331	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Spoleto	V	1991	$103,770,367	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Terni e Narni	V	1991	$279,141,904	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Torino	V	1991	$3,717,127,537	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Tortona	V	1991	$308,567,917	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Trento e Rovereto	V	1991	$538,710,077	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Trieste	V	1991	$650,468,562	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Udine e Pordenone	V	1991	$361,356,588	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Vercelli	V	1991	$160,658,335	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Verona Vicenza Belluno e Ancona	V	1991	$4,637,774,552	2012	Financial	General public benefit

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Fondazione Cassa di Risparmio di Vignola	V	1991	$133,176,484	2012	Financial	General public benefit
Fondazione Cassa di Risparmio di Volterra	V	1991	$225,946,648	2012	Financial	General public benefit
Fondazione Cassa di Risparmio e Banca del Monte di Lugo	V	1991	$53,692,146	2012	Financial	General public benefit
Fondazione Cassa di Risparmio in Bologna	V	1991	$1,764,920,892	2012	Financial	General public benefit
Fondazione Cassamarca	V	1991	$1,387,144,331	2012	Financial	General public benefit
Fondazione del Monte di Bologna e Ravenna	V	1991	$359,344,199	2012	Financial	General public benefit
Fondazione di Piacenza e Vigevano	V	1991	$561,015,565	2012	Financial	General public benefit
Fondazione di Venezia	V	1991	$456,137,590	2012	Financial	General public benefit
Fondazione Lombardia per l'ambiente	II	N.A	N.A	N.A	Min. Rights / Damage Set.	Environment
Fondazione Monte dei Paschi di Siena	V	1995	$1,702,696,901	2012	Financial	General public benefit
Fondazione Monte di Parma	V	1991	$178,835,746	2012	Financial	Culture
Fondazione Monte di Pieta di Vicenza	V	1991	$2,461,825	2012	Financial	General public benefit
Fondazione Pescarabruzzo	V	1991	$334,212,115	2012	Financial	General public benefit
Fondazione Roma	V	1991	$2,371,676,030	2012	Financial	General public benefit
Fondazione Teatro alla Scala (La Scala)	II	1997	$266,395,050	2010	Cultural Inst.	Culture
Fondazione Teatro Carlo Felice	II		$85,116,298	2010	Cultural Inst.	Culture
Fondazione Teatro Comunale di Bologna	II	2005	$89,610,420	2010	Cultural Inst.	Culture
Fondazione Teatro Comunale Giuseppe Verdi	II	1999	$53,168,159	2010	Cultural Inst.	Culture
Fondazione Teatro dell'Opera di Roma	II	1998	$84,123,423	2010	Cultural Inst.	Culture
Fondazione Teatro La Fenice di Venezia	II	1999	$106,088,288	2010	Cultural Inst.	Culture
Fondazione Teatro Lirico di Caglinari	II		$47,566,904	2010	Cultural Inst.	Culture
Fondazione Teatro Massimo	II		$124,276,084	2010	Cultural Inst.	Culture
Fondazione Teatro Petruzzelli e Teatri di Bari	II	2003	$10,942,571	2010	Cultural Inst.	Culture
Fondazione Teatro Regio - Torino	II		$115,528,834	2010	Cultural Inst.	Culture
Fondazione Teatro San Carlo di Napoli	II		$192,878,418	2010	Cultural Inst.	Culture
Fondazione Varrone Cassa di Risparmio di Rieti	V	1991	$153,269,242	2012	Financial	General public benefit
Istituto Banco di Napoli Fondazione	V	1991	$168,876,602	2012	Financial	General public benefit
Teatro del Maggio Musicale Fiorentino - Fondazione	I		$79,285,446	2010	Cultural Inst.	Culture
SUBTOTAL, Italy	**103**		**$72,021,893,957**			
MOROCCO						
Hussan II Foundation	I		N.A.			
SUBTOTAL, Morocco	**1**		**$0**			
NETHERLANDS						
Oranje Foundation*	III	2002	$497,752,500		Lottery	Social welfare
SUBTOTAL, Netherlands	**1**		**$497,752,500**			
NEW ZEALAND						
ASB Community Trust	V	1988	$822,415,800		Financial	General public benefit
Auckland Energy Consumer Trust	V	1993	$1,693,209,000		Public Utility	General public benefit
BayTrust	V	1988	$120,137,210		Financial	General public benefit
Buller Energy Trust	V	1993	$16,932,090		Public Utility	
Canterbury Community Trust	V	1988	$410,401,610		Financial	General public benefit
Central Hawkes Bay Consumer Power Trust	V	1993	$39,508,210		Public Utility	General public benefit
Community Trust of Southland	V	1988	$133,844,140		Financial	General public benefit

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
Community Trust, Wellington	V	1988	$37,089,340		Financial	General public benefit
Counties Power Trust	V	1993	$141,907,040		Public Utility	General public benefit
Eastern and Central Community Trust, Inc.	V	1988	$110,461,730		Financial	General public benefit
Eastern Bay Energy Trust	V	1993	$53,215,140		Public Utility	General public benefit
Eastland Community Trust	V	1988	$185,446,700		Financial	General public benefit
Electra Trust	V	1993	$105,623,990		Public Utility	General public benefit
Hawkes Bay Power Trust	V	1993	$246,724,740		Public Utility	General public benefit
King Country Electricity Power Trust	V	1993	$28,220,150		Public Utility	General public benefit
Line Trust South Canterbury	V	1993	$34,670,470		Public Utility	General public benefit
Mainpower Trust	V	1993	$160,451,710		Public Utility	General public benefit
Marlborough	V	1993	$193,509,600		Public Utility	General public benefit
Network Tasman	V	1993	$129,006,400		Public Utility	General public benefit
Northpower Trust	V	1993	$204,797,660		Public Utility	General public benefit
Otago Community Trust	V	1988	$170,933,480		Financial	General public benefit
Rotorua Energy Charitable Trust	V	1993	$105,623,990		Public Utility	General public benefit
Scanpower Trust	V	1993	$22,172,975		Public Utility	General public benefit
Southland	V	1993	N.A.		Public Utility	
Southland Community Trust	V	1989	$111,268,020		Financial	General public benefit
Tauranga Energy Consumers Trust	V	1993	$623,262,170		Public Utility	General public benefit
Top Energy Trust	V	1993	$78,774,533		Public Utility	General public benefit
Trust Waikato	V	1988	$211,247,980		Financial	General public benefit
TSB Community Trust	V	1988	$371,377,174		Financial	General public benefit
Waipa Trust	V	1993	N.A		Public Utility	General public benefit
Waitaki	V	1993	$55,230,865		Public Utility	General public benefit
Waitomo	V	1993	N.A		Public Utility	General public benefit
WEL	V	1993	$331,707,706		Public Utility	General public benefit
West Coast	V	1993	$93,529,640		Public Utility	General public benefit
West Coast Community Trust	V	1988	$4,434,595		Financial	General public benefit
Whanganui Community Foundation	V	1988	$26,607,570		Financial	General public benefit
SUBTOTAL, New Zealand	**36**		**$7,073,743,428**			
NORWAY						
Cultiva	I	2011	$281,791,920	2008	Public Utility	
Freedom of Expression Foundation	V	1974	N.A.		Public Utility	Culture; Education; Social welfare
Savings Bank Foundation DnB NOR 8	V	2002	N.A.		Financial	
SUBTOTAL, Norway	**3**		**$281,791,920**			
PERU						
Proinversion	II		N.A.		Various SOEs	
SUBTOTAL,Peru	**1**		**$0**			
POLAND						
Foundation for Polish Science (Transaction I)	II	1991	$118,421,344	2012	State Fund	Science
Foundation for Polish Science	I	2004			Various SOEs	Science
Foundation for Polish-German Cooperation	IV	1991	$131,612,535	2012	Debt Swap	General public benefit
Polish-American Freedom Foundation	II	1990	$261,250,180	2011	Public Utility	Education; Social welfare
SUBTOTAL, Poland	**4**		**$511,284,058**			

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
SLOVAKIA						
Slovak Savings Bank Foundation (Nadácia Slovenskej sporitel'ne)	I	2004	$10,260,800	2012	Financial	General public benefit
Youth Foundation (Nadacia mla deze)	II	2002	$14,457,700	2011	Real Estate	Culture; Social welfare
SUBTOTAL, Slovakia	**2**		**$24,718,500**			
SWEDEN						
Almundsryds Sparbanksstiftelse	V	2007	$19,491,613	2012	Financial	General public benefit
Göteryds Sparbanksstiftelse	V	2007	$4,076,884	2012	Financial	General public benefit
Långasjö Sockens Sparbanksstiftelse	V	2007	$12,598,076	2012	Financial	General public benefit
Skatelövs och Västra Torsås Sparbanksstiftelse	V	2007	$13,551,540	2012	Financial	General public benefit
Sparbanksstiftelsen ALFA	V	1991	$197,740,688	2012	Financial	General public benefit
Sparbanksstiftelsen Bergslagen	V	2000	$34,426,617	2012	Financial	General public benefit
Sparbanksstiftelsen Dalarna	V	1991	$7,674,015	2012	Financial	General public benefit
Sparbanksstiftelsen Farstorp	V	2008	$2,956,874	2012	Financial	General public benefit
Sparbanksstiftelsen Färs och Frosta	V	1999	$83,517,293	2012	Financial	General public benefit
Sparbanksstiftelsen Första	V	1991	$2,406,956	2012	Financial	General public benefit
Sparbanksstiftelsen Glimåkra	V	2008	$12,869,738	2012	Financial	General public benefit
Sparbanksstiftelsen Gripen	V	2003	$60,021,551	2012	Financial	General public benefit
Sparbanksstiftelsen Jämtlands län	V	1991	$7,407,812	2012	Financial	General public benefit
Sparbanksstiftelsen Kronan	V	1991	$66,713,100	2012	Financial	General public benefit
Sparbanksstiftelsen Lidköping	V	2000	$63,896,720	2012	Financial	General public benefit
Sparbanksstiftelsen Norrbotten	V	1991	$3,433,454	2012	Financial	General public benefit
Sparbanksstiftelsen Norrland	V	1991	$16,079,433	2012	Financial	General public benefit
Sparbanksstiftelsen Nya	V	1991	$34,073,585	2012	Financial	General public benefit
Sparbanksstiftelsen Rekarne	V	1996	$18,544,088	2012	Financial	General public benefit
Sparbanksstiftelsen Röke	V	2008	$3,869,934	2012	Financial	General public benefit
Sparbanksstiftelsen Skaraborg	V	2000	$80,876,270	2012	Financial	General public benefit
Sparbanksstiftelsen Skåne	V	1991	$36,700,703	2012	Financial	General public benefit
Sparbanksstiftelsen Söderhamn	V	2000	$22,049,159	2012	Financial	General public benefit
Sparbanksstiftelsen Tjustbygden	V	2001	$59,343,675	2012	Financial	General public benefit
Sparbanksstiftelsen Upland	V	1991	$3,621,480	2012	Financial	General public benefit
Sparbanksstiftelsen Varberg	V	2000	$114,154,797	2012	Financial	General public benefit
Sparbanksstiftelsen Vimmerby	V	2001	$9,973,237	2012	Financial	General public benefit
Sparbanksstiftelsen Vinslöv	V	2008	$29,371,874	2012	Financial	General public benefit
Sparbanksstiftelsen Väst	V	1991	$5,875,790	2012	Financial	General public benefit
Sparbanksstiftelsen Öland	V	1998	$10,660,388	2012	Financial	General public benefit
Sparbanksstiftelsen Öresund - sydvästra Skåne	V	2010	$349,220,985	2012	Financial	General public benefit
Stiftelsen FöreningsSparbanken Sjuhärad	V	1995	$76,870,085	2012	Financial	General public benefit
Åryds Sparbanksstiftelse	V	2007	$3,172,779	2012	Financial	General public benefit
Älmeboda Sparbanksstiftelse	V	2007	$11,293,332	2012	Financial	General public benefit
Sparbanksstiftelsen Alingsås	V	2001	$262,502	2012	Financial	General public benefit
SUBTOTAL, Sweden	**35**		**$1,478,797,019**			

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
UNITED KINGDOM						
Anglian Water Trust Fund	I	1996	$0	2012	Public Utility	Social welfare
Bank of Scotland Foundation	V	2002	$0	2012	Financial	General public benefit
British Gas Energy Trust	I	2004	$0	2012	Public Utility	Economic development; Social welfare
EDF Energy Trust	I	2003	$0	2012	Public Utility	Economic development; Social welfare
EOS Foundation	I	2003	$0	2012	Public Utility	Social welfare
Friends Provident Foundation*	V	2001	$59,185,665	2012	Min. Rights / Damage Set.	Economic development
HBOS Foundation	V	2002	$0	2012	Financial	General public benefit
Lloyds TSB Foundation for England & Wales*	V	1986	$968,492,700	2012	Financial	General public benefit
Lloyds TSB Foundation for Northern Ireland*	V	1986	$109,548,322	2012	Financial	General public benefit
Lloyds TSB Foundation for Scotland*	V	1986	$403,501,730	2012	Financial	General public benefit
Lloyds TSB Foundation for the Channel Islands*	V	1986	$62,835,161	2012	Financial	General public benefit
Nationwide Foundation	V	1998	$42,411,541	2012	Financial	Economic development; Social welfare
Northern Rock Foundation	V	1997	$877,177,674	2012	Financial	Social welfare
Santander UK Charitable Foundation	V	1990	$26,595,117	2012	Financial	Economic development; Education
Severn Trent Water Trust Fund	I	1997	$0	2012	Public Utility	Economic development; Social welfare
Shetland Charitable Trust	III	1976	$620,911,431	2012	Public Utility	General public benefit
South Staffordshire Water Trust Fund	I	1993	$0	2012	Public Utility	Social welfare
Southern Water Charitable Trust Fund	I	2007	$0	2012	Public Utility	Social welfare
Thames Water Trust Fund	I	2008	$0	2012	Public Utility	Social welfare
United Utilities Trust Fund	I	2005	$0	2012	Public Utility	Social welfare
Yorkshire Water Community Trust	I	1995	$0	2012	Public Utility	Social welfare
SUBTOTAL, United Kingdom	**21**		**$3,170,659,340**			
UNITED STATES OF AMERICA						
Allegany Franciscan Ministries, Inc.	IV	1998	$115,350,000	2008	Health Inst.	Health
Alliance Healthcare Foundation	V	1988	$65,000,000	2008	Health Inst.	Health
Andalusia Health Services, Inc.	V	1981	$2,478,976	2006	Health Inst.	Education
Annie Penn Community Trust	V	2001	$24,265,000	2008	Health Inst.	Education; Health
Anthem Foundation of Ohio	V	1995	$29,000,000	2008	Health Inst.	Education; Health
Archstone Foundation	V	1985	$86,551,000	2008	Health Inst.	Health
Asbury Foundation of Hattiesburg, Inc.	V	1997	$36,000,000	2006	Health Inst.	Health
Austin-Bailey Health and Wellness Foundation	V	1996	$6,575,000	2008	Health Inst.	Health
Baptist Community Ministries	V	1924	$190,000,000	2006	Health Inst.	Education; Health
Baptist Healing Trust	V	2002	$100,000,000	2008	Health Inst.	Health
Baptist Health Foundation of San Antonio	V	2004	$109,000,000	2008	Health Inst.	Education; Health
Barberton Community Foundation	V	1996	$94,391,950	2006	Health Inst.	Education; Health; Sports
Bedford Community Health Foundation	V	1984	$3,714,000	2008	Health Inst.	Education; Health
Bernardine Franciscan Sisters Foundation, Inc.	V	1996	$12,105,000	2008	Health Inst.	Health
BHHS Legacy Foundation	V	2001	$96,172,604	2008	Health Inst.	Education; Health
Birmingham Foundation	V	1996	$17,000,000	2008	Health Inst.	Education; Health
Brandywine Health Foundation	V	2001	$25,400,000	2008	Health Inst.	Health
Calhoun County Community Foundation	V	1997	$21,500,000	2006	Health Inst.	Education; Health
California HealthCare Foundation	V	1996	$640,000,000	2008	Health Inst.	Health

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
Cape Fear Memorial Foundation	V	1996	$63,000,000	2006	Health Inst.	Health
Care Foundation	V	1999	$117,343,877	2008	Health Inst.	Education; Health
Caring for Colorado Foundation	V	1999	$125,000,000	2008	Health Inst.	Health
Carlisle Area Health & Wellnes Foundation	V	2001	$79,545,000	2008	Health Inst.	Education; Health
Central Florida Healthcare Development Foundation	V	1997	$126,750,308	2006	Health Inst.	Education; Health
Central Susquehanna Community Foundation	V	1998	$28,000,000	2008	Health Inst.	Education; Health
Chester Healthcare Foundation	V	2004	$17,039,861	2008	Health Inst.	Health
Chestnut Hill Health Care Foundation	V	2005	$26,000,000	2006	Health Inst.	Education; Health
Children's Fund of Connecticut	V	1992	$24,962,000	2008	Health Inst.	Health
Christy-Houston Foundation	V	1986	$71,367,397	2006	Health Inst.	Education; Health
Colorado Springs Osteopathic Foundation	V	1984	$11,497,701	2006	Health Inst.	Education; Health
Columbus Medical Association Foundation	V	1958	$74,000,000	2006	Health Inst.	Health
Community First Foundation	V	1975	$44,000,000	2008	Health Inst.	Health; Social welfare
Community Foundation of Calhoun County	V	1995	$20,000,000	2008	Health Inst.	Education; Health
Community Foundation of South Lake County	V	1995	$10,000,000	2008	Health Inst.	General public benefit
Community Health Endowment of Lincoln	V	1997	$50,000,000	2008	Health Inst.	Health
Community Health Foundation	V	1999	$5,896,965	2006	Health Inst.	Health
Community Health Foundation of Western and Central New York	V	2002	$85,400,000	2008	Health Inst.	Health
Community Health Partnership	V	1997	$1,359,024	2006	Health Inst.	Education; Health
Community Memorial Foundation	V	1995	$73,113,000	2008	Health Inst.	Health
CommunityCare Foundation, Inc.	V	1998	$134,500,000	2006	Health Inst.	Education; Health
Con Alma Health Foundation, Inc.	V	2001	$28,000,000	2008	Health Inst.	Health
Connecticut Health Foundation	V	1999	$95,483,000	2008	Health Inst.	Health
Consumer Health Foundation	V	1994	$30,000,000	2008	Health Inst.	Health
Dakota Medical Foundation	V	1996	$90,000,000	2008	Health Inst.	Health
Danville Regional Foundation	V	2005	$150,081,000	2008	Health Inst.	General public benefit
Daughters of Charity Foundation of St. Louis	V	1995	$2,395,000	2008	Health Inst.	Health
Deaconess Community Foundation	V	1994	$35,000,000	2008	Health Inst.	Social welfare
Deaconess Foundation	V	1972	$90,000,000	2008	Health Inst.	Social welfare
Desert Healthcare District	V	1998	$2,193,000	2008	Health Inst.	Health
Dr. John T. Macdonald Foundation, Inc.	V	1992	$23,500,000	2008	Health Inst.	Health
Drs. Burce and Lee Foundation	V	1995	$160,000,000	2006	Health Inst.	Education; Health
Duneland Health Council	V	1997	$7,891,348	2006	Health Inst.	Education; Health
Endowment for Health	V	1999	$73,260,000	2008	Health Inst.	Economic development; Health; Social welfare
EyeSight Foundation of Alabama	V	1997	$55,778,000	2008	Health Inst.	Education; Health
First Hospital Foundation	V	1997	$30,275,000	2008	Health Inst.	Health
FISA Foundation	V	1996	$31,179,266	2008	Health Inst.	Health
Foundation for a Health Kentucky	V	2002	$44,500,000	2008	Health Inst.	Health
Foundation for Community Health	V	2003	$17,289,000	2008	Health Inst.	Health
Foundation for Seacoast Health	V	1984	$54,122,000	2008	Health Inst.	Education; Health
Foundations Community Partnership	V	2007	$17,000,000	2008	Health Inst.	Health
Four County Community Foundation	V	1987	$6,200,000	2008	Health Inst.	Education; Health; Social welfare
Franklin Benevolent Corporation (Metta Fund)	V	1957	$64,431,586	2008	Health Inst.	Health
Galesburg Community Foundation	V	2004	$16,000,000	2008	Health Inst.	Health
Georgia Baptist Health Care Ministry Foundation	V	1993	$214,078,504	2006	Health Inst.	Health
Good Samaritan Foundation, Inc.	V	1995	$1,794,408	2006	Health Inst.	Education; Health; Science

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
Grant Healthcare Foundation	V	1996	$16,000,000	2008	Health Inst.	Health
Greater Saint Louis Health Foundation	V	1987	$4,000,000	2008	Health Inst.	Education; Health
Green Tree Community Health Foundation	V	2004	$26,000,000	2008	Health Inst.	Health
Grotta Fund for Senior Care	V	1993	$6,394,642	2006	Health Inst.	Health
Gulf Coast Community Foundation of Venice	V	1995	$200,000,000	2008	Health Inst.	General public benefit
Gulf Coast Medical Foundation	V	1983	$18,000,000	2006	Health Inst.	Health
Health Care Foundation of Greater Kansas City	V	2003	$381,000,000	2008	Health Inst.	Health
Health Foundation of South Florida	V	1993	$115,000,000	2008	Health Inst.	Education; Health
Healthcare Foundation of Northern Lake County	V	2006	$33,000,000	2008	Health Inst.	Health
Healthcare Georgia Foundation, Inc.	V	1999	$93,901,000	2008	Health Inst.	Health
Helena Health Foundation	V	2002	$9,860,000	2006	Health Inst.	Education; Health
Hillcrest Foundation, Inc.	V	1984	$29,000,000	2008	Health Inst.	Culture; Education; Health
Hilton Head Island Foundation	V	1994	$34,552,307	2006	Health Inst.	General public benefit
HNHfoundation	V	1997	$17,839,000	2008	Health Inst.	Education; Health
Illini Community Health	V	1948	$1,096,258	2006	Health Inst.	Education; Health
Incarnate Word Foundation	V	1997	$22,091,000	2008	Health Inst.	Health; Social welfare
Institue for Health Care Advancement	V	1993	$19,000,000	2008	Health Inst.	Education; Health
Irvine Health Foundation	V	1985	$24,700,000	2007	Health Inst.	Health
J. Marion Sims Foundation, Inc.	V	1995	$55,644,000	2008	Health Inst.	Education; Health
Jewish Healthcare Foundation	V	1990	$98,000,000	2008	Health Inst.	Health
John Randolph Foundation	V	1995	$34,600,000	2006	Health Inst.	Health
John Rex Endowment	V	2000	$60,000,000	2008	Health Inst.	Health
K21 Health Foundation	V	1999	$55,000,000	2008	Health Inst.	Education; Health
Kansas Health Foundation	V	1985	$382,885,000	2008	Health Inst.	Health
Lancaster Osteopathic Health Foundation	V	1999	$8,346,000	2008	Health Inst.	Health
LMC Community Foundation	V	1975	$48,000,000	2006	Health Inst.	General public benefit
Lower Pearl River Valley Foundation	V	1998	$13,005,000	2008	Health Inst.	Education; Health
Lutheran Foundation of St. Louis	V	1984	$70,964,000	2008	Health Inst.	General public benefit
MacNeal Health Foundation	V	1999	$88,560,000	2006	Health Inst.	Education; Health; Science
Maine Health Access Foundation	V	2000	$90,000,000	2008	Health Inst.	Health; Social welfare
Mary Black Foundation	V	1996	$53,000,000	2008	Health Inst.	Health
Mat-Sue Health Foundation	V	1952	$70,000,000	2008	Health Inst.	Health; Social welfare
McAuley Ministries	V	2008	$43,200,000	2008	Health Inst.	Education; Health
Menorah Legacy Foundation	V	2003	$22,000,000	2008	Health Inst.	Health; Social welfare
Methodist Healthcare Ministries of South Texas, Inc.	V	1995	$433,000,000	2008	Health Inst.	Education; Health
MetroWest Community Health Care Foundation	V	1999	$71,846,000	2008	Health Inst.	Health
Michael Reese Health Trust	V	1997	$92,000,000	2008	Health Inst.	Health; Social welfare
Mid-Iowa Health Foundation	V	1984	$16,034,180	2006	Health Inst.	Health
Missouri Foundation for Health	V	2000	$827,400,000	2008	Health Inst.	Health; Social welfare
Moses Cone-Wesley Long Community Health Foundation	V	1997	$90,000,000	2008	Health Inst.	Education; Health
Mount Zion Health Fund	V	1990	$35,000,000	2008	Health Inst.	Health
Mountainside Health Foundation	V	1990	$23,900,000	2008	Health Inst.	Health
New York State Health Foundation	V	2006	$293,000,000	2008	Health Inst.	Health; Social welfare
North Penn Community Health Foundation	V	2002	$32,962,000	2008	Health Inst.	Health; Social welfare
Northwest Health Foundation	V	1997	$98,000,000	2008	Health Inst.	Health
Northwest Osteopathic Medical Foundation	V	1984	$4,500,000	2008	Health Inst.	Education; Health

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
Northern Virginia Health Foundation	V	2005	$30,939,000	2008	Health Inst.	Health
Obici Healthcare Foundation	V	2006	$31,875,720	2006	Health Inst.	Health; Social welfare
Osteopathic Founders Foundation	V	1996	$11,114,000	2008	Health Inst.	Health
Osteopathic Heritage Foundations	V	1960	$192,664,000	2008	Health Inst.	Education; Health; Science
Osteopathic Institute of the South	V	1986	$2,235,000	2008	Health Inst.	Education; Health
Pajaro Valley Community Health Trust	V	1998	$10,752,153	2008	Health Inst.	Education; Health
Palm Healthcare Foundation, Inc.	V	2001	$70,000,000	2008	Health Inst.	Education; Health
Paso del Norte Health Foundation	V	1995	$133,207,000	2008	Health Inst.	Education; Health; Social welfare
Phoenixville Community Health Foundation	V	1997	$49,800,000	2008	Health Inst.	Health
Portsmouth General Hospital Foundation	V	1988	$11,297,388	2008	Health Inst.	Health
Pottstown Area Health & Wellness Foundation	V	2003	$67,000,000	2008	Health Inst.	Education; Health
Presbyterian Health Foundation	V	1985	$180,000,000	2008	Health Inst.	Health; Science
Prime Health Foundation	V	1989	$6,000,000	2008	Health Inst.	Education; Health; Social welfare
Quad City Osteopathic Foundation	V	1984	$4,200,000	2006	Health Inst.	Education
Quantum Foundation	V	1995	$119,000,000	2008	Health Inst.	Education; Health; Social welfare
QueensCare	V	1998	$399,125,000	2008	Health Inst.	Health; Social welfare
Ravenswood Health Care Foundation	V	1999	$17,000,000	2008	Health Inst.	Education; Health
REACH Community Health Foundation	V	1998	$116,000,000	2006	Health Inst.	Education; Health
REACH Healthcare Foundation	V	2004	$142,600,000	2008	Health Inst.	Health
Riverside Community Health Foundation	V	1973	$68,000,000	2008	Health Inst.	Health; Social welfare
Roanoke-Chowan Foundation, Inc.	V	1998	$10,700,000	2008	Health Inst.	Health
Rose Community Foundation	V	1995	$219,097,000	2008	Health Inst.	Education; Health
Saint Luke's Foundation of Cleveland, Ohio	V	1997	$156,000,000	2008	Health Inst.	Health; Social welfare
Salem Health & Wellness Foundation	V	2002	$48,756,342	2006	Health Inst.	Education; Health
San Angelo Health Foundation	V	1995	$44,867,000	2008	Health Inst.	Health
SHARE Foundation	V	1996	$80,000,000	2008	Health Inst.	Health
Sierra Health Foundation	V	1984	$127,000,000	2008	Health Inst.	Health
Sisters of Charity Fondation of South Carolina	V	1996	$88,800,000	2006	Health Inst.	Economic development; Education; Social welfare
Sisters of Charity Foundation of Canton	V	1996	$79,000,000	2008	Health Inst.	Economic dev.; Health; Social welfare
Sisters of Charity Foundation of Cleveland	V	1996	$82,038,678	2006	Health Inst.	Economic development; Health; Social welfare
Sisters of Mercy of North Carolina Foundation, Inc.	V	1995	$239,106,484	2006	Health Inst.	Economic development; Social welfare
Sisters of St. Joseph Charitable Fund	V	1996	$21,020,000	2008	Health Inst.	Education; Health
South Lake County Community Foundation	V	1995	$9,128,910	2006	Health Inst.	Health
Spalding Health Care Trust	V	1984	$28,271,546	2006	Health Inst.	Education; Health; Social welfare
St. David's Community Health Foundation Initiatives	V	1996	$1,230,346	2008	Health Inst.	Health
St. Joseph Community Health Foundation	V	1998	$22,706,000	2008	Health Inst.	Health
St. Joseph's Community Health Foundation	V	1998	$7,000,000	2008	Health Inst.	Health
St. Joseph's Health Ministries Foundation	V	2000	$6,231,575	2006	Health Inst.	Health
St. Luke's Foundation	V	1983	$9,040,101	2006	Health Inst.	Health
St. Luke's Health Initiatives	V	1995	$80,382,000	2008	Health Inst.	Health
Sunflower Foundation: Health Care for Kansas	V	2000	$83,594,000	2008	Health Inst.	Education; Health
Taylor Community Foundation	V	1997	$8,600,000	2008	Health Inst.	Education; Health
The Alleghany Foundation	V	1995	$52,158,000	2008	Health Inst.	General public benefit
The Arthur Foundation	V	1999	$100,000,000	2008	Health Inst.	Education; Health; Science
The Assisi Foundation of Memphis, Inc.	V	1994	$244,328,720	2008	Health Inst.	General public benefit
The Blowitz-Ridgeway Foundation	V	1984	$19,375,000	2008	Health Inst.	Health; Social welfare

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
The Brentwood Foundation	V	1994	$23,700,000	2006	Health Inst.	Education; Health; Science
The Byerly Foundation	V	1995	$17,100,000	2008	Health Inst.	Economic development; Education; Social welfare
The California Endowment	V	1996	$3,547,672,000	2008	Health Inst.	Health; Social welfare
The California Wellness Foundation	V	1996	$679,900,000	2008	Health Inst.	Education; Environment; Health
The Cameron Foundation	V	2003	$89,883,000	2008	Health Inst.	General public benefit
The Colorado Health Foundation	V	1995	$950,000,000	2008	Health Inst.	Education; Health
The Colorado Trust	V	1985	$337,239,618	2008	Health Inst.	Health
The Georgia Health Foundation	V	1985	$9,045,000	2008	Health Inst.	Health
The Greater Rochester Health Foundation	V	2006	$200,000,000	2007	Health Inst.	Health
The Harvest Foundation	V	2002	$202,601,000	2007	Health Inst.	Education; Health; Social welfare
The Health Foundation of Central Massachusetts, Inc.	V	1999	$49,499,000	2008	Health Inst.	Health; Social welfare
The Health Foundation of Greater Cincinnati	V	1978	$181,300,000	2008	Health Inst.	Health; Social welfare
The Health Foundation of Greater Indianapolis, Inc.	V	1985	$23,110,000	2008	Health Inst.	Education; Health
The Health Trust	V	1996	$89,000,000	2008	Health Inst.	Health
The HealthCare Foundation for Orange County	V	1996	$13,000,000	2008	Health Inst.	Education; Health
The Healthcare Foundation of New Jersey	V	1996	$114,000,000	2008	Health Inst.	Health
The Horizon Foundation	V	1998	$91,000,000	2007	Health Inst.	Health
The Jackson Foundation, Inc.	V	1995	$76,609,673	2006	Health Inst.	Education
The Jenkins Foundation	V	1995	$42,000,000	2006	Health Inst.	Health
The Jewish Foundation of Cincinnati	V	1995	$60,000,000	2008	Health Inst.	Health; Social welfare
The Memorial Foundation	V	1994	$170,000,000	2008	Health Inst.	Education; Health
The Mt. Sinai Health Care Foundation	V	1996	$102,000,000	2008	Health Inst.	Health; Science
The Patron Saints Foundation	V	1986	$9,823,000	2008	Health Inst.	Health
The Rapides Foundation	V	1994	$9,823,000	2008	Health Inst.	Education; Health
The Valley Foundation	V	1984	$55,342,624	2006	Health Inst.	Education; Health; Social welfare
Truman Heartland Community Foundation	V	1994	$26,000,000	2006	Health Inst.	General public benefit
Tucson Osteopathic Medical Foundation	V	1986	$7,437,000	2008	Health Inst.	Education; Health
Tuscora Park Health and Wellness Foundation	V	1996	$4,206,417	2008	Health Inst.	Education; Health
Two Rivers Health & Wellness Foundation	V	2001	$8,800,000	2008	Health Inst.	Health
UniHealth Foundation	V	1998	$233,952,000	2008	Health Inst.	Health
Union Labor Health Foundation	V	1997	$4,442,000	2006	Health Inst.	Health
United Methodist Health Ministry Fund	V	1986	$52,000,000	2008	Health Inst.	Health
Universal Health Care Foundation of Connecticut, Inc.	V	2000	$29,492,000	2008	Health Inst.	Health
Valley Care Association	V	1999	$7,928,073	2006	Health Inst.	Health
Washington Square Health Foundation, Inc.	V	1985	$16,993,667	2008	Health Inst.	Education; Health
Welborn Baptist Foundation, Inc.	V	1998	$82,000,000	2008	Health Inst.	General public benefit
Westlake Health Foundation	V	1999	$80,000,000	2008	Health Inst.	Health
Williamsburg Community Health Foundation	V	1996	$104,800,000	2008	Health Inst.	Health; Social welfare
Winter Park Health Foundation	V	1994	$93,000,000	2008	Health Inst.	Health
Woodruff Health Foundation	V	1986	$9,259,000	2008	Health Inst.	Health
Wyandotte Health Foundation	V	1997	$47,095,000	2006	Health Inst.	Education; Health
Wythe-Bland Community Foundation	V	2005	$40,175,000	2008	Health Inst.	Education; Health; Social welfare
SUBTOTAL, United States	**199**		**$19,988,479,197**			

NAME OF FOUNDATION	PTP TYPE/CASES	YEAR ESTABLISHED	ASSETS (US$) (JULY 31, 2013)	ASSET YEAR	SOURCE OF ASSETS	FOCUS OF ACTIVITY
URUGUAY						
Fundacion ACAC**					Financial	
SUBTOTAL, Uruguay	**1**		**$0**			
TOTAL, OVERALL	**539**		**$134,760,796,946**			

**Estimated asset equivalent of stream of resources from annual lottery or covenanted proceeds.*
***PtP-type transaction not confirmed*

APPENDIX B

PtP Discovery Associates and assignments

NAME, *AFFILIATION*	HOME COUNTRY	REGION COVERED
Feliz Bikman, *Sanbanci Foundation*	Turkey	Aegean Region (Turkey, Greece)
Faith Kisinga	Kenya	English-speaking Africa Region
Jeanne Elone, *TrustAfrica*	Senegal	French-Speaking Africa Region
Gabriel Berger, *Univesidad de San Andres*	Argentina	Spanish-Speaking Latin America
Marcos Kisil, *Instituto para o Desenvolviment*	Brazil	Brazil
Pooran Pandey, *Times of India Foundation*	India	South Asia Region
Juree Vichit-Vadakan	Thailand	Southeast Asia (Thailand, Laos, Vietnam, Myanmar, Malaysia, Indonesia, Philippines, Cambodia
Mark Lyons, *Australian Technical University*	Australia	Asia Pacific Rim (China, Korea, Japan, New Zealand, Australia)
Gian Paolo Barbetta, *Catholic University of Milano*	Italy	Southern Europe (Italy, Spain, Portugal, France)
Rupert Strachwitz, *Maecenata Institute*	Germany	Northern Europe (Germany, Austria, Switzerland, the Netherlands, Belgium, Denmark, Sweden
Nigel Siederer, *Good Foundations*	United Kingdom	United Kingdom, Ireland, Canada
Boris Strecansky, *Centre of Philanthropy*	Slovakia	Central and Eastern Europe
Amani Kandil, *Arab Network for NGOs*	Egypt	Middle East Region

APPENDIX C

Government involvement in board selection and membership for PtP case-study foundations

		ORIGINAL *% of Government:*			PRESENT % of Government:			
FOUNDATION	TYPE	***Board size***	*Selection*	*Members*	**Board Size**	Selection	Members	
Volkswagen Foundation	I	***14***	*100%*	*50%*	**14**	100%	36%	7 Board members chosen by GFR/7 by State of Lower Saxony; 5 scientists at founding/ 7 more recently.
German Environmental Foundation	I	***14***	*100%*	*57%*	**14**	100%	57%	5 leaders of GFR + 3 state secretaries+ reps of labor, business, German League for Nature+ 2 scientists.
Baden-Würtemberg Foundation	I	***18***	*100%*	*100%*	**18**	100%	100%	9 reps of B-W government+ 9 from B-W Parliament; Minister of Finance is Vice Manager.
Rheinland-Pfalz Foundation for Innovation	I	***4***	*100%*	*100%*	**4**	100%	100%	3 state Government Ministers + State Chancellor comprise Board of Directors.
ASB Community Trust	V	***15***	*100%*	*0%*	**15**	100%	0%	Minister of Finance selects all Board members.
Community Trust of Southland	V	***10***	*100%*	*0%*	**10**	100%	0%	Minister of Finance selects all Board members.
Foundation for Polish Science	I	***7***	*100%*	*43%*	**7**	100%	43%	Council members must be professors. Appointed by Polish Minister of Science. 3 from government Council for Science; 2 from prior Council, rest from lists developed by outgoing Council.
Foundation for Polish-German Cooperation	IV	***8***	*100%*	*100%*	**10**	100%	20%	German and Polish gov'ts each select 1 co-chair and 3 Board members.
La Scala Foundation	II	***9***	*62.5%*	*11%*	**9**	62.5%	11%	5 governing bodies. 6 of 9 on Board of Admins are governmental nominees. Mayor of Milan is President of Board.
Lombardy Foundation for the Environment	II	***12***	*58%*	*58%*	**12**	58%	58%	Lombard Government appoints 7; +5 university rectors.
Cariplo Foundation	V	***40***	*50%*	*0%*	**40**	50%	0%	Governing Board chooses 20 members from lists of 3 names each provided by various local authorities and chambers of commerce + 12 experts from lists of 3 each pro-vided by civil society orgs; 7 selected freely by Board.
Fondazione CRT	V	***24***	*62.5%*	*0%*	**24**	62.5%	0%	12 representatives of local authorities + 2 representatives of Chambers of Commerce+1 member of Regional Coordination Committee of Universities.

FOUNDATION	TYPE	ORIGINAL % of Government: Board size	Selection	Members	PRESENT % of Government: Board Size	Selection	Members	
Slovak Youth Foundation	II	*9*	*33%*	*33%*	**9**	33%	33%	9 board members—3 each from 3 Founding entities: Ministry of Education, University Student Org, Youth Council.
Compagnia di San Paolo	V	*21*	*57%*	*0%*	**21**	57%	0%	5 representatives of local and regional governments,+ rep of Pres. of EU Commission, 6 reps of Chambers of Commerce,+1 rep of National Commission on Equal Opportunities, 1 rep of Regional Council for Voluntary Work+2 Academy reps +4 Board choices.
King Baudouin Foundation	III	*20*	*10%*	*10%*	**20**	10%	10%	Two board members reserved for King. Others are selected by 2/3 vote of existing Board of Governors
Oranje Foundation	III	*10*	*0%*	*0%*	**10**	0%	0%	Board of Governors, self-perpetuating. Board recruits new members when vacancies occur.
Erste Foundation	V	*9*	*0%*	*0%*	**9**	0%	0%	Board members selected by pre-existing Savings Bank Association.
Lloyds TSB Foundation for England and Wales	V	*12*	*0%*	*0%*	**12**	0%	0%	Lloyds TSB Bank selected trustees of foundation until 1999. Effectively transferred function to foundation.
California Endowment	V	*15*	*0%*	*0%*	**15**	0%	0%	Original board selected by BCC and stakeholders from lists prepared by a search firm. California Department of Corporations reviewed and approved 7 of original 18 had some affiliation with BCC.
Czech Investment Fund Foundations	I	*3+*	*0%*	*0%*	**3+**	0%	0%	No government involvement. Conflict of interest law.
Slovak Savings Bank Foundation	I	*8*	*0%*	*13%*	**8**	0%	13%	Bank officials + 1 Ministry of Finance official. 2 Boards: Board of Directors, Supervisory Board.

APPENDIX D

PtP Initiative Founding Board Members

NAME	POSITION/AFFILIATION	COUNTRY
Wilhelm Krull, Chairman	General –Secretary Volkswagen Foundation	Germany
Gerry Salole	Executive Director, European Foundation Centre	Belgium
Jenny Hodgson	Director, Global Fund for Community Foundations	South Africa
Johan Schotte	Principal, Johan Schotte Foundation	Switzerland
Pier Mario Vello (deceased)	Secretary General Fondazione Cariplo	Italy
Marcos Kisil	President, Instituto para o Desenvolviment	Brazil

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About the PtP Initiative

The Philanthropication thru Privatization (PtP) Initiative is designed to explore the potentials for creating permanent charitable endowments in countries throughout the world by tapping into the proceeds of privatization transactions of various sorts. Numerous such "philanthropication thru privatization" transactions have already occurred, but they have never been systematically identified and analyzed, nor seen as a possible strategy for seeding charitable foundations in countries where such institutions are sorely lacking. Yet such a strategy could yield "win-win" benefits for citizens, for civil society, for governments, and for investors. To understand this potential, the initiative has set about to identify the previous cases of this PtP phenomenon, to subject a group of them to intensive examination, and to assess the potentials and desirability of implementing the PtP concept in other settings where privatization is planned or under way.

The PtP Initiative is directed by Johns Hopkins Professor Lester M. Salamon, Director of the Johns Hopkins Center for Civil Society Sttudies, and is housed administratively at the East-West Management Institute (EWMI), an independent, not-for-profit organization that has played an instrumental role in building sustainable civil society institutions in countries throughout the world. The Initiative has also received important institutional support from the Maecenata Institute in Berlin, Germany, directed by Dr. Rupert Strachwitz.

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