

Tunnel Vision: Why Is the Nonprofit Public Policy Agenda So Limited?

by Rick Cohen

It appears that in this tough economic climate, the fear of alienating funders and the drive to protect existing assets has created a largely “risk averse” nonprofit environment. The good news is, “there is light at the end [of the tunnel] for nonprofits to recapture and revive their social change inspiration.”

Americans’ understanding of the rationale for nonprofits is that they promote the public good. But are charities in some ways resting on their public-good laurels, increasingly focused on protecting their favored status in the tax code for charitable contributions and their access to state and federal government funding, as though the means were equivalent to the end?

While this is a huge generalization to make about 1.8 million 501(c) organizations (or 1.28 million 501(c)(3) public charities, according to the IRS’s 2010 data book), for many of these organizations the only bond of connection may be a shared tax status, not a set of values or beliefs about social change or community betterment.¹

In February of this year, four knowledgeable and notably opinionated people sat down with the *Nonprofit Quarterly* to discuss the state of the nonprofit sector’s public policy agenda and whether nonprofits were turning somewhat myopic in their concerns and priorities. The four—former Senate Finance Committee tax counsel Dean Zerbe, Minnesota Council of Nonprofits executive director

Jon Pratt, president of the Foundation for the Mid South Ivey Allen, and New York University professor of public service Paul Light—come at questions about the nonprofit sector from divergent political and experiential perspectives, but together they reflect the kinds of debates that are—or sometimes should be—occurring in the nonprofit sector about what nonprofits do and how they are promoting social change and progress in our society.

It might first be useful to set the stage with an observation from Allen. From her vantage point as a funder for sometimes very small grassroots nonprofits, she notes that public policy is made at many levels—from municipalities to regions and states as well as federally. It is the mix of all of this that creates a policy environment, she reminds us, and some of those more local issues are very intense and important to local nonprofits. In fact, she notes, the limited time of state legislative sessions in the Mid South region (Arkansas, Louisiana, and Mississippi), ranging from 30 to 120 days once a year, does not allow for a lot of momentum on some state-level public policy positions. This is a useful observation in

a world where people tend to think of the policy being set at the highest levels as being most critical.

Nonprofits Lost en Route to Inspiration and Mission

Has the nonprofit sector lost its way? Has it become so overly focused on protecting its access to government and charitable dollars that it has increasingly given short shrift to promoting the social and societal changes that the nonprofit sector stands for? Having watched charities from his position as chief tax counsel for the Senate Finance Committee under Republican senator Charles Grassley (until he joined alliantgroup, in 2008), Dean Zerbe expressed some of the growing frustration that segments of the public have with nonprofits. He believes that many charities “need to do some soul-searching: What is their charitable mission? What are they here for?” Zerbe cited some of the better-known examples of organizations whose “nonprofitness” has been increasingly suspect (and investigated by Senate and House committees), and decried the number of “nonprofit hospitals that don’t do anything charitable, and the universities

that seem far more interested in getting that next earmark than a healthy discussion about how they're going to control tuitions." He described some of these hospitals and universities as "almost tone-deaf to any of the issues that are actually facing the American people."

Much of Zerbe's critique was about charities that are reluctant, at best, to criticize other nonprofits that may be less-than-charitable performers. He bemoaned the limited voice of some nonprofits and their failure to "call on universities to control tuition and call on hospitals to open their doors to the poor," and is nonplussed by the efforts of some charities to undo the limitations that Congress enacted to control abuses in car donations. And Harvard University, with its \$32 billion endowment (as of Fiscal Year 2011), looks to Zerbe like "a massive hedge fund": "If you have an endowment as big as Harvard's and you don't have a serious payout, you have to wonder. The main interest of so many endowments is to basically grow and have something to look at in their passbook." Zerbe also identified a number of abuses, such as billionaire Tulsa oilman George Kaiser's family foundation's having invested a reported \$300 million plus in the now-failed, for-profit Solyndra solar-panel manufacturing firm, and having the investment marked as a charitable activity.² Kaiser's foundation, structured as a "supporting organization" (a category of nonprofits that Zerbe and the Senate Finance Committee investigated in 2005 as rampant with abuses), made the funding, for which Kaiser got a "huge charitable deduction . . . as investment with next to nothing for charitable. The charitable sector should be up in arms about this sweetheart tax deduction for millionaires." Calling the Solyndra affair "symbolic of charitable deductions already made not going toward helping a charity," Zerbe believes the lack of nonprofit criticism of the Kaiser/Solyndra

nexus "suggests a lack of seriousness on the part of the charities in terms of what's going on."

Paul Light, the Paulette Goddard Professor of Public Service at New York University's Robert F. Wagner Graduate School of Public Service, confirms some of the implications of Zerbe's critique: "In my data on confidence in charitable organizations, a broad term that doesn't capture donors' willingness to give to a local organization, the most significant decline I've seen is in Americans saying nonprofits are doing a good job in helping people," he said. "That figure has dropped by roughly a third between 2008 and 2011; Americans are starting to believe that nonprofits are not the destination for solving problems."

Jon Pratt, executive director of the Minnesota Council of Nonprofits, suggested that perhaps the problem was the "unnecessarily constrained views of some nonprofits concerning the proper scope of their agenda." It is due to a "fear of adverse consequences," he said—"the fear that someone somewhere might take offense about their speaking out." As examples, Pratt cited a settlement house in Iowa that was asked to oppose a utility rate increase but chose not to because of two local utility representatives on its board of directors. In another case, a donor's forum for foundations considered taking a position on the need to preserve the estate tax, possibly the most important tax incentive that exists for the endowment of foundations, but chose not to because of a perception that some of its foundation member CEOs or their trustees personally supported the elimination of the "death tax."

In Pratt's view, nonprofits can tend to be self-censoring, stepping back from taking positions because of a perception of what their funders and backers would accept, and he contended that there was much more room for nonprofits' taking a stand than they give their board members

and donors credit for. He suggested that for nonprofits to aggressively promote social change and community betterment, they have to accept risk. The civil rights movement and the women's suffrage movement, to name two examples, made progress by being confrontational and taking risks. That is "where our duty lies," Pratt said. "Our duty is not to keep everyone comfortable around us."

Unfortunately, in tough economic times, nonprofits' stepping back from promoting the kinds of social change warranted by their histories and missions may be in their roots as voluntary organizations. "Nonprofits are constantly trying to recruit others and gather voluntary resources," Pratt explained. "You become risk averse—you don't want to alienate any potential donors or volunteers." Pratt described some examples of nonprofits having fired staff for fear of alienating donors. One was a neighborhood group in Minneapolis whose young organizer, in response to community concerns that the banks weren't lending in the area, submitted a request to a local bank for its Community Reinvestment Act information. He got fired after the bank called on United Way and United Way called on the neighborhood group to tell the organizer to stop. In another case, an environmentalist who worked at an aquarium in Duluth criticized the size of the local utility's power lines, which prompted the utility to contact his employer, who subsequently fired him.

The problem is, Pratt said, "if you take the king's shilling, you do the king's bidding" (an argument for diversification of funding so that one's organization is not overly dependent on a couple of large donors). But, he noted, despite those examples of the negative consequences of speaking out, there are many more examples "of organizations that have been very forthright . . . receiving more acceptance of a broader agenda on issues

ranging from the role of the economy to the proper role of government.” But too many organizations have accepted risk aversion as the norm, becoming “complacent with conditions of funding spoken and unspoken,” a form of dependency theory. “If people are savvy,” Pratt said, “they will understand those tacit conditions.” Notwithstanding these stories, Pratt believes that “people actually have more maneuvering room than they understand.” Dependency is learned behavior, in some ways, constantly reinforced by the cues of others. Nonprofits sometimes exaggerate the risks of speaking out, or fail to see that funders and allies have more tolerance for their speaking out than is assumed to be the case.

With respect to nonprofits that are seen as more committed to protecting their assets than solving problems, Light, like Pratt, views the challenge as an issue of advocacy, but he believes that the economic conditions of the times pressure many nonprofits to shy away from aggressive policy positions. “We’re in a period of self-preservation,” he said; “I’m not sure that nonprofits have much choice but to focus on keeping body and soul together.” They fear, Light added, being “the big rooster that raises its head out of the grass and gets hit by a rock. Nonprofits are extremely nervous—retreating to safer havens, maintaining programmatic activities, trying to get through this long drought with minimal damage.” They also fear advocacy catastrophes, like ACORN’s, or being marginalized on a political wing, “shying away from being lumped together with Occupy Wall Street. But that’s not to say that the nonprofit sector was ever particularly aggressive in its advocacy,” Light continued, pointing to the charitable sector’s “meager embrace of policy change, even prior to 2008.” It is a matter of “nervousness coupled with economic stress,” he concluded—“a lot of nonprofits just trying to make it through

the next payroll. But many nonprofits misunderstand the rules of advocacy and overestimate the dangers.”

Zerbe, though, questions what they might be advocating for. Emphasizing the nonprofit universities and hospitals, he said, “I find them nowhere to be found on issues that actually matter, spending on themselves rather than on the public good.” Zerbe admonishes the sector to “go, get your hands dirty . . . go do it” instead of “advocating for things on our own behalf.” He is tough on the ever-increasing numbers of nonprofits engaged in lobbying: It is “too much of an easy comfort for charities that our goal is to be in a lobbying conversation in Washington. Most Americans support charities because they’re *helping*, not because they’re helping on Capitol Hill.” Concerned about the recent propensity of large foundations to establish Washington policy shops, Zerbe feels that the Bill and Melinda Gates Foundation, itself ramping up its advocacy presence, “should be spending more time doing what makes sense, and let that be a light that shines. There is too much looking in the mirror of what’s going to be good for *me*.”

From her position as president of the Foundation for the Mid South, headquartered in Jackson, Mississippi, Ivey Allen takes a distinctly different perspective from both Zerbe and Light, whose perspectives suggest something of a nonprofit retreat from engagement, and Pratt, who implies that nonprofits may be a bit too timid in advocacy terms: “I think that nonprofit resources are an issue, so, yes, they have to raise money to keep their doors open to be able to advocate for issues,” she said, “but it is not fair to say that they have lost scope.” Allen cited as example the recent Mississippi legislation concerning the expansion of charter school opportunities. The state’s advocacy organizations had to scramble to keep up with how fast the charter school

legislation was being pushed through and to make sure the legislature, which has gone farther and farther to the right, addresses “the policies that matter most to the people we care about that aren’t even getting a shout.”

Perhaps indicative of a regional-versus-national concern, Allen asserted that she hasn’t “ever heard anyone talk about the charitable deduction issue” among Mississippi nonprofits. The situation is that the advocacy groups “say we have no clout right now but are not giving up. We’re figuring out how to go back to cultivating relationships with people on the committees to find some common agenda.” But they know their challenge. For example, on the charter school issue, the big promoter of the legislation appears to have been an out-of-state millionaire, but his motive was the money. “For the advocacy groups,” Allen says, “it was to shape and control the agenda, not for their accessing the funding themselves.”

“There’s a continual need for the charitable community to look hard at itself,” Zerbe contends. “What are we about? What are we trying to accomplish? What is our charitable mission? Let’s make sure we have organizations that are really operating like charities. What is their priority? What are the best practices?” For Light, “we’re not coming together as a sector to address societal issues and are barely moving except toward the big brand names. It is a sectoral “nervousness coupled with economic stress—a big risk that the funding base will continue to shrink even after the recession is over . . . continue in this downward spiral until it disappears. Nonprofits may not fully grasp that sometimes you have to get out on the wire in order to survive—counterintuitive behavior for those nonprofits living payroll to payroll that think that now is not a good time to get mixed up in advocacy.”

Multiple Tracks toward Rediscovering Nonprofit Mission and Vision

So what is the key to jump-starting the nonprofit sector back onto mission-driven social change?

Zerbe thinks it is a matter of the sector's "getting its own Augean stables cleaned up. Getting rid of the bad actors and making the IRS functional would boost the sector's credibility in action and message." Pratt thinks there is strength in numbers. He argues for the "formation of associations and ad hoc coalitions" for groups to pursue advocacy agendas jointly, noting that "there are many members of associations who support everything the association does but feel free from time to time to distance themselves from the association as needs be." He calls it "Good political strategy: spreading out the risk. It's like insurance."

For Allen, what keeps the nonprofit advocacy frame narrow is simple: "There's not enough money. The smaller nonprofits just don't have the resources to get to the table." Allen notes that even in the social change coalitions, the nonprofits "that are predominantly white-led are able to get a bigger voice, more newspaper time. There's a little more recognition of coalitions when it's groups of progressive Caucasians. The smaller, less well-funded groups led by people of color increasingly have to rely on these [organizations led by white] folks to let them know what's happening."

Light suggests that the super PACs (and, Zerbe might add, the 501(c)(4) social welfare organizations) "have been sucking away a lot of resources that would have gone to nonprofits with advocacy agendas. A lot of givers who would have done nonprofit advocacy funding have pulled back to give to the campaigns, exacerbated by Obama's decision to authorize a super PAC. In a way, the national campaign sets some parameters to the nonprofit vision and

mission. I don't see much advocacy by large nonprofits that would deal with the effects of income inequality affecting their constituencies, and even Obama won't say 'income inequality,' preferring the term 'fairness.'" For Light, Obama's reluctance to name inequality for what it is, and acknowledge the presence and growth of the super PACs as well as the negligible advocacy by larger nonprofits, "leads to more inequality."

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Four experts largely see a narrowing of the nonprofit agenda, but they differ on the diagnosis: Zerbe suggests that the nonprofit sector is unwilling to take on its internal problems; Pratt views nonprofits as simply too risk averse; Light cites the economic crisis that makes groups cautious; and Allen notes the resource constraints affecting local nonprofits. They also differ on solutions, with Zerbe asking nonprofits to clean up the big issues of hospitals, universities, and corruption; Pratt suggesting a stronger infrastructure of coalitions and networks; Light wanting to rein in the diversion of money to super PACs; and Allen calling for more money for grassroots advocates. They all agree on one thing, however: the nonprofit sector can and should be doing more for social change and community betterment.

What is clear from these four thinkers is that the nonprofit sector is systematically connected at multiple contact points with broader public issues. Efforts to focus on issues that might somehow be construed as purely "nonprofit" lead to a dead end for the sector. The call from the public, as Allen's stories about public policy issues in Mississippi and Louisiana suggest, is for nonprofits to reach out on issues beyond their comfort zones and regardless of their financial interests in the outcomes. That requires, in Pratt's

perspective, a willingness to engage in advocacy, even if there are risks of alienating funders or public officials who might not particularly like or endorse the nonprofits' agendas. None of these four experts would be likely to say that all nonprofits have retreated into narrow safe havens; there are admirable exceptions all around. But they would probably agree that the nonprofit sector has far more potential to deliver social change than it has been displaying. Fortunately, for nonprofit board members and staff who might feel as though their organizations are mired in a long, dark tunnel, there is light at the end for nonprofits to recapture and revive their social change inspiration.

NOTES

1. *Internal Revenue Service Data Book, 2010: Publication 55B*, Washington, D.C.: Internal Revenue Service, March 2011, www.irs.gov/pub/irs-soi/10databk.pdf. Note that the number cited may not include the 275,000 small nonprofits whose 501(c)(3) status was automatically revoked in 2011 because of their failure to file required annual reports for three successive years, per Internal Revenue Service, *IRS Identifies Organizations that Have Lost Tax-Exempt Status; Announces Special Steps to Help Revoked Organizations*, IR-2011-63, June 8, 2011, www.irs.gov/newsroom/article/0,,id=240239,00.html.
2. David Milenberg and Peter Robison, "Kaiser Charity Sought Solyndra Plant after Billionaire Founder Aided Obama," *Bloomberg.com*, September 26, 2011, www.bloomberg.com/news/2011-09-26/oil-billionaire-s-charity-backing-obama-sought-solyndra-in-tulsa.html.

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