

Climate Change and Capacity: Comparing the Policy Influences of US and German Nonprofit Organizations on Climate Change Legislation

Abstract

The purpose of this paper is to understand the relationship between German and American nonprofit organizations and their ability to influence climate change policy in their respective countries. This paper seeks to understand the underlying political and historical reasons why nonprofits in the United States are much more restricted in engaging in political activity than their German counterparts. I argue that the actions that the two countries have taken on climate change are a result, in part, of the degree of impact that environmental nonprofit organizations have had on the political systems of each country.

Introduction

Overall, Germany has much passed much more progressive and comprehensive climate change legislation than the United States and is a major force in reducing green house gas emissions at its own borders, in the European Union (EU), and internationally. Though the United States is a signatory to the Kyoto Protocol, they never ratified the agreement, which renders it nonbinding. Several major climate change acts have been introduced into US Congress, but none have passed. In contrast, Germany has passed a multitude of environmental and energy-related legislation. I argue that part of the reason why Germany has had more success in passing climate change legislation than the US is due to Germany's enhanced engagement with environmental nonprofit organizations in the political system.

The US and Germany were selected for comparison in this work because they have key roles in economic and world leadership. They were also selected because of their roles in international climate change action. Though the German nonprofit sector is historically and socially positioned differently than the US sector, its practical lobbying laws and government partnerships can serve as an example to many.

In the first chapter of this work, I lay out the critical juncture that world governments now face—how to halt the inevitable course of climate change. It is clear that compared to Germany, the United States is falling behind in taking both domestic and international action against climate change. I attribute part of this climate change inaction to the variable relationships between each country's governments and their nonprofit sectors.

The second chapter establishes the circumstances under which nonprofits can influence government policy and programs. The two main differences between the policy outcomes of German nonprofits and US nonprofits are based off of 1) dissimilar lobbying laws between the countries, and 2) equally dissimilar attitudes about nonprofit-government relations in each country. German nonprofits benefit from both less restrictive lobbying laws than in the US and more mutually beneficial government partnerships.

After uncovering the discrepancies between the US and German nonprofit sectors, I unearth the influences on the creation of each sector and their evolutions throughout the past forty years. In order for both the US and German sectors to be responsive and adaptable, it is important to understand the way they are structured and what

advantages or disadvantages those structures offer. Here I also explain the financial constraints of a 501(c)(3) status in the US and how it has become a disincentive for being politically active, as well as how basic differences in German and American political and voting systems affect the nonprofit sector.

In 2012, there were over 1,409,000 nonprofit organizations registered in the US, and, in 2010, nonprofit wages accounted for 9.2% of all wages in the country.¹ In contrast, Germany has a little over 100,000 nonprofits total.² In this paper, the term *nonprofit* for the United States will be used to refer explicitly to a 501(c)(3) tax-exempt nonprofit organization, unless otherwise noted. The same term will be used to refer to nonprofits with similar tax-exemptions in Germany. While not all nonprofits in the US are 501(c)(3) organizations, the majority of registered US nonprofits are—in 2009, 63.7% of nonprofits were 501(c)(3) nonprofits.³ The 501(c)(3) status must be applied for and also comes with restrictions on nonprofit lobbying. This will be discussed in greater detail in chapter two.

If the rules regarding lobbying in the 501(c)(3) status are not followed, the tax-exempt status can be revoked. Though the revocation of the 501(c)(3) status is rare, it is still a serious concern for many nonprofits. Many nonprofits rely on donations from individuals, groups, and organizations in order to fund their operations. Donations made to 501(c)(3) nonprofits can be deducted from personal income taxes in the US, therefore incentivizing the act of donating to nonprofits. If a nonprofit loses its

¹ National Center for Charitable Statistics, "Number of Nonprofit Organizations in the United States, 1999 - 2009."

² Zickgraf, Arnd, "The Non-Profit Sector: As Big as the German Construction Industry," Goethe Institut, Last modified September 2011.

³ National Center for Charitable Statistics, "Number of nonprofit organizations in the united states, 1999 – 2009, accessed January 15, 2014.

501(c)(3) status, it can lose that tax exemption, and consequently, some of its donor base.

When discussing these lobbying restrictions for tax-exempt organizations, it is critical also to define nonprofit advocacy and nonprofit lobbying. According to the Center for Lobbying the Public Interest, “Lobbying is one form of advocacy, comprising efforts to influence specific legislation with legislators and their staff. Advocacy covers a much broader range of activities such as influencing executive branch actions to implement the laws and public education.”⁴ Lobbying is what is specifically restricted for nonprofits; nonprofit lobbying activities are restricted either through the 1976 501(h) rule or the “no substantial part” test.

While nonprofits are not by any means the only group interested in influencing climate change policy, they are significant players because of their ability to mobilize constituent interests. Nonprofits are easily accessed by the average citizen and often represent opinions on social and economic issues. Although there are multiple factors in determining why Germany has had more success in passing comprehensive climate change legislation than the United States, nonprofit involvement in politics is a key variable to understanding the lack of responsiveness of governments to calls for change. The two main issues that will be explored in this paper are the difference between Germany and the United States’ nonprofit lobbying rules and their nonprofit-government relationships.

As examined in the work by Fuljanty-Jost and Jacob on deconstructing the German nonprofit sector, one of the most influential characteristics of the German

⁴ “Lobbying and Advocacy—Major Issues: Myths Defined,” Center for Lobbying in the Public Interest, accessed April 2, 2014.

nonprofit sector is its positioning in information-sharing networks. In their work, the authors conclude that Germany's nonprofits, though a relatively small group, make up for their comparatively weak financial resources and size through their utilization of large information-sharing networks.⁵ Partnerships are often formed between academic institutions, private businesses, unions, nonprofit organizations, government agencies, and citizens groups in order to facilitate better use of resources and flow of information regarding special projects or collaborative efforts. These networks encourage relationships between all three sectors and highlight the value of German nonprofits as experts in their fields.

German nonprofits are able to form these close relationships with government entities because they face less lobbying restrictions than US nonprofits and have historically been viewed as government partners. While Foljanty-Jost and Jacob commend the information networks in Germany, it is difficult to say whether the same model could boast similar results in the United States due to the current political and social limitations that US nonprofits face. Foljanty-Jost and Jacob agree that research is needed on the comparative research is needed.⁶ This paper seeks to provide a beginning point for that comparative research.

1. Climate Change Cooperation: Decelerating an Imminent Demise

The Need for Comprehensive Climate Change Policy

While individual efforts are making an impact in many communities around

⁵ Klaus Jacob and Gesine Foljanty Jost, "The climate change policy network in Germany," *European Environment* 14, no. 1 (2004): 1-15.

⁶ Jacob and Jost, "The climate change policy network in Germany."

the world, cohesive and swift government action is needed in order to combat climate change and its far-reaching effects. Climate change is the sum of the drastic changes in Earth's physical composition as a result of mainly human-led activities, namely the emissions of greenhouse gases. The consequences of climate change are plenty: a rise in sea-levels, flooding of low-lying areas, changes in weather patterns, destruction of crops, heat-thriving illnesses threatening animals and humans alike, and more severe and frequent natural disasters—just to name a few⁷.

The greenhouse gases are carbon dioxide, methane, nitrous oxide, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride⁸. The trapping of surpluses of these gases in the atmosphere has contributed to the global rise in land and ocean temperatures in recent decades. In the 20th century, the average total rise in sea level was between four and eight inches; in the past twenty years, sea levels have been increasing by 0.13 inches per year.⁹ The increase of temperatures in the ocean is causing the water to expand and rise, which could put low-lying island nations and cities underwater in the near future.

Though climate change has been a relevant topic for many decades, this paper focuses on the events and actions that have occurred in the past 20 years. The rough starting point for this analysis is The United Nations Conference on Environment and Development of 1992, which took place in Rio de Janeiro, Brazil. This event, plus the signing of the Kyoto Protocol in 1997, constituted fundamental beginnings for a global consensus on climate change.

⁷ "Climate Change: Basic Information," Environmental Protection Agency, accessed March 12, 2014.

⁸ "Causes of Climate Change: Basic Information," Environmental Protection Agency.

⁹ "Sea Level Rise," National Geographic, accessed May 4, 2014.

The Participation of Germany and the US in National and International Efforts to Address Climate Change

At the time of this writing, the United States has not passed a comprehensive renewable energy act or national energy plan. The American Clean Energy and Security Act made it through the House of Representatives, but was defeated in the Senate in 2009. This bill would have created energy standards requiring electricity suppliers to fulfill twenty percent of their energy demand through energy savings and renewable sources by 2020¹⁰. It would have also passed a cap-and-trade system and legislated national standards for emissions reductions.¹¹

While the US's efforts still leave much to be desired, there have been a few attempts at change. President Obama created the President's Climate Change Action Plan and formed the White House Office of Energy and Climate Change Policy—the first of its kind for a president. There is also now a national tax credit for the installation of solar panels for both residential and commercial properties. However, the truth remains that the most well known pieces of U.S. climate change legislation continue to be the Clean Air and Clean Water Acts of the 1970s—which are now forty years old.

Conversely, the German government has passed a significant amount of renewable energy legislation, starting in 1999 with the ecological tax reform, which increased taxes on fuel and energy. The regional rail transport system was also reformed, and the hallmark Renewable Energy Act (EEG) of 2000 became Germany's national energy

¹⁰ US 111th Congress (2009-2010), *American Clean Energy and Security Act of 2009*, Sponsor Rep Waxman, Introduced 5/15/2009, (H.R. 2454 All Information—Library of Congress).

¹¹ US 111th Congress (2009-2010), *American Clean Energy and Security Act of 2009*.

plan. Germany's Renewable Energy Heat Act mandates that German companies must cover a portion of demand for heat from renewable energy.¹² Two other major German environmental laws include the Integrated Climate and Energy Programme of 2007 and 2008, which legislated the target to reduce 2020 emissions down to 40% of 1990 levels, and the German Strategy for Adaptation to Climate Change, which created an actual plan for dealing with the impacts of climate change¹³. The Biofuel Quota Act of 2007 also legislated a biofuels target of 17% by 2020.¹⁴

German climate change and energy legislation even incorporates the private sector. The Energy Industry Act of 2005 was enacted in order to increase competition for renewable energy production and to ensure the supply of sustainable energy in Germany.¹⁵ Additionally, reforms to the Eco Tax Act in 2011 instigated an aviation tax for German flights in hopes of cutting down nonrenewable energy usage in the flight industry. Starting in 2011, all flights leaving Germany became required to pay a tax depending on the length of the journey.¹⁶ A ticket from Germany to the US costs the airlines an extra 45 Euros in aviation taxes.¹⁷

The key legislation of each country, however, provides only part of their stories as actors against climate change. It is also important to look at comparative emissions

¹² "Climate Change Laws of Germany," Columbia Law School Center for Climate Change Law, last modified December 29, 2013, accessed May 2, 2014.

¹³ "Climate Change Laws of Germany," Columbia Law School Center for Climate Change Law.

¹⁴ "Climate Change Laws of Germany," Columbia Law School Center for Climate Change Law.

¹⁵ "Climate Change Laws of Germany," Columbia Law School Center for Climate Change Law.

¹⁶ "German Aviation Tax Fiscal Representation and Compliance," TMF Group, accessed May 2, 2014.

¹⁷ "German Aviation Tax Fiscal Representation and Compliance," TMF Group.

targets and reductions. Both countries have made emissions reductions targets for 2020, however Germany's is legislated, while the U.S.'s target is not. The U.S. plans to reduce emissions 17% by 2020, based on 2005 levels; this nonbinding target was offered as part of the UN Framework Convention on Climate Change under the Copenhagen Accord.¹⁸ Germany has *legislated* a target as part of the Integrated Climate and Energy Programme of 2007 and 2008 to reduce emissions to 40% below 1990 levels by 2020.¹⁹

These emissions statistics and examples of legislation begin to demonstrate the lead of Germany over the United States in efforts to slow climate change. With both a national energy plan and legislated emissions targets, Germany is creating environmental accountability. It is now crucial to explore why the US and Germany have taken such opposing paths towards climate change and how their nonprofit sectors have affected the formulation of environmental laws.

2. The Intersection of Policy Commitment and Policy-Influencing Capacity

In a 2006 work, Lorenzoni and Pidgeon reported that 57% of Germans were "very worried" about climate change.²⁰ In the United States, a March 2014 Gallup poll shows that climate change is still a contested topic for most Americans. Issues that people reported to worry about "a great deal" more than climate change on the survey

¹⁸ Juliet Eilperin, "U.S. pledges 17 percent emissions reduction by 2020," *The Washington Post*, January 29, 2010. Accessed May 3, 2014.

¹⁹ Louise Osborne, "German renewable energy drives brings emissions cut success," *The Guardian*, November 26, 2012. Accessed May 3, 2014.

²⁰ Irene Lorenzoni and Nick F. Pidgeon, "Public views on climate change: European and USA perspectives," *Climatic Change* 77, no. 1-2 (2006): 77.

included drug use, social security, and unemployment.²¹ The economy topped out the list of Americans' worries.²² However, 37% of respondents cared about availability and affordability of energy "a great deal."²³ Thirty-one percent of those questioned said that they worried "a great deal" about the environment.²⁴ Many Americans believe that technological and economic advances alone will be enough to stop or combat climate change, with no change of human lifestyle required. However, Gallup does prove that a third of Americans are *already* very worried about climate change.

Therefore, both the United States and Germany have constituents that are worried about climate change. Nevertheless, there is still a gap between US and German climate change legislative outcomes. Though climate change legislation is a complex issue that involves many actors and obstacles, nonprofit organizations and civic participation are two of those factors that must be considered when analyzing why such an immense gap exists between climate change policy in Germany and the US. Two reasons for the lack of nonprofit involvement in climate change policymaking in the US are that 1) nonprofits in each country fall under severely different lobbying rules that dictate how much they can be involved in the legislative process, and 2) the attitude and relationship between nonprofits and the government in each country is markedly different.

²¹ R. Riffkin, "Climate change not a top worry in u.s.," Gallup, March 12, 2014. Accessed March 31, 2014.

²² Riffkin, "Climate change not a top worry in u.s.."

²³ Riffkin, "Climate change not a top worry in u.s.."

²⁴ Riffkin, "Climate change not a top worry in u.s.."

Differences in German and US Nonprofit Rules of Political Interaction

United States Nonprofit Lobbying Restrictions

The first reason that the gap between German and US nonprofit legislative outcomes persists is because the laws that govern the political interactions of each country's sector are varied enough to facilitate the gap. Though Germany does have some nonprofit lobbying laws that are similar to US laws, Germany's lobbying laws are much more lenient overall. US tax laws restrict the type and amount of lobbying that a 501(c)(3) nonprofit can do without losing its tax-exempt status.

Nonprofit lobbying in the United States is directly regulated under the IRS Tax Code. The code reads, "To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization... may not be an *action organization*, i.e., it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates."²⁵

Additionally, "Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise

²⁵ The Internal Revenue Service, "Exemption Requirements - 501(c)(3) Organizations," last modified March 13, 2014 (accessed May 1, 2014).

taxes.”²⁶

Lobbying for nonprofits in the United States can be broken down into two categories of classifications. Direct lobbying is considered any attempt to openly influence legislation, such as phoning a state representative.²⁷ Grassroots lobbying refers to any attempt to influence public opinion on a topic or piece of legislation, such as going door-to-door to talk with neighbors about the issues.²⁸ These two types of lobbying apply to all nonprofit organizations and are measured either under the 1976 501(h) law or the “no substantial part” test. Nonprofit organizations fall under the “no substantial part” test unless they elect to come under the provisions of the 1976 law.

These two different approaches to determining nonprofit lobbying measure out how much lobbying a nonprofit can legally perpetuate. The 1976 501(h) law is relatively well-defined. It states that 20% of the first \$500,000 in annual expenditures of a nonprofit can go to direct lobbying, up to one million dollars of total annual expenditures.²⁹ Under this same law, one quarter of the total amount of expenditures for lobbying can go to grassroots lobbying.³⁰ This means that one quarter of the total 20% of expenditures can go to grassroots lobbying, or 5% of expenditures.

The “no substantial part” test is much less straightforward than the 501(h)

²⁶ The Internal Revenue Service, “The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations,” last modified March 5, 2014 (accessed May 1, 2014).

²⁷ Center for Lobbying in the Public Interest, “FAQ,” Last modified 2012.

²⁸ Center for Lobbying in the Public Interest, “FAQ.”

²⁹ Center for Lobbying in the Public Interest, “FAQ.”

³⁰ Center for Lobbying in the Public Interest, “FAQ.”

test of 1976. It dictates that “no substantial part” of a nonprofit’s resources can go to direct or grassroots lobbying. The term substantial has never been clearly defined by the IRS, so this “no substantial part” test leaves nonprofit political activities up for interpretation by whoever reviews the nonprofit’s tax documents and their own definition of what constitutes substantial expenditure. This way of determining lobbying expenditures is highly subjective. Recall that nonprofits that do not elect to fall under the 1976 501(h) expenditure test automatically fall under this “no substantial part” test.

German Nonprofit Lobbying Restrictions

Though Germany also has restrictions for nonprofits, they are not nearly as stringent as the United States restrictions. German nonprofits have no allowance when it comes to general lobbying, as long as their lobbying campaigns do not support a specific political party.³¹ They are also permitted to publically comment on politics when the topic of interest is related to the mission or public benefit purpose of the organization.³²

With lessened restrictions on nonprofit lobbying in Germany, German nonprofits can be more fully engaged actors in the political and legislative process. They can pursue more relationships with governmental agencies and actors since their very interactions with them are not restricted to the same 20% or “no substantial part” tests that the United States nonprofits have. Since US nonprofits

³¹ United States International Grantmaking Council on Foundations, "Country Information: Germany," Last modified May 2013.

³² United States International Grantmaking Council on Foundations, "Country Information: Germany."

have a harder time forging the same kinds of relationships with governmental units and can lobby less than their German allies can, they may achieve fewer policy outcomes than German nonprofits. This creates problems not only for the advancement of public policy in the United States, but also for nonprofit legitimacy and participation.

Since German nonprofits are allowed to lobbying with few restrictions, they can become key problem-solving partners alongside government organizations. German nonprofit-governmental partnerships are, on the whole, collaborative. German nonprofits invest in the government, and the government invests in nonprofits.

Germany has an impressive number of environmental nonprofits currently working with and lobbying the state and federal governments. The German nonprofit organization Naturschutzbund Deutschland (NABU) has recently launched initiatives in Ethiopia and Indonesia that use state-support and state-funded banks to combat climate change there.³³ They have also recently made a thirteen-year commitment with the Federal Ministry of Environment and two German states to rehabilitate the lower Havel River area in the north-east.³⁴

Moreover, the organization BUND has 2,200 local groups and environmental projects underway, plus 16 regional sections that represent the various states of Germany.³⁵ They are dedicated to advancing UN Agenda 21 strategies for

³³ NABU, "Restoration project at the river Havel."

³⁵BUND- Friends of the Earth Germany, "BUND – a citizens' movement," accessed March 31, 2014.

sustainable development at local level.³⁶ Many of the German state chapters of BUND are working on ambitious government-backed projects. In Bavaria, BUND members are working to preserve the last natural section of the Danube River. Plus, thanks to BUND efforts, the region of North Rhine-Westphalia is now GMO-free. BUND is also looking to make its mark in unique partnership ventures, such as its partnership with the federal government and a national department store chain to promote eco-friendly school supplies.³⁷

In addition to partnering with the government to preserve the environment and change policy, German nonprofits are also partnering with each other—and not just with one or two other organizations. The German NGO Forum on Environment and Development and the German League for Nature, Animal Protection and Environment (DNR) both are coalitions of nonprofits dedicated specifically to lobbying the government for environmental change. The German NGO Forum on Environment and Development has 35 member organizations, while DNR has 98.

It is questionable as to whether these organizations would be having as many partnerships and programs if they had to follow the same kinds of lobbying rules that nonprofits in the United States do. They might also not have the same government-nonprofit relationships. Overall, German environmental nonprofits have more flexibility when it comes to choosing how to get their organizations and members to become politically engaged.

³⁶ BUND- Friends of the Earth Germany, "BUND – a citizens' movement."

³⁷ BUND- Friends of the Earth Germany, "About BUND: Independent. Competent. On a local and on a global level," accessed April 1, 2014.

3. Oppositional Allies?: Fundamental Differences Between US and German Political Systems

The previous chapter addressed why both the laws surrounding lobbying activities and the differences between nonprofit-government relationships foster the disparity between nonprofit lobbying efforts and outcomes in the United States and Germany. Now that this divergence has been identified, it is important to understand why the nonprofit sectors in each society were fashioned with these specific types of restrictions. Influences on the nonprofit sectors include history, laws, social norms, and even type of government. In order to better understand the implications of the current makeup of the US nonprofit sector, it is first necessary to address the fundamental paradox of the 501(c)(3) status in the United States.

The 501(c)(3) Tradeoff: Why Nonprofits Must Choose Between Voice and Vitality

American nonprofits are broken down into 27 different classifications for tax purposes under the IRS 501(c) designation. However, the 501(c)(3) nonprofits in the US are growing at a rate disproportionate to that of other classifications. In 1999, 501(c)(3) organizations made up 52.5% of nonprofit organizations, with private foundations making up 6.5%, and other 501(c) nonprofits making up the remaining 41%.³⁸ In 2009, the share of 501(c)(3) nonprofits increased to 63.7%, with private foundations at 7.6%, and other 501(c) nonprofits making up only 28.7%.³⁹

The Revenue Acts of 1934 and 1954 were the main driving forces behind the

³⁸ National Center for Charitable Statistics, "Number of nonprofit organizations in the united states, 1999 - 2009."

³⁹ National Center for Charitable Statistics, "Number of nonprofit organizations in the united states, 1999 - 2009."

creation of the lobbying restrictions of the 501(c)(3) status in the United States. Before 1934, there was no legislated restriction on the lobbying of nonprofits, however sentiments around this time were that nonprofits that distributed biased information should be treated differently than other organizations.⁴⁰ In 1934, the “no substantial part test” was created and became part of the Revenue Act of 1934.⁴¹ The Senate Finance Committee drafted the proposal, led by Senator David Reed; some say it is probable that Mr. Reed may have had personal reasons for wanting restrictions on nonprofit lobbying activities due to conflicts within his personal life.⁴²

In 1976, Congress created more specific lobbying measurements known as the IRC 501(h), widely referred to as the expenditure test.⁴³ At this time, Congress also established rules stating that 501(c)(3) nonprofits that lose their tax-exempt status for breaking lobbying rules cannot simply become 501(c)(4) organizations, which have more lenient lobbying rules.⁴⁴ The Supreme Court has upheld the 501(c)(3) lobbying restrictions when they have been challenged.⁴⁵

Some notable nonprofit organizations have historically influenced policy in the United States, in spite of these lobbying limitations. Two examples are the National Rifle Association (NRA) and the American Association of Retired Persons (AARP). The NRA has been working to quell national action on gun control, despite

⁴⁰ Judith E. Kindell and John Francis Reilly, “Lobbying Issues,” The Internal Revenue Service, 262, Accessed May 2, 2014.

⁴¹ Kindell and Reilly, “Lobbying Issues,” 264.

⁴² Kindell and Reilly, “Lobbying Issues,” 264.

⁴³ Kindell and Reilly, “Lobbying Issues,” 267.

⁴⁴ Kindell and Reilly, “Lobbying Issues,” 267.

⁴⁵ Kindell and Reilly, “Lobbying Issues,” 269.

several recent lethal public shootings. AARP prides itself on helping to slow the budget cuts to benefits for their senior constituents.

Nonprofits like the NRA and AARP, however, can overstate the effects of 501(c)(3) nonprofits on the American political system. In fact, both the NRA and AARP are 501(c)(4) organizations, which have less strict lobbying rules than 501(c)(3)s. Therefore, they are able to lobby more and possibly influence more policy than their 501(c)(3) counterparts. However, since the average American may not know the difference between a 501(c)(3) and a 501(c)(4) organization, organizations like AARP and the NRA can lead the general public to believe that the majority of nonprofits are allowed to be more politically engaged than they really are. Furthermore, AARP and the NRA both have millions of dollars to devote to their lobbying efforts, which many smaller, local organizations do not. In 2011, AARP had a total revenue base of over one billion dollars, while the NRA had 218 million.⁴⁶

Other comparably large nonprofits often follow a slightly different model than that of the NRA or AARP; they have one branch that is 501(c)(3) and one that is 501(c)(4). One part of the organization deals with charitable contributions and receives tax exemptions as a 501(c)(3), while the other is allowed to be more politically active as a (501(c)(4). This gives donors and others involved with the organizations the false impression that the 501(c)(3) part of the organization is making more legislative progress than it really is. The Sierra Club is an example of an organization that operates with both a 501(c)(3) a 501(c)(4) branch.

⁴⁶ Internal Revenue Service, Form 990: National Rifle Association and Form 990: AARP, 2011, Accessed via nccs.urban.org.

It may seem ideal to be able to register a nonprofit in the US as a 501(c)(4) or dual 501(c)(3) and 501(c)(4), but the flexibility to make these decisions is limited by resources. In order to file as both a 501(c)(3) and 501(c)(4), an organization must have access to large amounts of resources. Both the 501(c)(3) part of the organization and the 501(c)(4) part must have different staffs, boards of directors, and budgets. Many nonprofits don't have enough resources to make this commitment a feasible one.

In summation, since the majority of nonprofits are 501(c)(3) nonprofits, this means that the majority of nonprofits in the United States are very limited in participating in the political system that impacts them and their constituents. These organizations face a tradeoff between having a political voice and being able to retain special tax incentives. It is true that not all nonprofit organizations want a political voice, but many organizations include lobbying as part of their mission statements. Those nonprofit missions cannot truly be fulfilled if only 20% or "no substantial" amount of their time and efforts can be directed at creating change.

A Brief History of the German Nonprofit Sector

In the past few decades, Germany has seen a drastic makeover in the composition of its nonprofit sector. Johns Hopkins has provided some of the only comparative research about international nonprofit sectors, dating back to 1995. While the data is twenty years old, it does provide a framework for the German sector that exists today.

Shortly after reunification, the German nonprofit sector saw unprecedented growth. In 1995, the sector had operating expenditures of 94.4 billion—3.9% of the

country's GDP.⁴⁷ The workforce numbered 1.44 million full-time employees, a larger group than major industries such as the chemical and transport industries, as well as Germany's largest company-- Siemens.⁴⁸ In 1995, the sector's overall employment had reached a whopping 373% of its 1960 employment.⁴⁹ In comparison, the public sector had grown by 201% in that same 35-year time period, and the private sector had only grown 98%.⁵⁰ Environmental advocacy organizations made up 6.1% of nonprofit employment in Germany in 1995.⁵¹

Specific cultural, historical, and political norms, created three important principles that distinguish the German nonprofit sector today from other countries' nonprofit sectors.⁵² These three principles are the principles of self-administration, subsidiarity, and communal economics; the first two principles are particularly relevant for this case study.⁵³ The principle of self-administration gave nonprofits an early role in the once-despotic nation, where participation in civic affairs was highly limited.⁵⁴ The principle of subsidiarity grants private nonprofits discretion and funds to provide services to citizens.⁵⁵ In fact, nonprofits are given priority over the public sector in providing services to German citizens.⁵⁶

⁴⁷ Lester M. Salamon et al., *Global civil society: Dimensions of the Nonprofit Sector* (The Johns Hopkins Center for Civil Society Studies, Baltimore, MD, 1999), 100.

⁴⁸ Annette Zimmer. "Corporatism revisited—The legacy of history and the German nonprofit sector," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 10.1 (1999): 212.

⁴⁹ Zimmer, "Corporatism revisited," 214.

⁵⁰ Zimmer, "Corporatism revisited," 214.

⁵¹ Salamon et al., *Global civil society*, 108.

⁵² Salamon et al., *Global civil society*, 105.

⁵³ Salamon et al., *Global civil society*, 105.

⁵⁴ Salamon et al., *Global civil society*, 105.

⁵⁵ Salamon et al., *Global civil society*, 105.

⁵⁶ Salamon et al., *Global civil society*, 105.

These principles combine to give the nonprofit sector a special role in German society, where nonprofits are a common and vital fixture in the functioning of the German government and civil society. In many areas of legislation, public officials are *required* to confer with nonprofit organizations regarding relevant policy matters.⁵⁷ Furthermore, the German unwritten tradition of “nonplanning” devolves the development and implementation of many policy projects to local governments and nonprofits.⁵⁸ This longstanding and well-incorporated role of the German nonprofit sector is not paralleled in American society.

Due to the close relationship between the German nonprofit sector and the German government, many German nonprofits do rely on public sector funding.⁵⁹ However, the types of organizations that rely heavily on public sector funding are mostly social and health service nonprofits, such as hospitals and schools. In contrast, environmental nonprofits in Germany are part of the group of nonprofits that do not rely as much on government funding. Environmental nonprofits and many arts, culture, and recreation nonprofits rely on membership dues and volunteer donations in order to run their operations, much like environmental nonprofits in the United States.⁶⁰

It is possible that the present day composition of the German nonprofit sector has been driven, in part, by the secure place that German nonprofits have in German society, as well as the fact that Germans have been able to see the results of

⁵⁷ Lester M. Salamon and Helmut K. Anheier, *Defining the Nonprofit Sector: Germany* (The Johns Hopkins Comparative Nonprofit Sector Project, 1993), 27.

⁵⁸ Salamon and Anheier, *Defining the Nonprofit Sector: Germany*, 27.

⁵⁹ Salamon et al., *Global civil society*, 109.

⁶⁰ Salamon et al., *Global civil society*, 116.

their participation in nonprofits as government policy and programs. Other influences on compositions of the nonprofit sector in German and American societies are the voting and governance systems of each country. It is important to analyze whether the type of governance or voting system of each country correlates at all with the inclusion of the nonprofit sector in politics.

Comparative Governance of Germany and the US

The United States is a federal republic with a presidential system, while Germany is a federal parliamentary republic. Germany is a multi-party state, while the US is a two-party state. The US two-party political system sets politics up for adversarial relations, which could be mirrored in the adversarial relationship between nonprofits and the government in the US. The two-party method contributes to the idea that one must pick between two at-odds positions with no clear alternatives to choose from. The polarization of US politics today also contributes to a growing adversarial political atmosphere.

In the US, one person gets one vote. In Germany, Germans get two votes—one for their district and one for the political party they support.⁶¹ Candidates who win in their districts, off of the first vote, go on to represent their district in the Bundestag.⁶² The remaining seats in the Bundestag are divided up based on the

⁶¹ “Complicated Yet Fair—Germany’s Voting System Explained,” Spiegel Online International, September 19, 2013.

⁶² “Complicated Yet Fair—Germany’s Voting System Explained,” Spiegel Online International.

percentage of votes won by each party from the second round of votes.⁶³ Therefore, one party is not *guaranteed* to control the majority in the Bundestag just because they have many candidates elected in the first round of votes. Additionally, this system allows for voters to choose candidates from different parties for their first and second votes. It also allows for the inclusion of several political groups in the Bundestag. This type of voting system makes it more difficult for one party to gain substantial control over the others and demonstrates the overall more inclusive nature of the German system.

Moreover, Germans, on average, pay 40% of their income to the government and its subsidiaries for service provision.⁶⁴ A strong welfare state is a tradition in Germany, where citizens to pay higher taxes for high quality services and to support larger social justice issues. The inclusive voting systems and attitude of social responsibility in Germany contribute to the more congenial political atmosphere that facilitates relationships between nonprofits and the government in Germany. The more exclusive voting system and exclusive attitude of social responsibility in the US aids in the persistence of often adversarial political and nonprofit-government relations there.

Effects of culture, history, social norms, economics, and actual political systems have an effect on the structure of Germany and the US's current nonprofit sectors. While some aspects of the sectors as entrenched in almost unchangeable

⁶³ Complicated Yet Fair—Germany's Voting System Explained," Spiegel Online International.

⁶⁴ Christine Sommer-Guist,(translated: Heather Moers), "Welfare State Germany," *Goethe Instiut*, November 2008.

roots, other parts of the sector can be molded and shaped through careful calculation. It is important for both sectors to complete constant evaluations of themselves and the political climate surrounding them. In the case of the US sector, it is vital for US nonprofits and the US government to alter their relations where possible in order to become responsive to citizen calls for climate change action.

4. Analysis

The reasons for the lack of US climate change policy are many: political tension, corporate interests, and economic concern, amongst others. While environmental nonprofit organizations will not be able to surmount those issues alone, it is possible that they can continue to pressure the government for action as a voice of the people. However, nonprofit lobbying restrictions in the US and often uncooperative nonprofit-government relationships limit the influence that environmental nonprofits in the US can have when it comes to enacting climate change legislation. Though fundamental differences between the US and Germany in culture, politics, and history must be examined and dealt with, the United States would do well to model its nonprofit lobbying rules and nonprofit-government relationships after those of Germany or to adopt some of the German sector's best practices.

An unchanged nonprofit sector in the US could reduce the potential for new types collaboration between the government and nonprofits in the future. Government and nonprofit partnerships and information-sharing networks help to bring public opinion and nonprofit topical expertise into legislation and government initiatives. Nonprofits need to build a relationship with the government in order to form these vital networks,

which can't happen with the current political restrictions placed on US nonprofits. The US continue will fall farther behind in climate change action if environmental nonprofits cannot build substantial relationships with government actors and agencies.

As politics becomes more polarized, as the wealth gap continues to grow, and as climate change continues to worsen, people will begin to wonder why the government remains irresponsible. Whether the answer to the lack of action lies in the nonprofit sector or elsewhere, serious analysis of the US system is needed. It is clear that even if nonprofits had more capacity to act politically, roadblocks to climate change legislation would still exist; however, reforming nonprofit lobbying rules and the nature of political participation itself is a first step.

Collaboration between all three sectors and its citizens is vital for future success, as each has resources and experiences it can share with the others. What the US does in regards to climate change will inevitably effect what many other nations do. With no reform of policymaking processes and relationships in the US, the options for halting climate change will be the choice of a select few people in charge, not of the American electorate.

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