

The English Experience

Regulation, Public Benefit and the Limits of Charity

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Introduction

- State regulation of the voluntary sector in any given jurisdiction may be an appropriate response to sector 'failure'
- Different types of voluntary sector failure may require different regulatory techniques as a response
- The appropriateness of imposing one rule does not, of itself, justify the imposition of other rules
- The public benefit requirement distinguishes the charitable sector from the wider voluntary sector

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Two justifications for regulation

- Trustworthiness
 - Donations
 - Advocacy and political action
 - Complex services
 - Challenges
- Resource insufficiency
 - Philanthropic insufficiency and particularism (Salamon, 1987)

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Regulation & the charitable sector

- Relationship between charities and other voluntary bodies
 - Structural characteristics (Salamon & Anheier, 1997)
 - Activities (Johns Hopkins Comparative Project)
 - Social functions (Garton, 2009)
- Voluntary bodies outside the charitable sector
 - Lobby groups and political parties
 - Collective bargaining organizations
 - Social enterprises
 - Mutual support groups

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Regulatory strategies

- Command and control rules
 - Inappropriate response to insufficiency and particularism
 - Appropriate response to issues of trustworthiness
- Tax relief
 - Appropriate response to insufficiency and particularism
- The English experience
 - Tribunal decision on independent schools (2011)

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Conclusions

- Command and control regulations important for the wider voluntary sector
- Public benefit an inappropriate barometer for tax relief
- Need to decouple the link between the two

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