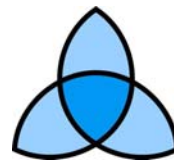


Federalism and Charitable Choice Implementation:
Some of the Effects of Charitable Choice
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When the Charitable Choice provision of the Welfare reform bill was adopted, there was little thought given to the implications of the various ways states would choose to comply with the law. Although the law itself allows some variation by recognizing that some states may choose not to contract with nonprofit organizations at all, and thus be exempt from contracting with religious or faith-based organizations at all, it provides little guidance to states on how to implement the provision.¹

This paper emerges from a Ford Foundation funded multi-year study of the implementation of Charitable Choice in three states—Indiana, North Carolina, and Massachusetts. Each state approached the implementation of the Charitable Choice provision differently. These differences owed a great deal to variations in the states’ contracting regimes and political cultures, as well as to policies in the social welfare departments and to the process of implementation. This paper attempts to discuss the policy and political decisions regarding Charitable Choice made by Indiana and North Carolina as they implemented welfare reform. It also attempts to draw tentative conclusions about the overall success of those policies.

The Goals of Charitable Choice

Any attempt to discuss the “success” of Charitable Choice as a public policy, first requires that there be some general idea of what purposes or goals it may have had.² One must distinguish between the success of Charitable Choice as a policy itself and between Charitable Choice as a policy designed to effect certain ends and goals. At minimum one can argue that the Charitable Choice provision was adopted and was non-controversial because most representatives and senators, like most Americans, saw religious organizations as places where care and concern for others were supposed to be manifest. It made sense, therefore, for religious/faith-based service providers to be represented among those contracting with the

government to provide social services. This fairly universal presumption also gave rise to others that seemed to make sense on a visceral level, namely that fbos were more effective, that they were more efficient, and that they brought with them additional resources. Faith-based social service providers were presumed to things differently and better than other providers.

If these presumptions were valid (and nearly everyone acted as though they were), then the expansion of government contracting with faith-based providers was eminently reasonable and sensible. Removing barriers to the entry of faith-based organizations into the contracting regime would be a positive good. The government, by aiding these organizations in their work by providing them with additional resources, would help those most in need and do it in a manner that was more successful.

The adoption of Charitable Choice in the midst of a massive project of welfare reform and amidst growing disenchantment with extant welfare policy also meant that a new set of potential service providers entered the scene at a time when something new was desired and hoped for.³ Welfare reform brought something new. Welfare reform not only had a goal and a direction, its sanctions really bit, and it seemed to offer new ways of doing business.

The issue of implementation, however, was left to the various states. While all states were required to abide by the law, the law provided few guidelines or procedures.⁴ These gaps were widened by variations in how states delivered their services and let their contracts. This variety can be seen clearly in the three states chosen for this study.⁵

Indiana

Indiana took a considered view of what Charitable Choice could offer as part of overall social service delivery in the state. In the years prior to 1996, Indiana had moved toward a county-based system that placed a fair amount of decision-making power in the hands of the

case-worker, who was presumed to know the delivery network in the community and to be best able to match the needs of a particular client with the services of a particular organization. In the minds of Indiana's Department of Health and Human Service and its sub-agency the Family and Social Services Administration (FSSA), Charitable Choice meshed smoothly with its goal of moving to community-based service delivery and of increasing the numbers of community-based providers.

Structurally Indiana has a mixture of state and county control. Although contracts are let at the county level, payments and ultimate oversight come from the state office. Additionally, Indiana has a near-pure performance-based contracting system. State reimbursement is based on a set of contracted payment points—e.g. a client entering the program, completing six weeks of training, completing a program, getting hired, etc. Only to the extent to which a client enters a particular program and reaches certain goals does the organization get paid.

Increasing the involvement of faith-based organizations in the delivery of Indiana's services was of great interest to Governor Frank O'Bannon, a Democrat. He encouraged HHS to increase its work with faith-based organizations and his public statements on this issue received extensive media coverage. This gave the process a visibility and a political importance it might otherwise have lacked.⁶

While Indiana already had a fairly open, albeit decentralized, contracting regime, the FSSA unit of HHS chose to use Charitable Choice as an occasion to expand FSSA's contracting with faith-based and community organizations. To accomplish this goal, FSSA moved in a considered and measured manner.

After a year of planning (1997-1998), Indiana issued a request for proposals (rfp) for an organization to provide information about Charitable Choice to faith based providers throughout

the state and to provide technical assistance to those submitting bids and to those organizations awarded contracts. The process was initially delayed by the fact that the bids came in at a much higher amount than originally contemplated by the state.

This surprise reflected, to a great extent, the relative ignorance of the state officials with the nature of religious organizations and low level of knowledge regarding religious organizations.⁷ The second round of bids resulted in two submissions. The contract was let to a private for-profit consulting firm, Crowe-Chizek and was operated under the name of FaithWorks Indiana. The initial contract was for two years, November 1999-November 2001. The contract was extended for a year and with the extension the contract amount was approximately \$750,000.⁸

Crowe-Chizek began by conducting six informational meetings held throughout the state. It established an invitation list of 10,000 by using telephone books, mailing lists of interfaith and ministerial alliances, and other readily available listings. Over 718 individuals registered for the conferences but actual attendance (based on numbers of informational packets distributed) probably exceeded 1000. In the follow-up process around 400 organizations received technical assistance provision through multiple-participant workshops and individual consulting, in person, via telephone, or through e-mail. Approximately 75 of these 400 organizations submitted bids for contracts for a variety of TANF-funded programs offered by FSSA.⁹

Under the IMPACT program a total of 14 TANF-funded contracts were let to FaithWorks participants between FY 2000-2001 and 2001-2002. All of these were in either Lake County (10) or Marion County (4), by far the state's most populous counties.¹⁰ The total amounts of these contracts to FaithWorks identified providers was FY 2000-2001 \$2,158,400, FY2001-2002 \$912,500.¹¹

Indiana's process has produced a somewhat mixed result. Given that it was structured, as a technical assistance program for those interested in applying for TANF funded contracts, there has been little focused attention on the role of faith-based organizations in providing other sorts of support services to individuals making the transition from welfare to work.¹² This has occurred despite the fact that the rhetoric in Indiana highlighted this wider support net. Additionally, as a program driven by the state agency itself, little attention was paid to ascertaining the strengths and gifts of religious communities in Indiana and what role they were willing and able to play in addressing the new challenges and opportunities presented by welfare reform.¹³

In its first two years of existence, FaithWorks Indiana spent little effort building community networks of support for those making the transition from welfare to work. It focused almost exclusively on the nuts and bolts of applying for and managing government contracts. In the extension year of the contract FaithWorks Indiana pulled back from its hands-on technical focus and spent its energies on transferring the work to the local county level with someone in each county office responsible with (among other things) functioning as a liaison with the local religious community. Whether this succeeds in producing a greater awareness of the services available and of building a wider network of support remains to be seen.

North Carolina

North Carolina's response to welfare reform at the State level is a program known as Work First. North Carolina began Work First in 1995 operating under a waiver from the federal government. As with most state programs anticipating welfare reform, Work First was designed to move families off of welfare and toward self-sufficiency and to ensure that former welfare families (and low-income working families, in general) obtain the support they need to remain

self-sufficient. The program included many of the components of federal welfare reform legislation including time limits, sanctions, and an emphasis on employment.

In North Carolina most Temporary Assistance to Needy Families (TANF) funded programs are state supervised but county controlled. This means that the state releases a set portion of North Carolina's federal block grant to the counties.¹⁴ Counties contract with the providers they choose. North Carolina's State Department of Health and Human Services and its sub-agency the Division of Social Services (which directly oversees TANF programs) have little knowledge of those with whom the various counties contract for the delivery of services.¹⁵

North Carolina does not use performance-based contracting. Contractors are paid a fixed overall contract price for services delivered. In general there are no performance incentives and payments are not linked to any specific goals achieved by the individuals served.

Jim Hunt, a Democrat and North Carolina's governor during the mid 1990s, was a vocal proponent of welfare reform. Like Governor O'Bannon in Indiana, Governor Hunt publicly called for greater involvement of the faith community in the delivery of social services and in meeting the needs of the poor. Additionally, the Governor's Task Force on Community Initiatives on Welfare Reform focused extensively on the potential roles of faith-based organizations in aiding those who would be affected by welfare reform.

During the early years of welfare reform, faith-based organizations received significant attention in North Carolina, especially from the governor's office. North Carolina also was among the states with the largest percentage of its contracted TANF funds going to faith-based organizations.¹⁶

At the state level North Carolina moved to increasing its work with faith-based organizations through a pilot program administered by a nonprofit agency. The grant to the

NCREDC (Rural Center) for demonstration pilot projects by faith-based organizations emerged from conversations between senior administrators at the Rural Center and the North Carolina Department of Health and Human Services.¹⁷ The conversations centered on a line-item in the North Carolina state budget calling for pilot projects for job training, retention, and follow-up. The state HHS desired a partner organization to oversee the pilots. The Rural Center had long been a partner of the department with a good record of delivering contracted services, managing federal reporting requirements, and working with faith-based organizations. The Rural Center was viewed as an ideal organization to direct this program.

The result was a \$3.5 million contract between the North Carolina Division of Social Services and the Rural Center to establish the Communities of Faith Initiative (COFI), to begin March 1, 1999 and conclude June 30, 2001. Administered by the Rural Center, COFI funded ten faith-based programs, the Faith Demonstration Awards, designed to implement economic development strategies to assist families living in poverty.¹⁸ In addition to acting as a regranting agency, COFI also provided technical assistance to the service providers. This assistance included training in financial accountability, eligibility and case management functions, and reporting systems. The project's goal was to develop the capacity of religious service providers to assist families making the transition from welfare to work with the aim of ensuring the families' abilities to reach and sustain a living family income.¹⁹

Following the end of the initial contract period, the Communities of Faith Initiative spun off from the North Carolina Rural Economic Development Center as Faith Partnerships, Inc. During the fiscal year 2001-2002, it received \$266,250 to continue its work. \$100,000 of this went to the Faith Demonstration Awards, while the remainder was used to continue the provision of technical assistance and capacity building.²⁰

One of the distinctive components of the projects/programs funded in North Carolina was the broader goal of helping communities to engage more directly with the wider issues of social justice and economic self-sufficiency. The involvement of faith-based organizations through the Communities of Faith Initiative, especially as it built on programs preceding COFI, focused on getting the faith communities to think beyond TANF funded projects and services to basic social policy issues surrounding welfare, poverty, and employment. Many of the projects were not designed solely or primarily to provide specific services to TANF eligible families and individuals. Instead they were designed to create a wider structure of support for those individuals by training local congregations and other faith-based organizations in how to provide services that TANF monies did not fund, including transportation, emergency aid, clothing, and a supportive environment.²¹

At the state level, North Carolina currently invests little effort in publicizing its greater openness to contracting with faith-based organizations or its project with NCREDC. The project receives no mention on the NC DHHS website and a search of the website reveals few mentions of religion or faith.²²

The earlier attention may have reflected the support that North Carolina's the governor Jim Hunt gave to faith-based involvement in social services during his terms in office. This included the establishment of the Governor's Task Force on Community Initiatives on Welfare Reform which brought in, both directly and indirectly, large numbers of representatives of the North Carolina's faith communities. Interviews with several of the participants have suggested that the entire process had numerous problems, including the tendency of state representatives to try and issue directives to the faith community and to assume that they (and other private funders) would support the suggested undertakings. Needless to say such attitudes only served

to antagonize many of those involved, especially when those same individuals harbored major reservations about the entire welfare reform policy in general.

The election of a new governor and personnel changes Health and Human Services may explain part of this shift. Although the current governor is a protégé of Jim Hunt he does not appear to have supported faith-based service provision as vocally as his predecessor.

Additionally, the woman at HHS who created, with the Rural Center, the faith demonstration projects has been promoted and been replaced with an individual who was skeptical of, although not obstructionist of, the program. Undoubtedly these changes leading to a diminishing emphasis on faith-based service provision have been exacerbated by the state's budget crises.

While these changes have had dramatic affects on all of the organizations involved in the pilot projects, they all continue to function and to deliver their services. More importantly, it appears that despite the diminution of government funding, the wider networks they created are successful at maintaining the programs. In Indiana, the status of those programs that did not have their state contracts renewed remains unclear.

Conclusion:

North Carolina presents a potentially intriguing model of a different way of implementing Charitable Choice, one where government is led (to some extent) by the faith-based community rather than taking the lead and initiative itself. It also presents a model whereby the faith communities of the state focus on meeting the needs of the poor and impoverished rather than merely providing a particular contracted service. Built upon a fairly sophisticated set of organizations, many of which provide a myriad of services, there exists a greater likelihood that individuals in North Carolina's Work First program will be able to overcome the multiple

challenges that usually beset those moving from welfare to work. The centerpiece of this remains the ability of the TANF recipients to find employment, if that part collapses the organizations will again be reduced to providing emergency aid, much of it to those no longer eligible for cash assistance or other governmental programs.

Indiana, on the other hand, while grading out fairly well in terms of meeting benchmarks, does not provide a coherent set of wider support services. Little effort has been made to establish such a network in the most impoverished communities. This raises troubling questions about what will happen to these individuals as they hit difficult moments in the transition from welfare to work, especially if they reach the limits of their benefits and have few other places to turn. It also raises questions of policy.

If Charitable Choice and the wider issue of faith-based initiatives have a greater end rather than just merely expanding the number of fbos receiving government contracts, attention must be paid to the ways in which those supposed benefits could be attained. Decisions by state governments and federal agencies about how to work with fbos must be made based upon what we can learn from the various modes of implementation. This experience, however, reminds us of something of the utmost importance, that policy decisions and implementation policies emerge from a wide variety of factors, not all of which have anything to do with the ostensible goals of the policy itself.

If Charitable Choice is to succeed, however, some clarity as to what qualifies as success must be reached. If that were to occur, attention to the various implementation policies of the different states could prove a powerful tool toward learning which modes of implementation are more likely to achieve the desired goals. While variations whether rooted in history, culture, or political systems would remain, greater knowledge could lead to better results.

¹ Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 104. P.L. 104-193. H.R. 3734. 104th Cong., 2d sess.

² This leaves aside the issue for now of unintended positive consequences and of the complexity of evaluating success when the goals achieved may be different than those which one normally expects. See for example, Carl Milofsky,

³ Throughout the 1990s in conversations with the mid and upper level managers in state welfare agencies I heard the same statement, “What we have is not working, anything has to be better than this.”

⁴ See General Accounting Office, *Charitable Choice: Federal Guidance on Statutory Provisions Could Improve Consistency of Implementation*. GAO-02-887. (Washington, D.C.: General Accounting Office, 2002).

⁵ This paper focuses solely on Indiana and North Carolina. For Massachusetts see the paper delivered at this conference by Laura Jensen, “Charitable Choice in the Commonwealth of Massachusetts.”

⁶ For some of the governor’s statements and the publicity given the program see the FaithWorks website at <http://www.in.gov/fssa/faithworks>.

⁷ The state government officials were particularly surprised by the cost of identifying all the extant religious organizations in the state. Such surprise would have been easily prevented by a quick telephone call to the religious studies department of the local university.

⁸ Under the contract Crowe-Chizek was to: assist faith-based and community-based organizations in applying for state and federal grant dollars to support new or existing self-sufficiency programs; conduct technical assistance workshops in proposal writing, training, mentoring, financial management, and obtaining nonprofit status; operate a toll-free help-line; maintain an internet website; develop a promising practices handbook; provide information about services available to Indiana’s working families; establish a state-wide Faith Community Support Work Group; develop partnerships between government agencies, organizations, businesses, and individuals to support faith-based organization across the state. See FaithWorks website <http://www.in.gov/fssa/faithworks>.

⁹ This number is somewhat inflated because a majority of these bids were focused on a series of short-term summer programs for youth (which proved to be a total administrative disaster for FSSA). Several others were for Fathers and Families (a program designed to improve the level of engagement of non-resident fathers with their children) and the remainder were for IMPACT contracts, the program in Indiana designed to move individuals from welfare to work and which is the major focus of the TANF block grant program. This paper focuses on Indiana’s welfare-to-work programs IMPACT which is the major focus of welfare reform.

¹⁰ Two of the Lake County contracts later were cancelled. One because the provider was failing to obtain referrals and to use its allocated funds. The second was terminated because of sexual relationships between a staff member and clients.

¹¹ This is out of a total of \$18,644,010 for FY2000-2001 and \$13,493,417 for FY 2001-2002 (or 11.5% and 6.8%).

¹² Despite this lack of a coherent policy many of the providers in Indiana report providing services to these individuals beyond those funded by the state contract. Such services include clothing, food, additional job training, and allowing clients to repeat a class or program even after they have passed their eligibility.

¹³ Indiana’s faith communities have not developed a broad-based response to poverty and welfare issues as has happened in North Carolina. Part of this undoubtedly results from the absence of a broad interfaith or interdenominational presence in the state. The Indiana Council of Churches dissolved in the mid 1990s and there has been no successor organization, although one organization arose in 1996, Indiana Partner Churches United for Ministry (IPCUM) focused on the issues of poverty and welfare reform. After holding a massively successful one-day conference in March 1998 it soon thereafter disappeared. While the Church Federation of Greater Indianapolis sees this as a major element of its mission, it has not been able to galvanize a statewide coalition and plays a relatively minor role in social issues outside of the city of Indianapolis.

¹⁴ The GAO reports that North Carolina is among the states spending the smallest proportion, 2 percent or less of its TANF funds, on contracts with nongovernmental entities. *WELFARE REFORM: Interim Report on Potential Ways to Strengthen Federal Oversight of State and Local Contracting*. GAO-02-245, April 2002. At the same time it reports that over 15% of the contracted funds in North Carolina went to faith-based organizations. *Ibid*. There is, however, some anomaly in the numbers reported in the GAO report. As noted above North Carolina is listed as one of the states that spent the lowest amount of its contracted funds with non-governmental entities. This claim makes sense only if the GAO were looking at the funds contracted directly by the state and not those contracted by the counties.

¹⁵ Interview with Deborah Landry, Assistant Chief for Program Operation, Economic Independence Section, North Carolina Department of Health and Human Services. Even the GAO was unable to determine what the extent of county contracting in North Carolina had gone to faith-based providers. See GAO Report, April 2002, p. 13 fn.a.

¹⁶ GAO Report, April 2002, p. 11.

¹⁷ The following information was obtained through interviews and conversations with the following individuals as well as analyses of program and project reports from the various organizations—Pheon Beal, Director, Division of Social Services; the Rev. Odell Cleveland, Executive Director, Welfare Reform Liaison Project; Deborah Landry, Assistant Chief for Program Operation, Economic Independence Section, North Carolina Department of Health and Human Services.; Wilbert Morris, Chief, Economic Independence Section, Division of Social Services, North Carolina Department of Health and Human Services; the Reverend Scott Rogers, Executive Director, Asheville-Buncombe Community Christian Ministry; Robert Wineburg, Professor, School of Social Work, the University of North Carolina-Greensboro; the Reverend Ralph Williamson, Special Assistant to the Director, Mecklenburg County (NC), Department of Social Services, Diana Jones Wilson, Director Communities of Faith Initiative, North Carolina Rural Economic Development Center (currently Faith Partnerships, Inc.); Barbara Zelter, Executive Director, JUBILEE-NC.

¹⁸The ten organizations were Catholic Social Ministries, (CSM) of the Diocese of Raleigh; The Woman's Missionary Union of the Baptist State Convention of North Carolina, Christian Women's Job Corps (CWJC); Asheville-Buncombe Community Christian Ministry (ABCCM); The Jobs Partnership /The TANF Faith Collaborative; Greater Enrichment Program/TANF Faith Collaborative; St. Paul Employment Institute; The Faith Empowerment Community Consortium (FEC); Welfare Reform Liaison Project (WRLP); North Carolina Council of Churches, Project JUBILEE; Truth in Youth and Family Services/Southeastern Empowerment to Work Program (TiY). These organizations eventually established program activities in 53 counties with approximately 105 distinct sites of activity. (This number does not include multiple program sites within a county by the same organization.)

¹⁹Beyond its work with these specific service providers the Communities of Faith Initiative also undertook a wider series of activities including: delivering technical assistance and training to churches across the state; working to help the organizations access alternative funding sources as they worked to assist poor families making the transition from welfare to work; engaging in a dialogue regarding a broader agenda for outreach ministries; mobilizing a "Faith Network" to assist flood victims in Eastern North Carolina.

²⁰This decrease in funding reflects the state's overall financial difficulties. Several of the service providers have had to cut expenditures dramatically, eliminating services and positions, decreasing numbers served, and, after spinning off its different programs, even going out of business completely.

²¹ Another significant component of the COFI was that the Rural Center actively encouraged its grantees to partner across denominational and racial boundaries. Finally, it should be noted, that the overall project received significant funding from the local and national foundations including the Z. Smith Reynolds Foundation and the Duke Endowment. Such has not been the case with the programs in Indiana.

²² All of these are general mentions in the context of wider series urging the involvement of the faith community or religious organizations in meeting the needs of individuals and families on welfare. The site's extensive topical index does not list either religion or faith and the listing for Families First actually takes one to the "Families Accessing Services Through Technology (FAST)" page. See North Carolina's Department of Social Services website at http://www.dhhs.state.nc.us/dss/ei/ei_hm.htm and North Carolina's Department of Health and Human Services website at <http://www.dhhs.state.nc.us>.