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# Justice, Citizenship, Social Cohesion And The Commons

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## Preliminary Comments

I'd like to thank you for inviting me to speak here this morning. Nancy and I were especially pleased to get away from all the heat and sunshine of July in West Virginia, with the flowers in bloom, and have a chance to revisit winter here.

I've had continuing contact with a number of you over the years as you came the other way for conferences – Mark Lyons and Myles MacGregor Lownes, in particular. And I've been in email contact with a larger number of you through the ARNOVA-L list server and other electronic linkages. I learned that email was a real communication medium late one Saturday night a few years ago when I shared a round of memos in rapid-fire succession with Susan Keen. We were talking about disasters and I was able to tell Susan of the devastation of flooding in West Virginia, while she told me a particularly harrowing story about her family being trapped in a wildfire while on vacation.

## Introduction

We are here today because of our shared view that nonprofit organizations, voluntary action and philanthropy are among the most basic, interesting and important categories of civilized social life. Increasingly, those of us engaged in what has become known as third sector research are also coming to share a growing realization that the phenomena which are of greatest interest and concern to us are also of central importance in many of the larger practical and theoretical issues of our time.

Certainly, this is true theoretically. In the beginning of their voluminous work reviewing and updating continental traditions on civil society, Cohen & Arato (1992, 1) claim that "We are on the threshold of another great transformation of the self-understanding of modern societies." Even our labels in common use today – words like post-modern and post-industrial – support the impression that something big is happening even though we are not yet in agreement about what it may be or what to call it.

The reasons for the great ferment in political and social theory have in large measure to do with our understanding that a number of major changes are taking place in the larger social world and our understandings of it. These include: a) The crisis of the welfare state; b) The emergence of open – or is it more correct to say

democratic? market? pluralistic? – societies in Russia, Central Europe, Latin America and many of the countries of the Pacific Rim; c) A general movement away from class/stratification and toward group membership as central themes for national politics in many countries; d) The collapse – or at least major crisis – of the modernization paradigm which keeps most social scientists locked into the investigation of purely contemporary phenomena in the specious present; e) The emergence of a truly-global economy; and f) the emergence of the internet as a global communications medium. Each of these has major implications for our understandings of the common themes of this conference -- citizenship, justice and voluntary associations.

Many of us who are here also share a common English language, and a common heritage that is said to be either colonial or imperial, depending upon your vantage point. The Maori-Pakeha culture of New Zealand has much in common with what I'm sure the Inuit call the Canadian problem and the Navaho and the 600 or so Amerindian peoples within the boundaries of the U.S. experience as the American problem. Most of us also share a liberal political preference for justice that has been hard to reconcile with actual events for a very long time now. One of the points that I hope to highlight in my status as a visitor from the U.S., is the relative neglect of the English-language, urban-industrial democracies of New Zealand, Australia, the U.S., Canada, post-war Britain and South Africa as a subset of the "first world" for research purposes. Following increasingly common practice among Native American and Hispanic scholars in the American southwest and others, I am going to refer to us generally as the "Anglo" countries.

In a certain very real sense, contemporary thinking about nonprofit organizations and the third sector is still conditioned by a three-worlds view of the planet: The "first world" is the world of industrial democracies, with their developed economies, but also their mediating institutional frameworks of civil society: rights, associations and publics (Cohen & Arato, 1992). Until 1989, the "second world" was equally clearly the world of totalitarianism, in which the suppression or cooptation of associations by the state was a defining characteristic. And the third world? Linking third sector activity to modernization has had clear implications for the assumed absence of any semblance of a third sector from the third world; implications which are fortunately being remedied in your time by the so-called associational revolution. The key question is whether the necessary revolution is in the third world or in our (western) understandings? The clear assumption behind the so-called associational revolution is a Hobbesian one: That third world residents have lived mean, brutish existences as primitives in a state of nature without virtue of mediating institutions other than extended family and tribe, prior to the recent advent of western style nonprofit organizations.

It is in this context that I would ask you to consider my work *The Commons: New Perspectives on Nonprofit Organization, Voluntary Action and Philanthropy* (Lohmann, 1992). As some of you may know, my work involves use of the concept of

the commons as a typological device for looking beyond the rather narrow world of nonprofit corporations and American-style “third sectors” to related phenomena.

The Maori political renaissance of recent decades in New Zealand is of a piece with developments in the rest of the Anglo world, although what is happening among the native peoples of New Zealand, Canada, Australia, or South Africa are very distinct from what is happening in the U.S.

To make the category more or less complete, in post-war Britain, the tables are turned and the ‘native peoples’ are all white, English speaking Anglo-Saxon protestants. Things there are still in a first stage like that noted by both Cornell (1988) and Fleras and Elliott (1992) in which peaceful coexistence is sought, the immigrants are still a minority and have not yet gained the upper hand politically. One can begin to get an appreciation of the position of ‘native peoples’ by imagining what would happen to our Anglo world view if the land of Shakespeare, of Henry and Victoria and Wellington, of Hobbes and Locke, Berkeley and all the rest were to come out of the present fuss over Charles and Diana under the political domination of an immigrant majority working actively to suppress all vestiges of the ‘ignorant, superstitious, benighted and inferior’ English culture.

I apologize to our Maori cohosts, but I must mention that one can look very hard in American college libraries and bookstores and still find no mention of any aspect of the associational life of the Maori people of New Zealand. I know because I have. Yet, a fortuitous mailing of selected works of Sid Moko Mead has provided me with some tantalizing clues along this line (C.f. Mead, 1975). Recently, a study of mine which appeared in *Voluntas* presented evidence of a distinctive Buddhist commons characterized by organizational, fund-raising and philanthropic ideas and practices deeply rooted in tradition and history (Lohmann, 1995). In that same vein, I should like to offer a few tentative ideas on the possible existence of a multi-cultural commons in which justice for all and universal citizenship are co-existing themes and voluntary action based on common pooling of resources is the major agency.

My original reasons for labeling as commons this broader category which includes, but is not limited to, nonprofit organizations and voluntary associations, were purely tactical and ethnocentric: In my view, the German, Italian or French terms for the same phenomenon would do equally well as the English word commons, and if I understood Mr. Mead correctly, the Maori term *hui* may serve as well. One of the reasons I have come to prefer the term “commons” (aside from the obvious fact that I am speaking in English) is precisely because it points to what is a nearly-universal phenomenon: a space in the community open to everyone’s use, with norms defining and limiting abuse, and frequently filled with gatherings characterized by talk.

It is my general claim that village commons, voluntary associations, nonprofit corporations, *waqfs*, foundations and trusts, *kanjin and capital* campaigns, sangha, self-help and support groups, social movements and numerous other nonprofit,

charitable and philanthropic phenomena are part of a single large category of social phenomena distinct from families, markets and states.

This view is anything but novel. Such a four-part classification is easily reconcilable with, not only the “third sector” view, (which assigns the family the dubious status of “fourth sector”) but also the basic United Nations economic classification system. Moreover, in their massive tome on *Civil Society*, Jean Cohen and Andrew Arato arrive at a similar classification, with the family and our “third sector” comprising the private sector and the political and economic realms making up the public (Cohen & Arato, 1992).

Professor Mead’s recounting of Maui, the great cultural hero of the Maori world and his great deeds on behalf of mankind seems to me to point clearly toward the existence of some conception of philanthropic action in traditional Maori culture. The structure of *iwi* (tribal) and *hapu* (sub-tribal) organizations may point to some form of traditional ascriptive organization, or it may, as it does for many different Native American peoples, point to a complex system of voluntary associations, with complex rules for joining, initiation, obligations and rights of membership, and other matters.

The Metropolitan Museum of Art exhibition of Maori art and cultural artifacts in 1984, according to Mr. Mead, “launched Maori society and culture into the world” and into the Ta Papa Tongarewa national museum on the waterfront here in Wellington. Following the New York museum show, Te Maori Manaaki Taonga Trust was organized with funds left over from Te Maori to train future ethnologists, curators and exhibition designers.

It is tempting here to see a clear case of modernization and diffusion: The Maori “other” adopting the familiar repertory of foundation, or trust, funding to support training in what are clearly nonprofit occupations: I don’t know how things are here, but ethnologists aren’t a hot commodity on the New York Stock Exchange.

One can infer very similar things among the Navaho, Lakota, or Pueblo and other native peoples of the U.S., who have used nonprofit corporations as important instruments of tribal government. I would prefer to ask a more subtle question, and one which I, as a Pakeha, can probably never answer. Yet, I have no doubt that it is a question which should be important for those seeking to further the Maori cultural renaissance which the exhibition, book, museum, trust fund and Mr. Mead’s introduction all point: What are the words and concepts, the beliefs, behaviors and institutions, which characterize the Maori commons? In “Tribal Art as Symbols of Identity,” for example, Mr. Mead identifies the *hapu* (sub-tribe) rather than the *iwi*, as the art-owning and art-producing social unit. This raises a question, well-known to museum curators everywhere, whether a dispute could arise between a particular *hapu* and its *iwi* over ownership of a particular art object, and how such a dispute would be resolved?

Even though our original meaning of the term third world has broken down, we are all, in a certain sense, living in a third world today: For some of us, it is a third

world in the sequence of pre-industrial, industrial, post-industrial. I suspect academics everywhere are dealing with implications of the sequence pre-modern (or primitive), modern and post-modern. It is also a third world in the sequence I have used here: colonial, cold-war, present.

## Failure Theory

Many nonprofit scholars and advocates believe that an ad hoc proposition usually called “failure theory”, which was invented out of whole cloth a couple of decades ago, is sufficient to solve (or at least paper over) the problem and assign a rightful place for voluntary association in liberal theory. Failure theory is, of course, not a “theory” at all, but merely a single proposition. That proposition has it that a rather undefined conglomeration known as “the nonprofit sector” came into existence (and is sustained) under circumstances suggestive of institutional failures of government, or markets, or both.

Fundamental to the two options posed by failure theory is the public-private dichotomy, which also appears frequently in the guise of the individual-state dichotomy.

This second, related approach to the complications the private-public dichotomy creates for us is typically approached through the so-called “mediating institutions” approach, which is again a single proposition: the realm of human freedom is created and protected because certain institutions, most notably the communications media and voluntary associations “mediate” between the autonomous individual, weak and alone, and the powerful state.

Most recently, we have become intrigued with the civil society perspective. I wish to highlight two contributions in particular: The Berger-Neuhaus project which has brought us the concept of ‘mediating institutions’ and the massive work on Civil Society by Jean Cohen and Andrew Arato which makes the case for civil society in the continental tradition, and, in effect, corrects Tocqueville, Marx and Habermas by emphasizing the role of voluntary associations in constituting and sustaining public life and attempting to substitute social movements for the Marxian theory of revolutions, as an adequate basis for social change.

## Mediating Institutions in The Tribe of Alexis

Peter Berger and John Neuhaus in a project funded by the Enterprise Institute in the late 1970’s fielded the concept of “mediating institutions” as what could be the core concept of the third sector.... The mediating institutions perspective usually attributed to Tocqueville by third-sector scholars is based entirely on a couple of paragraphs excerpted from English translations of his massive two-volume work *Democracy in America*. These are the widely recognized sentences, which I used as introductory epigrams at the beginning of chapters in *The Commons* (Lohmann, 1992).

In Anglo political philosophy, while there is general agreement on the importance of Tocqueville's work, there appears to be a major split over what it means, and its importance. Generally, the most 'liberal' political philosophers, scientists, commentators and practitioners (which is to say, those who emphasize the role of mediating institutions in buffering the individual from the state) generally tend to emphasize other aspects of his work, and largely ignore the brief segment on voluntary associations which tends, if anything, to upend their rugged individualism. In particular, the mediating roles of the market, the freedoms of speech and religion, and the mass media tend to draw particular attention. Business people, lawyers, journalists, and clergy are well represented among this group for obvious reasons.

The main body of political philosophers writing in English has long tended to be of this ilk. The so-called nonprofit sector has, at best, an uncertain status within the main body of liberal political theory, sometimes making a cameo appearance but generally assigned a supporting role or (more likely) failing to appear at all. A quick examination of the indexes of any number of texts dealing with liberal political theory will confirm what we already know: Concepts such as "civil society" and "associations, voluntary" appear infrequently, if at all. When they do appear, it is as secondary or derivative concepts of very narrow scope and with very narrow limitations.

By contrast, more 'communitarian' political philosophers, scientists, pundits and practitioners tend to place greater emphasis on the mediating role of association, often to the virtual neglect of the other mediating forces identified by Tocqueville. These are the people whom Americans since the 1930's have tended to identify as 'liberals' and especially include large numbers of sociologists, social workers, public administrators, educators and others associated with 'third sector' research and practice.

Generally, the 'continental tradition' of social and political theory from Hegel to Habermas (which also encompasses Marx, Weber and Durkheim) has had mediating institutions – although, except for Tocqueville, not voluntary associations – as a major preoccupation. Because continental social and political theory is largely in German, and to a lesser degree, other European languages, it is to varying degrees always just beyond the horizon of understanding for most of us Anglos, and we are reliant on translators and interpreters for assistance. Witness the dual concept of community as *gemeinschaft* and *gesellschaft* in which so much of the currently fashionable communitarian movement is grounded.

It is, in fact, the recognition of the rather truncated attempts of the American pragmatists, particularly Dewey and Mead to update and, if you will, Anglicize that tradition which led me to attempt to develop the theory of the commons as I did. In this, I was heavily dependent on the perspectives and guidance I got from the work of Richard Bernstein (1971; 1976; 1981; 1985).

"The problem of associations, which is excluded from Habermas' analysis, is parallel to that of culture, to which it is linked through the structures of the public sphere. As Durkheim and Gramsci realized, the hostility of the modern state and economy to corporate bodies and associations could not block their reemergence and modernization. In this context, the bureaucratization of associations and the reemergence of pseudo-pluralist and corporatist forms of interest representation and aggregation, a key dimension of the fusion argument, cannot be considered the only tendency in contemporary associational life. The existence of an immense number of voluntary associations in all liberal democracies, the emergence of new ones in the context of corporatist bargaining, and their role in citizen initiatives and social movements may not demonstrate the somewhat one-sided Parsonian point that ours is the age of associations and not bureaucracy; but it is clear that legitimate left criticisms of a pluralist thesis that occludes the highly differential access of various types of associations to the political system should not close our eyes to the validity of this thesis against all claims of atomization and massification in our societies. The resilience of associations and the periodic revival of their dynamism can be explained through the modernization of the life world and its normative contribution to the scarce resource of solidarity." (Cohen and Arato, 2000, 461-462)

## Enduring Trait or Policy Artifact?

Consider for a moment, if you will, the question of whether what we are currently studying in the third sector can be characterized as a real social phenomenon or merely an epiphenomenon; an artifact of recent social policy in our various countries: A basic social fact or a continuation of the conflicts of the welfare state by other means? Many of our colleagues in the United States believe, quite sincerely, that research in this area should be organized around the concepts of something called – for lack of a real name – the “third” sector and another something called “the nonprofit organization”. I know a number of you well enough to know that you share in this view. Indeed, during the past two decades, a growing national and international network – a commons, if you will – of researchers and scholars nominally devoted to that proposition has grown up around the world and the attendance at this meeting is a clear indication of continuing interest.

I have no serious quarrel with the day-to-day realities that these concepts of distinctive sectors and organizations point to. Moreover, national and international typologies, fluctuations in estimates of total giving by various national societies, the numbers and proportions of NPO's or NGO's claiming to have programming missions in particular topical areas, etc. Further, this is clearly an interdisciplinary topic, and getting some measure of basic agreement among researchers who are sociologists, social workers, lawyers, economists, public administrators and representatives of a dozen other fields is a daunting challenge, to say the least.

I do have some serious questions, however, about the adequacy of anchoring our interests in concepts such as the third sector and nonprofit organization, which seem to be both ethnocentric and anachronistic. Yet the question remains: Where in the larger schemes of things do the questions that currently interest us properly fit? Specifically, I wonder about the enduring validity or usefulness of concepts like the third sector and nonprofit organization. I wonder whether, in any sense, these represent fundamental social categories, like family, group and state, or are they mere concepts of the moment; the conceptual by-products of contemporary public policy seeking to shift operations from government directly to what some have termed “the contract state” (Smith & Lipsky, 1992)?

These are really questions of the long-term future direction of research in this field. Much of the research that has been done in the last two decades involves basic documentary or reportorial work: numbers of organizations; their various purposes; definitions for inclusion, exclusion and classification, etc. The recent emphasis in Aspen Foundation funding in the U.S., on validating the National Taxonomy of Exempt Entities (NTEE) well illustrates this trend. With the growth of this association, ISTR and other national and international bodies, we are seeing some serious, comparative research as well.

But where does it all lead? For some of us, no doubt, these trends point to improved practice in law, social work, public and nonprofit administration and other fields. For a number of researchers, this means careers and institutions devoted to institutional research -- on going measurement of fluctuations in donations, nonprofit spending, etc. I certainly do not wish to disparage such activities. Improving nonprofit practice... Accurate and timely understanding of the third sector has been among the most serious lacuna in macro-economic perspectives.

Likewise, there will probably be a continuing need for tracking contemporary handling of voluntary associations, nonprofit corporations and other third-sector entities by various national and sub-national governmental bodies. If New Zealand and Australian, as well as American and Canadian legislators are allowing for the creation, expansion (or restriction), of a category of tax-exempt entities to further certain public purposes, then that’s an interesting political research question, of course. The question of why separate groups of politicians and political leaders in the English-speaking countries were suddenly inclined in the 1970s and 1980s to enable and encourage the creation of so many new nonprofits strikes me as equally interesting for both political science and social work.

If, as may at the time of de Tocqueville’s celebrated journey to America, actually have been the case, contemporary legislators are acting in part in response to a common colonial heritage structured in large part by the English Statute of Charitable Uses, then that too is a matter of considerable interest for historians,

At the same time, if we continue to focus so narrowly on such a small band of activities, I am concerned that we will miss the implications of the full range of related phenomena and the importance of those phenomena for general social theory, but also for contemporary living.

If those same Anglo-Saxon traditions are, in our time, being diffused to the rest of (the non-English speaking) world as Lester Salamon and others are suggesting, then we also have an interesting issue of inter-cultural contact and the diffusion of cultural practices. In this, the position of the United States, in particular, is a very peculiar one: On the one hand, the domestic view of American exceptionalism, on the other hand, with the demise of the cold war, the international view of American imperialism....

However, it would be much more than just interesting if there were more to voluntarism and charity and philanthropy than the Anglo-Saxon traditions celebrated by de Tocqueville in the context of 19th century America, but also found in England and the other English-speaking colonies.

What if most of those millions of immigrants coming to America, and Canada and to a lesser extent, to Australia and New Zealand from places other than England already possessed upon arrival a broad range of repertoires of civic friendship, giving behavior, and uncoerced but organized, purposive association with others? What if, in fact, the cultures they left back home were also rich in related ideas and practices? What if charity and reciprocity and giving were not culturally indigenous at all, but were instead deeply engrained traits of a common human condition? That, my friends, would be truly interesting, and provide some very deep footings upon which to erect a science of the third sector.

At the very least, we should also be able to put third-sector events into a developmental sequence somewhat more realistic and relevant than the tired old modernization dramas of sociology -- whether Weberian, or Durkheimian or post-industrial: In my life-time the age of European colonialism ended, at least officially, with sometimes devastating and sometimes hopeful consequences for “the third world”.

It should be noted that the thirdness of the third world is dramatically different than the thirdness of the third sector. What has become “the third world” arose originally out of an international association of non-aligned nations. The international age of colonialism was followed in short order after World War II by the bi-polar Cold War, with its expectation that everyone would side either with the “first” world of the industrial democracies or the “second” world of the socialist countries in the Russian empire. The third world originated in the ‘non-aligned’ movement, but the term still carries with it (at least in the U.S.) connotations of poverty, backwardness, underdevelopment, and overall “pre-modernness”. I live in the Appalachian mountain region of the Eastern U.S., where it is frequently said

that we have the economic conditions of a third world country. I assure you that is not intended as a compliment!

What if, for example, we took the interesting phenomenon of organization of a Young Men's Buddhist Association in Tokyo in the 1950's to be evidence of the earliest stages of the "world wide associational revolution" which is supposedly occurring? (Salamon, 1993) Would this lead us to miss the fact that Japanese Buddhists were already skilled fund-raisers 800 years earlier? Or, that Buddhist and Jainist concepts of the *sangha* as roughly an associative community of believers, are at least as old as Jewish concepts of community underlying the synagogue or the Christian concept of the "communion of saints", and in no way a derivative of either. That this same concept of *sangha* was sufficiently vibrant to allow monks to live voluntarily in enduring monastic communities of up to 10,000 monks for a thousand years before?

If we failed to see the distinctive Buddhist traditions of philanthropy would we also miss the equally interesting Islamic foundations known as *waqfs*? (Hourani, 1991; McChesney, 1991) Or the long Confucianist traditions of village democracy in China, Korea, and Japan (Hahm, 1991)? We would almost certainly miss the complex and nearly infinite variations of association and assembly throughout the non-Anglo world.

One of the keys to a better understanding which I hope may emerge from the approach taken here is an improved understanding of the concept of the political "state". The Anglo response has always indicated great suspicion of the continental approach to the state, both out of legitimate concerns over Hegel's awe at Prussian bureaucracy and militarism, and out of lack of understanding (which I share!) of the Hegelian concept of *Geist*. *Geist* translates as inadequately into the English term *spirit* as *gemeinschaft* does into the English term *community* and much the same can be said of the concept of the state in the Anglo tradition of political philosophy.

The practical impact of this inadequate conception can be seen in third sector discussions by Kramer, Wolch, and others. It seems pretty clear that references to the welfare state, shadow state, contract state, and the like in this context are specific to legislative, or more likely, executive and administrative organizations of government, and at times to the actions of dominant political coalitions and power groups. Any broader conception of "the state" which includes or can be related to worldviews, ideologies, or cultures (whether political or general).

One way to accurately interpret the political and social position of Amerindians in the U.S., Aborigines in Canada and Australia, Maoris in New Zealand would be to suggest that for much of the period since the establishment of these various nation-states, native peoples have not been part of the state, and often direct victims of it. The challenge now is to reformulate these various states actionable in terms of rights, associations and publics.

This is clear in the concept of citizenship, for example, where questions about justice to native peoples are often greeted with the statement “Well, they have the right to vote! What else do they expect?” It is also clear with our concepts of justice, particularly with respect to justice to the indigenous peoples of the Anglo world. In the Anglo political traditions of our various nations, abstract concepts like justice, citizenship and social cohesion are ordinarily translated into individual rights, and to a lesser degree, obligations. The challenge facing those of us with academic and professional interests in commons is to translate those same concepts into the contexts of association, voluntary action and philanthropy.

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