

Book Review

Herrington J. Bryce, 2017. *Nonprofits as Policy Solutions to the Burden of Government*. Boston/Berlin: De Gruyter

Reviewed by **Christopher S. Horne**, Political Science and Public Service, University of Tennessee at Chattanooga, Chattanooga, TN 37403, USA, E-mail: Christopher-Horne@utc.edu

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Herrington J. Bryce begins *Nonprofits as Policy Solutions to the Burden of Government* with the observation that motivates the book: Governments need to address big challenges on behalf of a population that resists government expansion. The remainder of the book presents one potential policy strategy for navigating this dilemma in the United States, nonprofit organizations designed to reduce the burdens of government. This strategy is already available under current IRS code and regulations, but underutilized and complex. Bryce's goal in writing this book is to raise awareness and knowledge of nonprofits as policy solutions to some of governments' big challenges.

The book offers about four dozen examples of these types of nonprofit organizations, mostly 501(c)(3)s, but some 501(c)(4), (5), and (6) organizations as well. Some of the more well developed examples are the Parking Facilities Corporation of New Orleans, the Cleveland 2016 Host Committee (to organize the Republican National Convention), The National Trust for Historic Preservation, the Hudson Valley Agribusiness Development Corporation, the National Park Foundation, several port authorities, and the Internet Corporation for Assigned Names and Numbers. These examples give a sense of the types of nonprofits qua policymaking Bryce has in mind – not necessarily charitable nonprofits that elicit Andreoni's (1990) “warm glow,” but instrumentalities toward public policy goals.

Bryce anticipates that readers familiar with the 501(c)(3) designation might question how these types of organizations qualify as *charitable* nonprofit organizations since his examples benefit the public generally, not persons in poverty or other traditional charitable beneficiaries. The answer – and the entire strategy Bryce is describing – rests on the IRS regulations' peculiar definition of “charitable,” which includes the purpose of “lessening the burdens of Government.” Such nonprofits are required to meet organizational tests – the burden they seek to alleviate must be acknowledged by government, their work must benefit the general public, and they must have the capacity to actually do the work – but when formed with the goal of lessening the burdens of government need no other justification of their charitable purpose.

By definition, such tasks need not be performed by nonprofit organizations; they would otherwise be performed by a government agency. What, then, are the benefits of this strategy? Bryce suggests two: economic efficiency and political feasibility. The nonprofit strategy is driven by the nonprofits' dependence on economic choices of rational actors. Decisions to invest in a specific nonprofit's bond instrument, to contribute to a specific nonprofit, or to purchase services from a specific nonprofit reveal preferences much more efficiently than voting for the regime that will collect one's taxes. Therein lies the Pareto-improving promise of the strategy. As free actors make such decisions, the beneficiary nonprofits grow to the scale, and only to the scale, that satisfies demand for the benefits they provide.

Bryce also presents the nonprofit strategy as more politically feasible than direct government action. By pursuing public policy goals through nonprofit organizations, growth of government is curtailed, avoiding political resistance to "big government." The strategy is also more politically palatable because costs are not borne by taxpayers, but by those who pay fees for services, make voluntary contributions, or invest in debt instruments. While reducing the cost to taxpayers, Bryce perhaps underplays the scope of the costs that do remain in the form of tax expenditures, the tax deductions for charitable contributions. Here, the book would benefit from additional empirical evidence of the extent to which such nonprofits rely on charitable contributions versus fees for services. To the extent that they benefit from contributions, there remains a cost to the taxpayer, it is only less visible. Still, as Salamon (2002) also observes, policy tools that are less visible and less direct do tend to be more politically feasible, and Bryce commends this strategy to policymakers for these features.

The two-fold rationale for using nonprofits as policy solutions – efficiency and political feasibility – open the strategy to some easy criticisms that are addressed preemptively in the book. Moving public-benefitting activities into distinct nonprofit organizations may increase efficiency but sacrifice accountability. Removed from direct government oversight, what prevents the cooption of resources for private gain or nonprofits bending their original public benefit purposes toward narrower preferences? Bryce first questions the premise of the criticism – Would programs buried in large bureaucratic agencies really be under more scrutiny than if organized as separate legal entities? He also leans heavily on the oversight role of nonprofit boards, which he advises be very carefully crafted to include elected officials, appointees, and other government stakeholders, and on IRS oversight in holding the nonprofits accountable to their public benefit purposes. The arguments would be strengthened by bringing in evidence from the large body of research on board oversight and evidence for

the effectiveness of IRS oversight, particularly given the IRS Form 990 audit rates of less than one percent (U.S. GAO 2014).

When pursued in lieu of direct government action, the strategy also may be critically framed as an exercise of elite circumvention of democratic processes and the reality that democratic policymaking is, indeed, constrained by popular resistance to government expansion. Bryce reminds us that this strategy is available, though, only when government has already identified the burden. In other words, if the task – such as economic development or operating a port – is not pursued using this nonprofit strategy, government still has to get it done, so we might as well do the work at some cost savings to taxpayers. This retort does not quite satisfy the criticism, though. A common check on policymaking is appropriations. An authorized policy can be greatly weakened or even practically nullified by withholding appropriations. This may frustrate policymakers, but critics might fairly charge that pursuing policy through the nonprofit solution, even at a reduced price tag, dodges this established democratic process.

The gem at the center of this book is Chapter 6 on governments directly creating nonprofits. Bryce describes the optimal design as one that completely relieves government of operational responsibility, cost, and risk in providing a public service and then offers guidance on the elements of organizational design that should be included in legislation establishing such nonprofits. The bulk of the book – Chapters 7 through 12 – serves as a primer on the management and legal environment of nonprofit organizations, both in general and with specific considerations for nonprofits formed to lessen the burdens of government. These chapters would successfully educate policymakers unfamiliar with the nonprofit sector and, for students, reinforce what they may have learned in a general nonprofit management course. Chapters 10 and 12 are most specific to the book's purpose in their discussions of debt financing and corruption avoidance measures, which are more comprehensive than found in general nonprofit management texts and particularly useful contributions for all students of nonprofit management. The final chapter helpfully summarizes the entire book; I advise reading it first.

The book's orientation is primarily practical, but it exercises the reader's theoretic imagination as well. A suite of theories helps us answer "Why do nonprofits exist?" from multiple perspectives. Of these, Bryce's rationale for nonprofits as policy strategies most closely aligns with the "positive theories," which describe rational actors purposefully choosing the nonprofit form over other institutional forms. Such positive theories emphasize the civic-minded participation of stakeholders sharing a subjective sense of mutuality (for example, Lohmann 1992). Bryce widens these boundaries by focusing on nonprofits that serve as policy instruments and the purposeful actions of *state* actors, akin

to Salamon's (2002) policy tools and quite distant from any romanticized view of the nonprofit sector.

A review of this book cannot overlook its many errors of spelling, syntax, and punctuation. Without really trying, I marked over 40 such errors in the first reading and found more when actually looking for them. The author's important ideas merit much better copyediting than what was applied here. Despite this distraction, I commend *Nonprofits as Policy Solutions to the Burden of Government* to policy practitioners, students of nonprofit scope and theory, and anyone interested in intersections among public policy, law, and the nonprofit sector. Bryce has brought to our attention nonprofit law's expansive definition of "charitable," invites its creative application as a strategy for policy-making and implementation, and equips us with the knowledge to do so in pursuit of the public interest.

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