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Review

Efficiency Measures Discriminate Against Lesser-Known Causes

by Dan Pallotta

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This is the fourth in a series on the failings of "efficiency" measures. Today: discrimination against less popular causes.

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In 1988 the Supreme Court took up the matter of a North Carolina law which stated that any professional solicitor's fee which exceeded 20% of the total funds raised was unreasonable.

The Court's 7-2 decision was unequivocal: "North Carolina's requirement that professional fundraisers disclose to potential donors, before an appeal for funds, the percentage of charitable contributions collected during the previous 12 months that were actually turned over to charity is unconstitutional." Why? Because forcing someone to speak is as much a violation of their rights as ordering them to be silent. Even if it's to protect citizens against fraud? No, but the Court determined that the use of an "efficiency" measure to achieve this protection had dangerous effects that went beyond preventing fraud. Demonstrating a wisdom that still — twenty-one years later — has not made its way into the thinking of the charitable "watchdog" agencies, the Court wrote that the law "unconstitutionally infringes upon freedom of speech. The solicitation of charitable contributions is protected speech, and using percentages to decide the legality of the fundraiser's fee is not narrowly tailored to the State's interest in preventing fraud…the Act is impermissibly insensitive to the realities faced by small or unpopular charities, which must often pay more than 35% of the gross receipts collected to the fundraiser due to the difficulty of attracting donors."

I about fell off my chair when I first read it. Two decades ago the Supreme Court had a better understanding of the realities of nonprofit business practice than most institutional funders have today.

Since "efficiency" ratios are based in large part on fundraising costs, they inherently discriminate against less popular causes, causes with a less affluent constituency, and new charities. At every level, it is more expensive for a less popular cause to raise money than it is for a popular cause. The less popular cause has to spend more on education and solicitation over a longer period of time for each dollar it raises, while the popular cause may see money coming in over the transom, at zero cost, because, for example, the donor just lost a loved one to breast cancer. How many people have lost a loved one to polluted oceans, or illiteracy? Similarly, an inner-city addiction recovery clinic without access to the millionaires who give to the art museum will have to rely on direct mail and special events, historically the most expensive ways to raise a dollar. A Giving USA study found that every dollar spent to solicit major gifts yielded $24, the highest performance on their list of methods. Direct mail produced only $10. Special events produced $3.20. The less access a charity has to major donors, the less it can take advantage of these efficiencies, which is why so many community-based organizations have to resort to bake sales, casino nights, and phone banks. Last, a new nonprofit that lacks the established donor database of an older organization will have to spend more money building one.

The "efficiency" game is stacked against charities working on the issues for which it is hardest to find support. The nonprofits representing the popular issues are doubly blessed. They get relatively easy money, and they're praised by the establishment as "efficient," while those addressing the issues for which it is most difficult to raise money are slandered as "inefficient," making what was a hard case for support to begin with an impossible one in the end.

The supreme law of charity violates the supreme law of the land. And the vote on the matter wasn't close.

Dan Pallotta is an expert in nonprofit sector innovation and a pioneering social entrepreneur. He is the founder of Pallotta TeamWorks, which invented the multiday AIDSRides and Breast Cancer 3-Days. He is the president of Advertising for Humanity and the author of Charity Case: How The Nonprofit Community Can Stand Up For Itself and Really Change the World.

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