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Norway: Defining the Voluntary Sector

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Introduction

In this article, we intend to present a picture of how the *voluntary sector* is conceptualised in Norway. How do our traditional and national understandings of the role and functions of voluntary associations compare to those of the international society? We will review the most central historical concepts and examine how these have been altered as a result of political and ideological changes. We will also present a picture of the historical and legal background of associations – how they have been categorised in Norwegian society. We will also relate our national self-understanding of associations to the classification scheme of *The Johns Hopkins Comparative Non-profit Sector Project*. (Salamon and Anheier 1996 and 1997) Does this scheme reflect aspects that are regarded essential within the Norwegian context? In Appendix 1, Dag Wollebæk presents the conceptual problems as well as those pertaining to classification which arose when our national statistics were transformed into the ICPNO-categories of the Johns Hopkins study.

Central Concepts and their History

In Norway, the roots of voluntary or civil associations, in the current meaning of the concept, can be traced back to the end of the 17th century, but the development accelerated after about 1840, and the number of national associations rose sharply. It is fairly unclear what types of historical associations fit the modern concept of 'voluntary'. In the grey zone we find community-based and craft associations. During the latter part of the 19th century, the terms *association* and *associationsand* (spirit of association) were commonly used. The terms referred to the broad movements that occurred during this period, movements related to cultural, political and religious issues (Seip 1981). Central preconditions for the national movements in Norway as in other countries, can be related to the industrial revolution and to the modernisation of transport, postal services and other elements of the national infrastructure. The changes created opportunities for new alliances and gave birth to new associations (Try 1983).

The core of the historical roots of the voluntary associations and our own understanding of these goes back to the process of modernisation at the end of the 19th century. Social movements emerged within new and established social structures, with the idea of improving general societal conditions, and thereby also one's own standard of living. Associations became extrovert and political in their orientation; democratic structures became essential parts of their identity and they recruited their members from below, in communities and among the common people. Since most of them, at least in their initial phase, were dominated by strong ideologies, they also promoted the political and social integration of large parts of the population thereby preventing the marginalisation of groups.

What were the words that characterised the new generation of civil alliances? Although the Norwegian word *association* still is in use, the concept of *frivillig organisasjon* (voluntary organisation) has dominated from the turn of the 19th century and onwards. The word *forening*, which comes from the German term *Vereinung* is also in use, showing the close ties that existed between Germany and the north/western parts of Norway up to the 18th century. A third term that characterises an organisational unit is *lag* – a term that can be given several English meanings such as ‘team’, ‘crew’, ‘party’ and several others. These three terms, *forening*, *frivillig organisasjon* and *lag* characterise local as well as national units; they have no specific and separate connotation. Still, it is our impression that the term *forening* most frequently refers to the local units, and *foreningsliv* (associational life) is used to characterise the total activities of associations within a local area.

The Norwegian terms *filantropi* and *veldedighet* correspond closely to the Anglo-American terms *philanthropy* and *charity*. In Norway, the historical roots of these terms can be traced back to the 1850s, and political ideas that floated across the North Sea from England. But at this time, Norway did not have any strong middle class to bring forward the policies of philanthropic ideas, and as a result, the term never has gained any central position in Norwegian society. As the Labour movement gradually gained strength during the 20th century, philanthropic ideas were stigmatised. During the most revolutionary period of the Labour movement, they were regarded as counteracting forces that prevented or delayed the revolution against capitalism. As the Labour movement conquered the state apparatus after World War II, the antagonistic attitudes towards philanthropic ideas were integrated in modern social policies, and ‘philanthropy’ and ‘charity’ referred to social activities that not yet had been made redundant by public health- and social services.

How do we limit the terms *voluntary association* and *voluntary sector* from other civil activities? In the Norwegian context, the term ‘voluntary’ seem to be more narrow than the international accepted ‘nonprofit’ term. Traditionally, *political parties* and their closest related associations have not been included in the Norwegian volun-

tary sector; neither have economic co-operations, trade-, business- and professional unions. Foundations have also usually been kept outside the sector. What remains is the somewhat idealised picture of voluntary associations as bearers of ideal properties; humanity, voluntary efforts, interests in the common good, spirits of solidarity and community. Consequently, interest, political, professional and economic associations have traditionally been regarded as ‘something else’; organisations that advance the particular interests of their members, and consequently situated outside the ideal, voluntary world.

The movement period constitutes the historical roots and ideological background for later understandings of the term ‘voluntary’ in Norway. The general meaning of the term ‘voluntary sector’ seems to reflect the ideals from the last half of the 19th century. During these years, the peasants movement, the labour movement, the teetotalist movement, the language movement and the sports movement became central political forces in the modernisation of the Norwegian society. It is important to note that within many movements, activities had political and cultural as well as ideological aspects, and they were carried forward by means of voluntary effort. Here, we can trace the roots of a tradition where ‘politics’ and voluntary elements became integrated and non-separable parts of the same activities. Later, most movements became differentiated; some parts became elements of the political party system emerging between 1880 and 1910; others became voluntary associations in the modern sense of the word, while other parts again were institutionalised as hospitals, schools, libraries, newspapers and more. The process of differentiation did not, however, lead to complete autonomy. For a long time, common values and goals connected separated activities to their mother associations (Selle and Øymyr 1989 and 1995).

Since political and purely idealistic or altruistic activities seem hard to separate, the state has accepted that ‘political’ activities, whatever that means, are parts of the identities of voluntary associations. Consequently, non-political activities have never been a criterion for achieving public financial support in Norway.

Cooperatives. *A legal distinction exists between economic and non-economic associations. (Woxholt 1999b:50). The goal of an economic association is to forward the economic interests of the members. Also non-economic associations can realise economic transactions, but only as a means for realising the ideal values of the association. Cooperatives represent an important group of economic associations. In the Norwegian language, the terms samvirke and kooperasjon are used interchangeably for cooperatives. In a historical perspective, the emergence of cooperatives in Norway as well as other European countries were inspired by the international movement that emerged from The Rochdale Pioneers in the 1840s (Johnstad 1998).*

Historical Background of the Sector

As mentioned, civil associations formed as national voluntary associations in Norway have their roots in the 1840s, but many community associations can trace their origins back to the 16th century. *Det Kongelige Selskabet for Norges Vel* (The Royal Norwegian Society for Rural Development), a national association, was established in 1809. The early savings banks with social and philanthropic ambitions were established in 1823. They were directed towards the needs of elderly and sick people, but they also intended to promote saving and moderation and reduce alcohol abuse (Raaum 1988). Here, ideology, economy and social work were closely associated. But in general activities on the organisational front prior to the 1840s can be described as 'bleak and paltry' (Seip 1981:49).

The first wave of national civil associations were broad mobilisations of people around religious, social and cultural issues. Two temperance movements with local affiliates founded in the 1820s were gradually transformed into national organisations with more than 350 local affiliates in 1855, and almost 40,000 members. (Raaum 1988). The first labour associations were established in 1850, with the *Association for Enlightenment of the People* in 1851 as an ideological counterweight to the religious associations. Organisations for the disabled can also trace their roots back to the 1850s. The first school for the deaf and mute was established in 1848, and the first association for the blind in 1858 (Onarheim 1990). In 1865, the first consumer cooperatives were founded in Oslo, and by 1872, 276 consumer cooperatives were active.

The first generation of national movements were engaged in temperance, mission, poverty and enlightenment. Their common denominator was their broad mobilisation of members, with moral engagement as the prime motivation. Usually, the movements were

loosely organised with most activities anchored in the community, administered and performed by volunteers. Their collective spirit was strong, the feeling of common identity and belonging among members and participants constituted the driving force for all efforts. Edifying speeches and frequent gatherings were central elements in the formation of a collective identity. Practical efforts like work for the poor, health information and distribution of food and clothes were rooted in a personal engagement. The distinction between 'active' and 'passive' membership was practically unknown – members were obliged to participate.

Several types of *economic cooperation* are also part of the early history of associations in Norway. The first consumer cooperatives can be traced back to the 1850's, as well as the growth of labour cooperatives that were inspired by pioneers like Marcus Thrane, Eilert Sundt and Ole Vig. At the end of the 19th century, approximately 250 consumer cooperatives with more than 27 000 members had been established in Norway (Johnstad 1998:135). Within fisheries and agriculture, production and sales cooperatives were established from the end of the 19th century. The first *housing cooperatives* emerged in the 1850's, and from the 1970's they played an important role within the regulated market of house distribution and production in Norway (Johnstad 1998).

The first sports associations also trace their roots back to the early 1850's. In the period between 1850 and 1900, local choirs, orchestras, skiing and gymnastics associations rooted in local communities were established. Although rifle clubs frequently had their origins associated with military objectives, they also initiated new sport activities. Sport associations as well as rifle clubs laid the ground for military competence, needed in the event of armed conflict with Sweden (Raaum 1988).

During the 1860s, the first *folkehøyskolene* (colleges of further education) were founded, and ten years later more than 30 had been established throughout the country. Most of them were associated with cultural, social and religious movements, and the intention was to secure national values, cultural and religious education for coming generations (Gustavsson 1992). In the 1860s the first associations for

outdoor life were also established: *Den norske Turistforening* (The Norwegian National Association for Tourism) in 1868 and *Norges Jeger og Fiskerforbund* (The National Association for Hunting and Fishing) in 1877.

Around the turn of the century, an *expansion* and *differentiation* occurred. Associations for choirs and music were separated from the local association in many places. Also associations for sport activities were separated from the movements of which they had previously formed a part. *Arbeidernes Idrettsforbund* (The Workers' Sports Association) was founded in 1924. Civil associations were carriers of new political, cultural and educational issues. During the 1880s women gradually established their own organisations. *Norske Kvinners Sanitetsforening*, (Today called The Norwegian Women's Public Health Association) a national association of women undertaking voluntary care and medical work, soon became a central actor within the field of health and social issues. The organisation expressed an increasing political engagement among women, and were originally founded in order to provide medical provisions for the army. But after few years, the association became the most important tool for the public health authorities in their struggle against tuberculosis. *Nasjonalforeningen mot tuberkulosen* (the National Tuberculosis Association) was also established in 1910, and soon became a central actor in the struggle for improving local health and sanitary conditions.

Religious organisations experienced a strong growth and diffusion in the years prior to 1940. In 1932, *Indremisjonsselskapet* (The Norwegian Lutheran Inner Mission Society) had some 1900 local units and 250 youth associations, increasing respectively 2100 and 400 respectively by 1940. The religious organisations administered a large number of activities, cultural as well as sports and music. They laid the ground for new social networks, particularly among women. At times, religious social work competed with similar activities of the Labour movement. *Christiania Arbeidersamfunn* (Christiania Workers' Association) started work with summer camps for children in 1881 and received municipal support from 1896 onwards. The number of camps grew from two in 1891 to 23 catering for 1300

children in 1911. In 1913, 94 associations carried on social work in the capital, of which 40 were run by the city parishes. These were largely financed by voluntary collections. (Aukrust 1983). In addition, sanatoria, rest homes, homes for the aged, hospitals, institutions for the mentally retarded and work schools for the blind and visually impaired were established all over the country by other voluntary associations (Lundby 1980).

During the inter-war period, a work-sharing regime was developed between associations and local authorities, particularly within the field of health and social services. Some bodies received public grants, presupposing that a similar, or larger amount could be provided from private sources. Local authorities furnished interest- and instalment-free loans, while the association was responsible for construction and day-to-day management. It was not until 1938 that the first municipal old peoples' homes were built. As late as 1947 about two-thirds of all places available for old people were located in institutions run by organisations, while one-third were in municipal institutions (Raaum 1988:294).

How can this first period of national, civil associations be summed up? First, the initial wave of national, civic engagements emerged as *social movements*, a general mobilisation of the population on the basis of moral, political, social and religious values. Missionary, cultural and political organisations established a structure of educational institutions for youth, cultural activities, periodicals and newspapers. These activities formed the foundation of the *formative project*; the moral, political and religious education of adherents into practical work as well as ideological belonging (Slagstad 1998). These values became strengthened as nationalistic sentiments grew towards the end of the century. The nationalistic wave was related to the independence struggle and the growing political pressure for independence from the union with Sweden (which ended in 1905). Starting as broad movements with low degree of formalisation, strong social integration and a high degree of social control of the participants, the first associations can be characterised as something between political, cultural and social movements.

A second point is the strong correspondence between *ideology* and *practice* that characterised these movements. Individuals were more adherents than members. Integration was not related to formal membership but to active participation. Comprehensive voluntary efforts were partly a result of strong ideological commitment, and partly an effect of a positive interaction between norms and action. Practical efforts followed from political and moral norms, and in the next round they confirmed the existence of these norms.

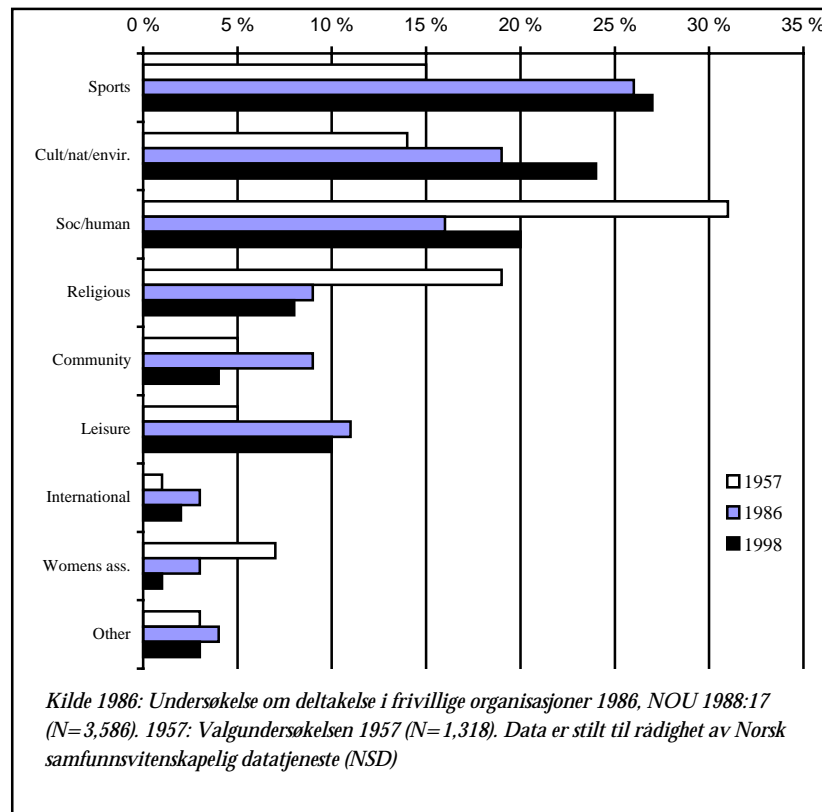
A third point is the strong *grass-root* identity of the movements in this period. Although political goals were national, almost all activities took place within local communities. An important precondition for social control among participants was the high degree of *visibility*; meetings were frequent and participants met in several roles; as neighbours, friends, workers and relatives. The community structure constituted an important precondition for the first mobilisation of volunteers and their ability to engage adherents. In addition, most activities did not demand particular competence; social, as well as political and cultural activities could be realised by amateurs alone.

The post-war period

During the period 1945 – 2000, one can observe a shift in the centre of gravity in the voluntary sector. As illustrated in Figure 1, the traditional value based associations from the movement period of the 19th century experience a decline in membership, while leisure-related associations experience a growth in their share of members. Associations within the field of culture and environmental issues also increase their share between 1957 and 1998.

This picture does not, however, illustrate the *innovations* within the voluntary sector. From the 1980s onwards, the number of *self-*

Voluntary associations: Share of membership 1957, 1986 and 1998 (16-74 years).



Source: Wollebak, Selle and Lorentzen 2000

help groups have risen sharply. In Norway, the problems and tasks handled by such groups does not deviate from the well known international trends characterised by collective treatment of personal problems as their main hallmark. Still, we may add that establishment of self-help groups seem to presuppose the anonymous and modern urban life; in local communities where people see each other

in different social context, it is hard to establish the intimacy of the self-help group.

A second innovation can be related to the *welfare hybrids* that emerged during the 1980s and 1990s. In several fields, the borderlines between public and civil responsibilities became diffused. Civil associations and non-profit activities have been integrated in the public sphere, in ways that at times make it difficult to categorise an activity as either 'public' or 'private'. The reasons behind this development seem to be complex. At times, hybrid organisations give room for more flexibility and innovative solutions than public ones. Cooperation between municipalities and voluntary associations also make voluntary resources available for the solution of public welfare goals (Lorentzen and Røkeberg 1998).

Relations with the State

1945 represents a turning point for voluntary associations. As in the other Nordic countries, the modern welfare state can be traced back to the 1930s, but it was after World War II the comprehensive and long-lasting expansion of state-financed and professionally manned public welfare services commenced. In the social democratic welfare model that was developed in the Nordic countries after 1945, associations were not given any explicit role as welfare providers. While Lord Beveridge (1949) created ideological space for volunteerism in British welfare, no such room was given voluntary efforts in the Norwegian (or any other Nordic) welfare model.

From the leading politicians within the Labour Party, it is hard to find any descriptions of the roles associations were intended to fill. The reason seem to be that associations were classified according to their activities and not as a common category, different from state, market and family. Up to the late 1980's, neither researchers nor politicians had any understanding of a voluntary or non-profit sector as such. In the political field, associations were related to the administrative *sphere* where they acted and the tasks they were performing.

Neither did associations have any common identity that connected them across sphere lines. After 1945, one may talk about a *sphere*, or *sector* identification for associations corresponding to public sector policies. For example: in 1946, the Government established a favourable public finance support system for sport associations, and gave them a considerable degree of autonomy. On the other hand, the arena of voluntary social welfare providers gradually was colonised by public welfare services. Between these extremities, separate policies for cultural, children and youth, environment, and international associations developed.

More important is the fact that the voluntary associations soon adapted to their new, state-imposed identities as *interest* and *pressure* groups. Most of them seem to have done so without any second thought about the long-term implications of their new identities. For most associations, the pressure-group role meant access to government financial resources, participation in national committees and better opportunities to bring their own premises into public planning. The term *the segmented state* was coined to describe corporate connections between government departments and associations (Egeberg, Olsen and Sætren 1978). Voluntary welfare agencies were integrated in several segments – systems of stable relations between national authorities and civil interests characterised by closeness and shared understandings of common problems and their solutions.

The new interest group identity of voluntary welfare providers has caused basic, structural changes in civil society. Firstly, it caused an *expansion of national headquarters*. From 1945 and onwards, the planning welfare and other reforms was a national task, and government departments became the most important governmental partners for the voluntary associations. In order to strengthen their influence, most associations increased the number of paid, professional staff at the national level. In some fields, several small associations formed umbrella organisations to handle their common interests.

Secondly, the identity as interest mediators created a new role for local units and their members. In the pre-war period, local activities were the core elements of associations, and national co-ordination was kept at a minimum. In the public welfare system the *number* of

members gradually became more important than civil activities. The reason was that the legitimate influence upon planning and politics was connected to members: the more members, the stronger the influence.

From 1970s to the 1990s, most associations, and particular those with strong financial support from governmental sources, increased the number of paid, national staff. The vertical ties became weakened, local associations lived a life of their own, far away from the national, political sphere. The span of control between the central unit and local associations support this observation. The national unit of Norwegian Sport Associations includes more than 13,000 local associations, and it is clearly difficult to relate in a democratic manner to so many sub units. Some large association, like the Red Cross have, on the one hand, developed a national concern with highly professionalised services. On the other hand, they still have an active and vigorous structure of local associations which relate to local tasks and concerns.

During the post-war period, the number of *hybrid service-producing units* has increased in number. Many hospitals, museums, community welfare programs, cultural activities and institutions for children and youth are formally owned by associations but most frequently, public authorities are the sole financing source and also have employer responsibilities for paid staff. Applying the formal criteria for non-profit associations, the hybrids meet some, and fail on others.

During the 1990s, public authorities increasingly imitated organisational modules of the non-profit sector. Volunteer centres, and self-help groups were established within the municipal service structure (Lorentzen, Andersen and Brekke 1994). Associations for the unemployed, associations for patients and clients and umbrella associations were set up and financed by public authorities. Private foundations, formally independent but in practice dependent upon state financing, are increasingly applied as a tool for realising public goals.

In 1988, the first governmental report on voluntary associations was published under the title of *Frivillige organisasjoner* (Voluntary

organisations) (NOU 1988:17). Here, a broad historical presentation of the voluntary sector was given, and several wide-ranging reforms suggesting tax-deduction as an income source for voluntary associations were proposed. In sum, these reforms suggested a policy change, from direct governmental support of voluntary agencies, into a system of public subsidies by means of tax deductions. The government did not, however, follow up these proposals, and the report did not lead to any political reforms. But undoubtedly, this document of more than 400 pages contributed to improve the understanding of associations as a sector of its own, and not merely as a multitude of individual associations.

During and after the 1980s, new sector terms, mainly from USA, have influenced the Norwegian vocabulary. The term *tredjesektor* (third sector) was introduced during the 1980s. For many, particularly politicians within the Labour Party and the national administration, the term represented a more value-neutral term than 'voluntary sector', which for many still gave impression of help to the deserving poor! But in many ways the 'third sector' term was old wine in new bottles, and the term neither altered the underlying understanding of associations' properties, nor the demarcation of the sector. It is hard to identify an underlying paradigmatic shift following the change of vocabulary.

During the 1990s, the term *civil society* or *civil sector* gradually came into political and academic use, also in Norway. As for the liberal critics of the Nordic Welfare model, the civil tradition vitalised their arguments, and gave new ammunition to the attacks upon the paternalistic welfare regimes (Arvidsson, Berntson and Denick 1994, Wolfe 1989, Zetterberg and Ljungberg 1997). The term turned the spotlight on local groups and associations, and triggered a new interest in their abilities to create social capital and social integration. As a sector term, 'civil society' seems to be a broader concept than 'voluntary sector', including also political, economic and professional associations.

In 1997, the government presented a report to Parliament: *State relationships to the voluntary sector* (Statens forhold til frivillige organisasjoner). For the first time in history, the Government pre-

mented a general attitude towards civil associations. Here, the ideology of civil society may be regarded more as a catalyst for a local orientation rather than a cause:

It is the opinion of the Government that a living and active civil society is a precondition for a further development of the welfare society. Voluntary associations constitute an essential part of civil society. By means of a great multitude of activities, people are connected in social networks that give meaning to life (St. meld. 27, 1996/97).

The message here is the government's intention of stimulating local, community-based activities. By emphasising such local activities the government also made it clear that it did not necessarily regard associations with a staff of paid employees at the national level as the most suitable tool for this purpose. Any state-critical elements are, however, hard to find in this report. The government did not stress the autonomy of the associations, but rather their ability to contribute to the realisation of public welfare goals.

Defining the Norwegian Non-Profit Sector

To be part of the non-profit sector, associations must, according to the Johns Hopkins Comparative Non-profit Sector Project requirements, meet five criteria. They should be:

- organised, meaning institutionalised to some extent
- private, that is institutionally autonomous from government
- self-governing
- non-profit distributing; and
- voluntary: with some meaningful degree of voluntary participation.

Organised. Being organised means that associations have to be formalised in some way or other. This applies to the vast majority of Norwegian associations, even if many local ones may have few members and a rather informal structure. Since there are no legal requirements and registrations in Norway, it might be difficult to decide the exact degree of formalisation of an association. Informal, but established local groups are not included here.

Private. Non-profit associations need to be institutionally apart from government. Except for the increasing number of hybrids which are described below, most associations usually meet this criteria. Also some foundations are placed in the border area between 'public' and 'private', but are here classified as 'non-profit'. *Non-profit distributing.* Non-profit associations are not allowed to distribute profits to their members, founders or other individuals. Any surplus needs to be retained and dedicated to the purpose of the organisation. Since

‘voluntary association’ is no legal category of its own in Norway, no public authority controls the not-for profit distribution of economic surplus. Consequently, for-profit firms may at times turn up, camouflaged as voluntary membership associations, but such cases are rare.

Self-governing. A voluntary association needs a certain degree of autonomy and separate governance structure. This criteria does not usually raise classification problems, since most associations, by tradition and national culture are founded upon a democratic structure. But voluntary owned institutions mainly financed by the public sector, regulations, constraints and directives may limit their autonomy. Governmental bodies cannot interfere in internal processes) in the organisations (such as selecting a new leader. However, concerning public funding of the organisations, the transfer from public grants to project support (public grants are not disappearing) that we now see in large parts of the sector may weaken their autonomy.

In general, the self-governing criterion does not raise problems for our classification. Self-governing is historically one of the main factors legitimising voluntary organisations as it is based on voluntary participation.

Voluntary. Most Norwegian associations with a democratic structure meet the demand for voluntary activities. This is, however a rather loose criterion, and shifts in the influence and numbers of volunteers may take place, with the association still fulfilling this demand. Data from other parts of this project have illustrated that a considerable degree of voluntary work also takes place within public and municipal activities (Wollebæk, Selle and Lorentzen 2000). Institutions and service units administered by non-profit associations may, on the other hand, lack voluntary activities. So this criterion is by itself hardly sufficient for including or excluding an activity from the ‘non-profit’ sector.

Legal frameworks

The freedom of organisation and formation of associations is not mentioned in the Constitution of Norway. Nevertheless, these freedoms are protected by practice as well as written legal rules, and Norwegian legislation in this field is in harmony with the regulations of the United Nations and European Conventions on human rights, particularly rules of freedom of organisation, and the ILO-conventions; particularly the rules of securing the Freedom of Association and Protection of the Right to Organise.

Norwegian society is influenced by various kinds of non-profit law. This is a consequence of the fact that the private initiatives in the non-profit sector are free to choose the legal form of organisation by themselves. However, the organisation usually takes one of two basic legal forms; *association* or *foundation*. The foundations are governed by a general legislation, the legislation of foundations (Stiftelsesloven), dated May 23, 1980 (Foundation Legislation of 1980).

Associations as such are not governed by a general legislation, but some legal questions relating to the activities of the associations, for instance taxation and tax-exemptions, are regulated by legislation in this respect, see the tax legislation, August 18, 1911 (with later amendments). However, such legislation is as a general rule uncommon. Consequently, the Norwegian association law is mainly based on unwritten sources of law, primarily the statutes of the association, the practice of the Supreme Court, the custom and practice of the association in question and associations in general, analogies from the legislation on corporations and foundations and general legal principles.

The fact that the Norwegian law of associations is unwritten in this sense, does not mean that associations are unable to enjoy the status of being separate and independent legal entities, a status which they reach in informal ways, without any kind of registration or other formal acts. Foundations governed by the 1980 legislation are treated as separate and independent legal bodies.

Norwegian association law is unwritten mainly because it is extremely difficult to harmonise legislation in this field, taking into account that the activities of the associations varies to a great extent, from local charity-associations on the one hand to labour organisations and complicated structures where several associations are joined together on a national basis on the other. Besides, it is a common understanding that the state should not oppose the freedom of action that political parties and labour organisations, both organised as associations, traditionally share.

Normally, foundations as well as associations are organised to reach or fulfil *ideal purposes*, meaning non-economic goals. Still, both entities may carry out economic activities. Foundations as well as associations have usually designed and sanctioned their own statutes, and the management is performed through indirect representation by an executive committee and for associations, and also by a general assembly.

The distinction between the two legal forms association and foundation, is basically that associations have members, while foundations, lacking this characteristic criteria, are traditionally established by someone having placed a capital-base (monies, a house etc) at the independent disposal of the body for a defined purpose. While associations are normally organised in a democratic manner, with the powers lying in the hands of the general assembly, foundations may be 'undemocratic', powered by and through the executive committee originally appointed by the founder, later being self-recruiting.

Many of the legal rules governing associations and foundations in Norwegian law are similar. The rules of taxation and tax-exemptions are the same for associations and foundations. Still, we will deal with these legal entities in separate sections. The reason is that such a

procedure will make it easier and more practical to find the answers to given legal questions.

The Act of Associations

It is difficult to find an all-embracing definition as to what constitutes a voluntary association under Norwegian law, taking into account that there is no existing general legislation in this field. However, it is possible to present a list of some relevant characteristics that typically constitute a voluntary, non-profit association, and also a more general description of some elements that are held in common for such associations.

In this respect, one may say that a voluntary association is created when a number of individuals (or legal entities) under organised forms, and for a certain period of time, join together for a common purpose. The association will not have any owners – it is owned ‘by itself’, being a separate and independent legal entity with its own contractual rights and duties and its own administrative and procedural rights in accordance with administrative and procedural law. The main distinction between companies and associations is that the owners of companies are entitled to their share of the profits; while associations, as stated before, ‘own themselves’. Members of associations therefore do not have any legal claims referring to the profits made by the association. On the other hand, as will be shown later, they have no personal liability for the debts of the association.

Totally informal structures, for instance a group of people demonstrating before the building of parliament, or clubs where a few people meet to enjoy sewing, wine-tasting or similar, will not be regarded as having the same legal status as an association. This is unless the people participating are paying a contingent, and therefore enjoy some legal rights, as for instance the right to attend the general assembly and to elect representatives at the meeting to the executive committee, or in similar ways take part in the decisions made at the general assembly concerning the basic and most important questions of the management of the association. It is, however, not required that an association shall have formal, written statutes and be man-

aged by an executive committee. On the other hand, entities that lack these features, most often will be too informal to constitute an association, because the people that have joined the entity do not have any of the mentioned rights and do not have to accept that the entity implies on them duties, such as the requirement to pay a contingent.

Looking at the general and vague criteria that define an association in Norwegian law, one understands that a broad range of activities are governed by the law of associations. The variation goes from small clubs organising sports, social work, leisure activities on the one hand, to large entities like the national labour- and employer organisations, associations organising activities of professionals (lawyers, dentists etc), cooperatives carrying out economic activities, the Red Cross, on the other. It is evident that the whole spectrum of associations cannot be governed by exactly the same legal rules. However, the law provides freedom to write and constitute statutes in accordance with special needs, and thus gives the flexibility required.

Terms of formation and dissolution. Being a 'self-owned' legal entity with obligations and rights, the question of when the association is formed arises. After the formation, obligations and rights will be allocated to the association, and individuals (including members) do not have any rights to dispose assets and articles. Normally, an association is regarded as being formed as a consequence of the formation act carried out at the constitutional (organising) meeting, adopting statutes and electing representatives to the executive committee. To consider an association formed in these informal cases, the parties must have agreed upon the basic terms of the association, including the purpose. The formal writing of statutes is not regarded as a mandatory term in this respect, but the existence of written statutes may be held as evidence that the parties have come to agreement on basic terms.

Dissolution may arise for several reasons. Activities may cease, leaving only a few members or some representatives of the management. But most often, associations are dissolved in a formal way as a consequence of a decision made by the general assembly. In associations where the statutes contain no special provisions on dissolution, it is supposed that dissolution may not be resolved unless at

least two-thirds of the members have given their consent. The requirement that the dissolution may not be effectuated, unless two general assemblies have passed and have given their consents, is not effective, unless authorised by the statutes. Following a valid decision of dissolution, the association will enter into a process of liquidation. This implies that creditors have to be paid and that the relationship to contracting parties has been brought to an end, before the remaining assets may be reverted.

Taxation

Non-profit associations are often referred to as *non-taxable institutions*. The reason is the so called ‘protection-rule’ (*verneregel*) in the Norwegian taxation legislation of 1911, stating that non-business companies and institutions are exempted from tax on income and assets. The wording ‘companies and institutions’ makes it clear that the distinction between those bodies taxed and exempted is not based on their legal form. Consequently; not only associations and foundations, but also companies may be exempted from taxation according to this rule. However, in practice very few companies carry out non-business activities.

If a legal entity fulfils the protection requirements, all kinds of income will be exempted from taxation, as for instance gifts, donations, and income on capital as interests, royalties, stock and bond sales etc. The exemption also covers profits from the sales of goods and services as well as items that the association uses as the basis of production (machinery and the similar), provided that the activities carried out may not be defined as business activities. Tax exemption is of great practical and economical value for non-profit associations and foundations, and most Norwegian associations and foundations are exempted from taxation on income as well as on assets.

To benefit from the protection rule, the law requires that the association may not carry out business activities. This criteria may cause problems of interpretation in cases where the association, as a supplement to non-profit activities, enters into business-activities (or the opposite). The crucial point in this respect is to define what is the

main-purpose or the main-activity. To decide on this, one has to evaluate the question on the basis of the total activities of the association. If the result is that the non-profit purpose and activities may be regarded as the main activities of the association, it will be considered as exempted from taxation in accordance with the protection rule.

Provided that the total economic activities of the association do not exceed NOK 70 000, based on the annual turnover, there will be no obligation for the association to pay taxes at all. This is also the case if the association in question specifically carries out business activities, and even if the business activities are the only activities performed by the association. The amount mentioned refers to the total annual turnover, not total annual profits. If the turnover varies from year to year, the association may one year fulfil the requirements but fail to do so in another year.

A special procedural legislation, (*ligningsloven*) regulates the filling out of forms etc. regarding taxation of all legal entities. The legislation also governs non-profit associations and foundations. Section 6-2, no. 1 states that anyone who pays salaries or transfers similar economic values to other persons or entities, has the obligation to fill out and deliver to the taxation authorities a form containing information on amounts, time of transfers etc. Having a general scope, this responsibility also has to be fulfilled by non-profit associations. However, there are some exemptions that exist; the most relevant is that payment of less than annual NOK 2000 of salaries and similar does not require such a duty. Furthermore, compensation for expenses paid to members and employees of the association, the latter only referring to transportation, and not exceeding NOK 10,000 per person a year, also provides exemption from the duty to fill out and send in a tax declaration form. The same refers to contributions such as free transport to arrangements and competitions, not including the free use of a car, free meals and free housing.

The obligation to pay VAT (*merverdiavgift*) is authorised by the VAT legislation, from 1969. In principle, non-profit associations, like other legal entities, are obliged to pay VAT. There is a general obligation to pay VAT on the sales of goods, but not on services.

Among taxable services are services concerning health and welfare, lending of real estate, cultural activities, sport activities, lotteries, transportation and the lending of manpower. Registration in the VAT-register is mandatory for non-profit associations with an annual turnover exceeding NOK 70 000.

Parts of the sales carried out by a non-profit association are exempt from VAT. This refers to the sales of post cards, brochures, leaflets, calendars not exceeding NOK 100, and badges, flags and similar containing the logo of the association. Non-profit associations arranging exhibitions, concerts and competitions are, on certain terms, exempt from the obligation to pay VAT on the sales of programs and souvenirs, provided that the sales are carried out while the exhibition, competition etc. takes place.

Moreover, sales from non-profit associations to members, provided no profit is included, are exempted from VAT. Musical instruments, uniforms, sporting-gear and similar items are examples where VAT is not payable by these associations. Occasional sales like garage-sales, Christmas-sales, direct sales of flowers and the likes, will normally not incur the obligation to pay VAT. Also sales from garden pavilions, kiosks, newsstands etc. are exempted, provided that these undertakings only are open to the public during training or competitions, and provided that certain other provisions are fulfilled.

The Law of Foundations

Non-profit activities and undertakings may well be established as foundations, and many museums, theatres, hospitals and undertakings are organised in this way. The foundation has, however, traditionally been used to realise purposes very different from the activities carried out by other entities in the non-profit sector. Originally the foundation was a legal instrument used to organise the transfer of money or a capital-base to the independent disposal for a defined purpose. During recent years, purposes and practice of foundations have changed dramatically, and today these legal entities are commonly used as the basis for non-profit activities.

Two trends are apparent in the history of foundations in Norway. First is a general and historical tension between the idea of foundations as autonomous entities and the right of the public sector to direct their activities. This can be traced back to medieval conflicts between the King and the Church. As the Church struggled to establish its own property and activities outside royal jurisdiction, hospitals and monasteries were created which became the precursors of modern foundations.

Second, unlike its Nordic neighbours whose foundations tend to have been built on wealth and family fortunes, the foundation sector in Norway developed from a wider variety of donations primarily from the middle class. Reflecting these origins, Norwegian foundations have tended to be small, community-serving grant-makers with philanthropic or religious aims.

In recent years the purpose and function of foundations has changed significantly, again contrasting with the experience of other Scandinavian countries. Norwegian foundations are increasingly

established by public authorities and often for activities that are less local or even nationally oriented. Such foundations may enjoy an element of independence administering activities otherwise under the responsibility of the state. However, the close ties between foundations and public officials calls into question more than ever the autonomous nature of foundations. The up-coming enactment of new foundation legislation in 2001 looks likely to encourage this trend of public sector engagement in foundations and the resultant uncertainty as to the independence of foundations in Norway.

The first foundation grew out of a power struggle between the King and the Church in the 13th century. During the 18th century a large number of *legacies* were established in Norwegian society. They frequently provided economic support to vulnerable groups, for the education of individuals, or simply for the basic necessities of life at local levels. The basic capital within these foundations was small and their objectives were usually restricted to helping 'needy' inhabitants of one community or parish, or one occupational group, reflecting good intentions and civil spirit rather than the wealth and fortunes of Norwegian society (Backe and Krøvel 1940).

Foundations were first acknowledged as legal entities in Norway in the last part of the Middle Ages, then being treated as institutions of the Church-law and linked directly to the estates of the Church. Today the law of foundations is treated as a speciality, with close relations to the law of companies and the law of associations. The Norwegian legislation on foundations is of rather new date, *Stiftelsesloven*, (Foundation Legislation) of 1980 was the first legislation on the subject of foundations in the history of Norway. Before the enactment of this legislation, the law of foundations was based on court practice and general legal principles, also of relevance to-day.

As a supplement to the Foundation Legislation of 1980, administrative regulations have been enacted (not being formal laws, but nevertheless binding) regarding so-called *official* foundations (see below) and regarding foundations carrying out business activities, but the latter was later suspended. A governmental-appointed committee of legal experts presented a proposal for a new legislation on foundations on March 16, 1998, intending to replace the Foundation

Legislation of 1980. The new legislation on foundations may be expected in 2001.

*Definition.*¹ The characteristic feature of a foundation is its legal basis in a disposition, being a gift or the similar, placing an object of economic value, most commonly monies, at the independent disposal for a defined purpose, included but not limited to ideal, humanitarian, social, educational and economic activities. Foundations are, like associations, self-owned legal entities, having the power to enter into contracts with third parties, and be a party in legal actions before the courts and official authorities.

The key-element of the definition is the so called *requirement of independence*, providing that the object of economic value has to be placed at the independent disposal of the relevant purpose. The consequence is that no physical person, legal entity or interest outside the foundation is allowed to have any legal rights or powers to influence the foundation and its administration. This encompasses the powers and interests of an owner. As stated above, the foundation is owned by itself, but it also includes other more limited interests in the general or day-to-day administration of the foundation.

It is mandatory for a foundation that its activities are based on a *capital base*. In traditional foundations, the capital base is the source giving life to the foundation, enabling it to distribute monies according to the foundation's purpose (social care, humanitarian work, culture, education, nature preservation etc. Modern foundations that primarily carry out a non-profit activities also need to be established with a capital base. However, in these foundations the base is more of a formal matter since rather than distributing money to certain purposes, they carry out activities to fulfil their non-profit purposes, most often using money from outside sources such as the government and other official authorities, or from the activities of the foundations themselves. The Foundation Legislation of 1980 does not require that the capital base is of a certain minimum value and does not prohibit capital being used in an active manner by distributing in accordance with its objectives. However, the proposal for the new

¹ This part is taken from Woxholt (1999b)

legislation on foundations requires that a non-profit foundation must have capital of at least NOK 100,000 placed at its disposal, and that this may not be distributed, even in cases where the intention of doing this is to realise the purpose of the foundation.

Activities of a foundation must be of some permanence. This criteria disqualify activities like mass-meetings and similar undertakings where symbolic values are transferred to a foundation. On the other hand, the criteria in principle include amounts that are assembled from a great number of people to serve a special purpose, for instance help to the people of a country struck by an earthquake.

Types of foundations. The Foundation Legislation of 1980 draws a distinction between *private* and *official* foundations. The distinction is not consistent with the words 'private' and 'official' in everyday language. An official foundation is confirmed by the regional commissioner (*fylkesmannen*), whereas all other foundations are private. This also means that foundations established by private persons may be official and that foundations established by official authorities may be private. The requirements for official confirmation are, among others, that foundations must have a purpose of some general interest. This implies that foundations having 'narrow' purposes, like supplying a branch of a family with monies, will not qualify as official foundations.

The difference between private and official foundations is mainly that official foundations are subject to a stricter governmental control than private foundations. It is voluntary for a foundation to apply for the status of being official. In other words, the foundation may itself choose whether to be subject to strict governmental control, having the effect that foundations that do not feel confident with such control, merely fail to apply for the official approval. In order to avoid this being misused by the foundations, the proposal for the new legislation on foundations abolishes the distinction between private and official foundations. The proposal also contains new legislation regarding the governmental influence; these new rules being more influenced by supervision than control in a narrow sense.

Another distinction is drawn between *non-profit* and *economic* foundations. Official as well as private foundations may carry out

business activities, thus being economic foundations. The Foundation Legislation of 1980 contains special provisions for the economic foundations.

Governing bodies. In principle, it is up to the foundation itself to determine which governing bodies and what kind of election rules it shall have. Consequently, statutes of foundations most often contain provisions regulating these issues. However, it is mandatory in the Foundation Legislation of 1980 that an executive committee is elected as the supreme governing body of the foundation, implying that no other authority or body, in- or outside the foundation, may interfere with the decisions made by the executing committee. If supreme power is allocated to another body of the foundation, this body will in fact be regarded as the executive committee, resulting in that it has to comply with all of the obligations that legislation places upon the executive committee.

Capital base and administration. The traditional foundation has a capital as the basis for its activities. Normally, it is the yield of the capital, typically interest or the like, that enables the foundation to fulfil its purpose. For this reason, it is essential that the capital base is of some significance and that it is managed in an efficient manner, making it possible to realise the objectives.

The Foundation Legislation of 1980 and the proposal for a new legislation uses the description *grunnkapital* (initial capital base), meaning the capital supplied in connection with the founding of the foundation. The initial capital base may later be increased by gifts or other sources, and it may of course decrease, as a consequence of the day-to-day activities of the foundation. The proposal for a new foundation legislation suggests that the minimum capital base of a foundation must be NOK 100,00, and that this base is 'locked' in the foundation.

The *distribution* from the foundation is most often regulated by special provisions in the statutes. The statutes may specify a named person or a group of persons that shall be the beneficiaries, or the statutes may simply state that the distribution must realise the purpose, preparing for applications from people or entities that meet this requirement. If the statutes do not contain any provisions on distri-

bution, it is up to the executive committee to decide, within the scope of the purpose, to whom and to what extent distributions are to be effectuated.

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Apendix

Norwegian Associations in the ICPNO system
by Dag Wollebæk

Classifying Norwegian associations in the Comparative Non-profit Sector Project (ICNPO) system raise two major issues. First, how does the classification system used in the ICNPO compare with the systems used in generating national account statistics? Second, how well does the ICNPO work in distinguishing between Norwegian organisations? Does it distort, misrepresent or exclude groups of associations, and are the major differences accommodated?

Addressing the first issue, the national account system in Norway (SIC94)² is very similar to that of the other European countries. After Norway joined the European Economic Area (EEA) the Norwegian version of the UN ISIC-system,³ which had previously been used as the statistical standard, was adjusted to comply with the European Union standard NACE-system.⁴ NACE and ISIC are very similar in structure, and through disaggregating categories it is possible to transfer information from the one to the other

Consequently, the industrial classification system used in Norway is no further away from the ICNPO than in other UN member states. thus, we expect national economic statistics to be transferable to the ICNPO, but we also expect to encounter many of the same problems

² *Standard Industrial Classification 1994.*

³ *International Standard Industrial Classification of all Economic Activities.*

⁴ *Nomenclature générale des Activités économiques dans les Communautés Européens.*

in the classification process, as was the case for the countries participating in phase I of the project.

The economic statistics contain information about all non-profits with more than five employees.⁵ As in most countries, the non-profit sector is not treated separately in the statistical material. The information about the sector can however be extracted from the other economic sectors by cross-classifying sector codes and SIC94-categories. The sector's activities are concentrated in the SIC94-categories 73 (Research and development), 80 (Education), 85 (Health and social work), 91 (Activities of membership organizations n. e. c.) and 92 (Recreational, cultural and sporting activities).

In the case of some ICNPO groups, there is an almost perfect congruence with the SIC94-categories. This applies to 'health', 'social services', and 'education'. For these groups, where the bulk of the economic activities of the sector is presumably to be found, the data can be aggregated to fit the ICNPO groups. There is also a fair overlap between the ICNPO-groups 'business and professional organizations' and 'religion', and corresponding SIC94-codes.

However, two categories in the SIC94 represent particularly vexing problems. The catch-all 91.33, "activities of other membership organizations n. e. c.", includes organisations operative in a number of areas, such as the environment, advocacy, philanthropy, culture and recreation and international activities. These units are numerous and important to the understanding of the voluntary sector in Norway. Another problematic category is 85.329, "other social work activities without accommodation", whose entities are active in three different ICNPO groups (social services, philanthropy and international activities). These two categories need to be decomposed in order to translate the data to the ICNPO.

Turning to the second issue, how well the ICNPO captures the main distinctions between organisations in Norway, there are some categories that inevitably seem more 'foreign' to the Norwegian setting than others. Group 7 (Law, advocacy and politics), and 8

⁵ A number of smaller, but nevertheless important and mostly local associations are thus excluded. We intend to measure the economic contributions of these entities by means of a separate survey of grassroots associations due in 1999.

(Philanthropic intermediaries and voluntarism promotion) do not have corresponding categories in Norway. The former category contains a collection of associations that are rarely grouped together. The closest corresponding term in Norwegian would be *interesseorganisasjon* (interest organisation), which has a broader meaning and would normally not include legal assistance associations. The latter category is problematic because the concept of ‘philanthropy’ is not commonly used in the Norwegian language. Extensive explanations will be needed when applying these two categories in the Norwegian context.

The other ten categories capture important distinctions in the Norwegian debate. In classifying the organisations by their main economic activity, the ICNPO also emphasises important features which have been understated in the Norwegian discourse. Most importantly, it divides the organisations active in health and social services (and international activities) which are grouped together under a “social and humanitarian”-heading in most Norwegian research-based typologies.

However, no classification effort is entirely problem-free. The first challenge relates to the use of *economic activity* as the main principle of classification. The ICNPO classifies establishments by the activity that consumes the largest share of expenditure (Salamon and Anheier 1996: 3). This constitutes an addition to the Norwegian research tradition, where economic contributions of NPOs tend to be downplayed. In many cases, however, this criterion may be difficult to apply. Most NPOs in Norway are locally based associations with a minuscule turnover. Most research-based typologies in Norway classify these associations by their main purpose or main activity. Such additional criteria need to be considered for the economically “inactive” associations.

The second challenge relates specifically to *multiple function-organisations*. It is difficult to classify organisations active in more than one area without some loss of information. This problem is alleviated by using the institutional, rather than the enterprise as the unit of analysis, provided that this differentiation exists. This solution is less applicable if the organisation is institutionally unitary, but nev-

ertheless performs different functions or roles. If the economic activity-criterion is applied strictly, this might under-report the scope of activities that are usually low-cost, such as advocacy. One example: Handicap organisations provide social services at the local level, but they also advocate members' interest towards public authorities. Shelters for battered women perform social services in economic terms, but their role as spokesperson for the women may be equally important. Judged by economic criteria alone none of the mentioned organisations qualify as advocacy organisations since advocacy is a low-cost activity compared to their other functions. Nevertheless, their role as advocates is pivotal to people's understanding of the organisations.

A third challenge concerns *ambiguities inherent in the ICNPO*. In some cases, classification may be problematic although the organisations have singular purposes, because the line between different ICNPO-categories is difficult to draw. Delineating sports from recreation (e.g. darts clubs, bowling, car racing etc.) or recreation from culture (e.g. photography associations, amateur radio stations, railroad enthusiasts) is not easy, especially in a country where the definition of the culture-concept has been consciously non-elitist. A particular problem in this vein concerns the 'International'-category. It can be argued that this is not a separate field of activity, but rather a *characteristic* used to describe the activity. For instance, the anti-nuclear movement and most environmental organisations fight ecological problems at the international arena. Many mission organisations are active in religious work both in Norway and abroad. Their international operations demand considerable financial resources, thus qualifying them for inclusion in the 'international'-category. However, most of the membership activity in the organisations is at the local and national level. Although participating in international networks, the nature of the organisations is essentially domestic. The most resource-demanding part of their work may well be of an international character, but their main activity fields are nonetheless environment and religion respectively.

Most of the challenges sketched above are by no means unique to Norway. They are more or less universal problems that arise in any

classification effort. The ICNPO has distinct advantages and which should not be understated. The hierarchical structure combines parsimony with explanatory richness in a way that most previous research-based typologies in Norway fail to do. The comparative nature of the classification system and the project as a whole allows us to test conventional wisdom and develop new knowledge about the characteristics of the sector by comparing of Norwegian non-profit activities to a wide range of countries.

Finally, in using economic activity as the basis of classification, the ICNPO places emphasis on a largely ignored matter in previous Norwegian treatments of non-profits. Thus, it opens up new avenues of thought for Scandinavian non-profit research.

