

# Unearthing the Hidden Gems of Registered Charities and their participation in the 2011 Manitoba election

Karine Levasseur<sup>1</sup>

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### Introduction

Elections are exciting opportunities for interest groups to champion their views in the hopes of influencing public policy over the life cycle of an elected government. The 2011 Manitoba election was no exception. Given an absence of spending limits on third-party advertisements in Manitoba, it was not surprising to see so many advertisements including TV, radio, newspaper, and online advertisements as well as billboards during the election. A variety of campaigns launched by interest groups brought issues to the surface from pork production, municipal infrastructure, smaller classrooms, workplace health and safety, and keeping Manitoba Hydro a public utility (Welch 2011). Some interest groups were quite successful in exerting their political power. Most notable was the successful campaign initiated by the Manitoba Teachers' Society to reduce the size of classrooms for children enrolled in Kindergarten to Grade 3. During the campaign, NDP leader Greg Selinger pledged that if elected his government would limit the number of young students in each classroom to 20 over the next five years at an estimated cost of \$85 million to build more classes and \$20 million to hire more teachers (Province of Manitoba 2011; see also Kusch 2011).

These third party campaigns were largely initiated by organizations that enjoy tax-exempt status in Canada. Section 149(1) of the *Income Tax Act* outlines a number of tax exemptions for labour organizations, non-profit organizations, charities and others. However, there are important differences as to how some tax-exempt organizations are regulated in terms of their advocacy, and hence electoral activity. The *Income Tax Act* outlines two categories of interest to this chapter: non-profit organizations and registered charities. While both categories are subject to limits enacted by the provincial and federal governments with respect to election advertising, political contributions, and lobbyist registration, charities are limited in their ability to act as advocates. This limitation raises important questions: how does this impact the ability of registered charities to engage in electoral activities? Are there other barriers that limit the involvement of charities in an election? Given these barriers, to what degree are charities involved in electoral activity and what approaches are commonly used by charities in an election?

This chapter explores how registered charities engaged in the 2011 Manitoba election and offers insight into these important questions. While academic study of registered charities and their ability to act as advocates is growing, little is known about their involvement during elections. To understand their engagement, the chapter relies on a case study of the 'health sub-sector'. The rationale for focussing on the health sub-sector is three-fold. First, the Province of Manitoba has long emphasized health as a policy priority with a specific emphasis on prevention. Second, health is the largest budgetary expenditure item for the Province of Manitoba with high citizen demands and expectations. Last, health-based charities are somewhat more institutionalized, meaning they may have more capacity to engage in the electoral process than charities in other policy fields. With more capacity, there may be more opportunity to engage in electoral activity.

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<sup>1</sup> Dr. Levasseur is Assistant Professor, Department of Political Studies, University of Manitoba. She would like to thank the charities that generously agreed to be interviewed for this research. She also extends sincere thanks to Dr. Andrea Rounce for her ongoing support. Helpful comments by an anonymous reviewer on an earlier draft of this paper are also appreciated.

The sample was selected according to the following criteria. First, organizations must be registered as charities with the Charities Directorate, Canada Revenue Agency. Second, they must advance the treatment or prevention of health either as a primary or secondary purpose.<sup>2</sup> By this definition, the sample includes charities that prevent and treat illness; modify behaviour (for example, promote physical activity); advance disease-specific knowledge (for example, melanoma); and advance a social determinants approach to health such as a charity dedicated to the provision of safe and affordable housing. A total of fifteen interviews were conducted with senior staff members of charities between October 28, 2011 and December 20, 2011.<sup>3</sup> Of the fifteen registered charities interviewed as part of this study, two-thirds (10) engaged in electoral activity in the months leading up to the Oct. 4, 2011 election and/or during the election itself.

The chapter begins with an overview of the interest group literature to establish a frame for understanding registered charities as public interest groups. Then, it discusses the legal and regulatory frameworks that limit the type and extent of acceptable provincial electoral involvement for charities. Data from key informant interviews with charities will then be reported and analyzed. The chapter offers an assessment of the participation by these organizations and concludes that these charities were not passive observers of the provincial election despite the numerous barriers that work to limit their involvement in electoral activity. Instead, this research illustrates that charities were engaged in the election, but in a subtle and balanced manner.

#### **Interest group theory and registered charities**

Interest groups (or pressure groups) are formal organizations that bring members together to advance a shared interest (Pross 1986, 3). Unlike political parties that seek to form government, interest groups bring individual voices together try to influence government to adopt, modify or eliminate certain policy decisions. This, Pross (1986, 3) proclaims, is the art of persuasion that comes in many forms, from litigation to lobbying bureaucrats and Cabinet Ministers to influencing public opinion with the goal of “exert[ing] political pressure”. Working to influence policy decisions is thus a central criterion for determining what constitutes an interest group.

Within this definition however, Phillips (1993; see also Phillips et al. 1990) asserts there are two categories of interest groups: economic / professional interest groups and public interest groups.<sup>4</sup> The former relates to the promotion of corporate or pecuniary interests. An example of this type of interest group is the Canadian Bankers Association which is an industry-based organization concerned with the state of banking system. The latter relates to an organization that attempts to influence policy for benefits enjoyed beyond the membership. Ducks Unlimited is a prime example of a public interest group with its efforts to protect wetlands,

There are two additional criteria for public interest groups besides working to influence public policy according to Phillips (1993, 609). First, public interest groups are not constituted to provide direct economic benefits to their members (see also Berry, 1977, 7-10). This does not suggest that members of a public interest group are unable to derive some kind of benefit though. By way of an example, an organization dedicated to aquatic safety through the training of swimming instructors and lifeguards can be thought of as a public interest group since preventable drownings affect the broader population. However, when government consults on a proposed budgetary increase to create more lifeguard positions on certain beaches, this organization may also derive an economic benefit for its members in terms of new employment opportunities as a result of its advocacy efforts for safer beaches. The key

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<sup>2</sup> The sample excludes hospitals to avoid skewing the results since they generally possess more resources than typical charities.

<sup>3</sup> Research ethics approval was granted on October 7, 2011 (Protocol #J2001:105). Interviews were conducted in confidence and thus the names of respondents are not provided.

<sup>4</sup> See Stanbury (1993) for his assessment that public interest groups are not sufficiently differentiated economic / professional interest groups and the response provided by Phillips (1993).

difference is that deriving benefits for the membership is not a core feature for public interest groups; rather, the pursuit of benefits to the much larger collective is what drives the work of public interest groups. Indeed, Phillips (1993, 609) suggests that “it would be absurd to argue that the members of public interest groups never receive material gain as a result of their group’s successful advocacy”.

Second, membership in a public interest group is not restricted. If we recall Pross’ earlier definition, interest groups are comprised of members that seek to influence policy decisions. The members that comprise a public interest group are individuals who are interested in advancing a shared or common interest. This openness in membership is in sharp contrast to the membership restrictions placed by economic / professional interest groups as Phillips (1993, 610) notes:

The reason that public interest groups are *public* is that their memberships are comprised of individuals (or groups of individuals) as opposed to corporations and entrepreneurs and have few restrictions upon who can join. In comparison, a person who is not an actuary (or close to becoming an actuary) cannot join the Canadian Institute of Actuaries and a producer or company which is not involved in the feed industry in some capacity cannot become a member of the Canadian Feed Industry Association.

With their ability to articulate interests, economic / professional interest groups and public interest groups bring attention to certain interests that might otherwise go unnoticed by the political system. In this sense, interest groups advance the democratic system. Yet, Pross (1986, 273) concedes the inequality between interest groups is also a threat to democracy whereby well-funded interest groups may dominate and overshadow other interests. Phillips (1993, 610-611) echoes this concern and refines Pross’ point by arguing that economic / professional interest groups possess more resources than public interest groups:

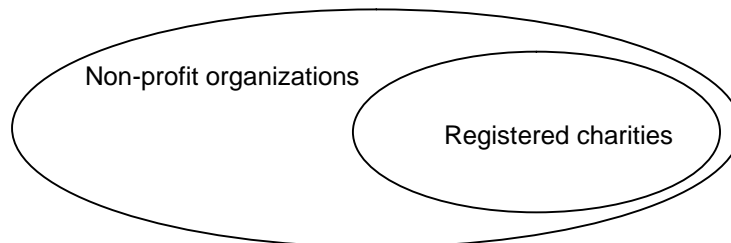
Corporate or professional members provide a strong base from which to raise funds through membership dues or to supply services in kind. In addition, many members are willing to pay for other services, such as access to association data banks and conferences. Consequently, the resource advantage that economic associations have over public interest groups is staggering in most cases.

This produces a tension for governments in that they must allow interest groups to form and flourish while simultaneously constraining them in order to prevent domination by a particular interest or set of interests. To balance the need to promote yet constrain interest groups, governments generally rely on regulatory solutions such as third party election advertising limits or lobbyist registration. How the regulatory regime balances this tension then becomes an important research question.

Given this discussion, in what ways does the interest group literature contribute to our understanding of registered charities? Before we can answer this question, we first need to understand what constitutes a charity in Canada. As noted at the outset of this paper, two tax-exempt classifications are provided under the federal *Income Tax Act*: non-profit organizations and registered charities. The non-profit classification is much broader than the registered charities classification because it includes organizations that confer a private benefit (see Figure 1 below). An estimated 8,220 non-profit organizations exist in Manitoba accounting for 5 per cent of the total number of non-profits in Canada (Frankel 2006, 3). These types of organizations include clubs, societies, recreational associations and organizations that exist purely to advocate for change. Registered charities, conversely, are a legal construct that require the organizations to have both charitable objectives and activities as determined by the Canada Revenue Agency – the regulator of charities in Canada – in order to issue income tax receipts for donations. These charities are a sub-set of the non-profit classification whereby they must confer a public benefit. Typical examples of

charities include hospitals, universities, religious institutions and social welfare organizations. There are an estimated 4,600 registered charities in Manitoba.<sup>5</sup>

**Figure 1: Relationship between non-profit organizations and registered charities**



Registered charities fit squarely within the definition of a public interest group. Charities work to provide benefits that benefit the broader public beyond just members and have open membership. The literature highlights the role that interest groups play in framing, constructing and advancing shared interests. In applying this lens to registered charities, we can begin to see that as public interest groups, charities have an important role to play in speaking out on issues. They provide expertise and a voice for communities that might otherwise be obscured by other interests in the policy process. Moreover, as public interest groups with relatively open membership, charities promote citizenship by providing opportunities for individuals to volunteer and engage in collective action. Charities are not formed to simply deliver services (e.g. shelters or food banks) to either substitute or complement government services.<sup>6</sup> Rather, they are essential for the representation of interests and their contribution to public policy. Understanding their behaviour in elections thus becomes an important area for analysis given that they are bound by more stringent regulations than other segments of society such as unions and corporations, and their abilities to have an impact on the public policy process varies.

#### **Regulating registered charities in Manitoba elections**

The extent to which registered charities participate in provincial electoral activities may be constrained by the regulatory environment and the availability of resources. To understand how much charities can participate in provincial electoral activity given the regulatory environment, this paper outlines and assesses three regulations: limits placed on advocacy, political contributions, and third party election advertising. While there are other regulations at both the provincial and federal level such as the registration of lobbyists, these regulations were selected because they are thought to have a direct impact on interest groups, notably charities, during a provincial election.

#### **Federal regulation: advocacy**

As mentioned previously, to receive charitable status, a non-profit must have both charitable goals and activities as determined by the CRA. If the CRA grants charitable status, the charity is permitted to issue income tax receipts for donations. Accompanying the ability to issue income tax receipts is a limitation placed on certain activities. First, charities are prohibited from engaging in illegal or partisan activities. An example of partisan activity includes supporting or making a financial contribution to a political party or candidate running for public office. Second, charities are restricted regarding how much non-partisan political activity - more commonly referred to as advocacy - they may initiate. Partisan activities are strictly

<sup>5</sup> This figure was derived by using the public database provided by the Canada Revenue Agency on January 14, 2012, <http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action>

<sup>6</sup> See Frumkin (2002, 64-95) for a discussion on the various 'failure theories' that offer explanations for the existence of the voluntary sector. In these theories, the voluntary sector emerges in response to a failure on the part of government or the market to provide a good or service.

prohibited for registered charities under the *Income Tax Act*, but this prohibition is generally not contested by registered charities. Even if the rules permitted such activities, the loss of community support could be considerable if a charity becomes closely associated with a political party or election candidate (Pross and Webb 2003). What is contested by charities, however, is the amount of non-partisan advocacy that they may undertake.

A charity must devote substantially all of its resources to those activities deemed charitable such that its advocacy activities are “ancillary and incidental” to its charitable purposes (*Income Tax Act*, s. 149.1 (6.2)). This distinction between a ‘charitable activity’ and an ‘advocacy activity’ is important. Charitable activities such as educating Canadians about their human rights or responding to government’s request for information are not limited and thus not subject to the advocacy restriction. Conversely, advocacy activities that attempt to persuade Canadians’ opinions or influence policy decisions are restricted. The CRA quantifies “incidental and ancillary” based on the expenditure of financial resources and has developed a sliding scale approach based on the annual income of the charity. Small charities with budgets less than \$50,000 may spend up to 20% of their resources on advocacy or up to \$10,000 in one fiscal year. Large charities with budgets more than \$200,000 may spend a maximum of 10% of their resources on such activities in one fiscal year as outlined below.

**Table 1: Sliding scale of acceptable advocacy limits**

Budget	Maximum Allowable Advocacy Expenditures
Up to \$50,000	20% (or \$10,000)
Between \$50,000 and \$100,000	15% (\$10,000 - \$15,000)
Between \$100,000 and \$200,000	12% (\$12,000 - \$24,000)
Over \$200,000	10%

### **Provincial regulation: political contributions and election advertising**

Equity and fairness, Hiebert (1991) reminds us, are fundamental values for democratic elections. An important aspect of fair and equitable elections is the presence of full political discourse such that there is a broad range of viewpoints expressed during the election to inform voters (Schwartz and Buck 2009, 3). One mechanism for interest groups to participate in political discourse is through the purchase of election advertising or making a financial contribution to a candidate or political party. Without appropriate limits however, resource-rich interest groups may be in a position to outspend their opponents during an election and potentially drown out other interests (Hiebert 1991). Moreover, such a scenario could lead to the perception that elections “can be bought” (Hiebert 1991, 4). Unregulated election advertising and unfettered political contributions would thus appear to undermine the values of equity and fairness. As a result, jurisdictions across Canada have worked to develop limits in these areas.

Manitoba has adopted divergent approaches to the regulation of election advertising and political contributions. On the one hand, the province has created a more level playing field in relation to political contributions by prohibiting organizations, including interest groups, from making a financial contribution to a candidate, constituency association, political party or a leadership nominee. *The Elections Finances Act* (s. 37.1[2] and s. 41[1.1]) only permits individual residents in Manitoba to make a financial contribution up to a maximum of \$3,000 annually.

On the other hand, election advertising is not regulated in Manitoba. While there are spending limits at the federal level,<sup>7</sup> these do not apply to provincial elections. Third parties, which include individuals and

<sup>7</sup> At the federal level, spending limits are in place for third party election advertising. In 2000, Bill C-2 introduced spending limits related to federal election advertising by third parties. Individuals and groups are permitted to spend up to \$150,000 nationally with no more than \$3,000 spent in each riding. These

groups but not political parties and candidates seeking public office, are permitted to spend relatively freely on election advertising unless there is collusion with a registered political party such that the political party had prior “knowledge and consent” about the impending advertising (*The Elections Finances Act*, s. 54.1(2)). Knowing when a political party had knowledge or provided consent remains unclear (Welch 2011) so the effectiveness of this limitation is open to debate.

There was, however, an attempt to regulate spending limits in Manitoba. Early in its mandate (2000), the NDP government introduced Bill 4 – *The Elections Finances Amendment Act* (s. 55.2[1]) that contained a clause to limit third party advertising to \$5,000. However, this limit only pertained to communication that promoted or opposed a political party or a candidate. During the Committee Stage, the NDP government voted to amend the definition of electoral communication to prevent limits placed on the following:

- (a) communication made for the purpose of gaining support on an issue of public policy, or for advancing the aims of a group that is not a partisan political group, if the communication does not promote or oppose a particular registered political party or the election of a particular candidate,
- (b) the transmission of a document directly by a person or a group to their members, employees or shareholders, as the case may be, or
- (c) an editorial, debate, speech, interview, column, letter, commentary or news normally published without charge (Manitoba, Legislative Assembly 2000).

While this Bill was adopted during the Third Reading, the NDP government chose not to proclaim it and thus did not come into effect (Schwartz and Buck 2009, 11-12). The result is clear: there are no real limits on third party election advertising for provincial elections in Manitoba.

### **Analysis: Regulating electoral activity**

This analysis of the regulatory environment that limits the involvement of charities in provincial elections is an important exercise because it reveals that the playing field is level in some ways, but not in others. In terms of political contributions, the advocacy limitation instituted at the federal level strictly prohibits this type of partisan activity. However, the *Manitoba Elections Act* also prohibits interest groups from contributing financially to a candidate, constituency association, political party or a leadership contestant. As a result of this provincial regulation, there is greater parity in the playing field meaning that some interest groups do not enjoy a regulatory advantage over other interest groups.

Where the playing field is unequal, I suggest, rests with election advertising. By itself, the lack of spending limits raises important questions as to whether elections in Manitoba can be fair and equitable.<sup>8</sup> However, when we consider the federal advocacy restriction placed on charities coupled with this lack of spending limits at the provincial level, charities become subordinate to other interest groups. While charities are permitted under provincial rules to engage in electoral discourse vis-à-vis advertising with relative freedom along with non-profits, unions, and others, the federal advocacy limitation restricts their ability to do so.

The argument could be made that charitable status, and the associated regulatory regime that limits advocacy, is a choice. As such, the playing field would *otherwise* be equal *if* charities surrendered their

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amounts are subject to inflation so these numbers have been adjusted for the most recent federal election held on May 2, 2011 to \$188,250 nationally and \$3,765 per riding. The constitutionality of these spending limits was challenged by the National Citizens' Coalition (NCC). In 2004, the Supreme Court upheld these spending limits and cited they constituted a “reasonable limit” under s. 1 of the Charter of Rights and Freedoms to freedom of expression in the pursuit of fair elections. For more discussion, see Lawlor and Crandall 2011.

<sup>8</sup> See comments by Schwartz on this point as quoted in Cheadle 2011.

charitable status. I am not wholly persuaded by this argument because charitable status matters. In 2008, I completed a small study that examined the impacts of charitable status. By interviewing recently minted-charities, my research found that, on average, a charity increased its financial revenues by almost \$80,000 within the first two-years of receiving charitable status<sup>9</sup> (Levasseur 2008). Respondents noted that the primary benefit of charitable status was the ability to apply for funding from foundations and the United Way where charitable status is a pre-requisite for funding. Besides the financial benefits that flow from charitable status, respondents also cited a heightened sense of legitimacy resulting from their status. The granting of charitable status sends a signal that charities have been reviewed by an outside body and as a result of the government's approval (rightly or wrongly) reinforces the public perception that the values of the charity must be worthy of support. In an increasingly competitive funding environment, organizations may have little choice but to seek charitable status and the associated financial and legitimacy benefits in exchange for limiting their advocacy initiatives. In this light, the Province of Manitoba would do well to review third party election advertising to ensure its regulations are carefully crafted keeping in mind that charities are restricted in acting as advocates unlike other interest groups. However, as we will see shortly, regulations are not the only barrier to electoral involvement for registered charities.

### Key findings

As noted, this chapter relies on the health sub-sector to study the role that registered charities played in the Manitoba election. By conducting fifteen interviews with health charities, three key themes emerge related to fixed-election dates, approaches to electoral activity and barriers to involvement.

#### Fixed election dates matter

The October 4, 2011 election was the first-ever fixed election date in Manitoba. Prior to this fixed date, elections were called at the discretion of the Premier or when the Legislature lost confidence in the government. The resulting implication, Boatright (2011, 36) suggests, is the inability of Canadian interest groups to "operate with clear electoral goals in mind and...steadily work towards those goals." With the introduction of fixed election dates, seven of the ten charities that participated in the 2011 election indicate they are beneficial to their ability to plan and organize their involvement. According to one respondent, fixed election dates provided the upfront lead time to prepare its involvement and strategize how it could achieve its goals for greater impact given limited resources (Senior staff member 1).

Several respondents are ambivalent to having fixed election dates because their involvement is dependent on other factors such as capacity. As one respondent notes, "fixed election dates help in the sense that [we] keep an eye to the next date, but because of the need to ensure service delivery, fixed election dates don't change much" (Executive Director 12). Another respondent who works with clients suffering from a debilitating and degenerative disease laments, "Fixed election dates are a mixed blessing. They could make a significant difference by providing enough time to prepare for organizational involvement in the election, but our current clients will not live to see [the next election in] 2015 so it is a challenge to plan ahead especially when you need spokespersons" (Executive Director 5).

One respondent expresses concern that fixed election dates were a "pain in the ass" because they allow many other competing interests to become involved in electoral activity and this creates more noise in terms of competition (Senior staff member 11). Interestingly, some respondents cite the real problem associated with fixed election dates relates to scheduling. For a province well-known for the retreat of its residents into cottage country over the summer months, an early Fall election date is problematic because some charities are dependent on volunteers to execute their electoral activity:

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<sup>9</sup> Given the small sample size in this study, generalizations cannot be made as to the precise impact of charitable status on financial resources.

[we had a number of] distractions in September [2012] because fall is normally a busy time of year...it is difficult to engage volunteers in the summer months until after Labour Day weekend [so this] made for a late start unrolling our election activities. Comparatively, the Saskatchewan working group has a much more committed advocacy team coupled with a later election date [Nov 7, 2011] mean[ing it] is a more advantageous province for electoral messaging” (Senior staff member 1).

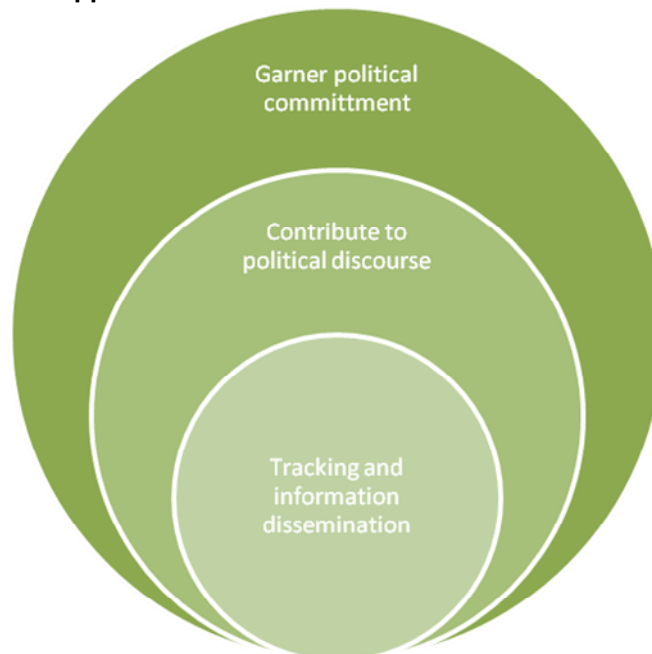
Generally, respondents are appreciative of fixed-election dates including those that were unable to capitalize on them because of other barriers to involvement.

### Differentiated approaches

As noted earlier, the overarching goal of public interest groups is to influence public policy. How public interest groups work towards this goal will obviously differ depending on a variety of factors such as resources and regulatory constraints. When asked about the approaches taken during the 2011 election to influence electoral platforms, respondents noted they did not employ any partisan related measures. Registered charities are prohibited under the *Income Tax Act* to engage in any partisan activity. Furthermore, the *Manitoba Elections Act* prohibits charities from making financial contributions to candidates, constituency associations or political parties to subsidize campaign expenses. Given these regulations, it is not surprising that none of the respondents pursued such activities.

When asked about their non-partisan involvement, respondents provided a lengthy list of their activities. To better understand the activities pursued by charities in relation to their non-partisan electoral involvement, a typology has been created below (see Figure 2).

**Figure 2: Non-partisan approaches to electoral involvement**



At the center of this diagram involves the activity of *tracking and information dissemination*. This approach, which comprises indirect electoral participation, involves tracking the positions of candidates and political parties on key issues. Once the information is collected, it is then disseminated to supporters via websites, and, increasingly, social media. Of the ten charities that participated in the 2011 election,



seven distributed surveys to political parties and/or election candidates to solicit their position on particular issues and distributed to members and supporters.<sup>10</sup> This indirect approach is, by far, the preferred approach for the near majority of charities interviewed for this study. In their longitudinal study of 20 public interest groups and their advocacy activities, Pross and Webb (2003, 101) similarly conclude that “[m]ost track party positions on their issues.”

In the middle portion the diagram involves those charities that *contribute to political discourse*. Going beyond just tracking and disseminating information, charities may seek to increase awareness and raise the level of debate on particular issues more broadly in the hope of becoming a central news item. As two senior staff members from one charity notes, this approach is beneficial for their cause:

We didn't receive any political commitment on our goals from the political parties, but this was not our expectation. The real impact was in having [candidates participate in an all candidates forum] to learn about [our issues] and be prepared to debate the issues. This made all the candidates more aware of the issues so this was a social win [because] the primary goal was to engage the public and politicians in a meaningful dialogue about [our] issues” (Executive Director and senior staff member 6).

This approach can be pursued through a number of activities. Of the ten charities in the sample that indicated involvement in the election, six charities had staff or volunteers attend an all-candidates meeting and pose questions; four hosted their own all-candidates meeting; and three nurtured relationships with the media to raise awareness on a particular issue. What is important to note about this approach is that it could be linked to influencing public opinion which may, in turn, embed the issue into the policy agenda of the incoming government (Pross 1986, 161). However, in speaking with charities, it became clear that most were committed to raising the level of discourse without such an expectation.

The outer ring of the diagram represents the pursuit of direct public policy gains through a *political commitment*. This approach involves taking a direct, strong and public position on a particular issue in order to secure the commitment of every political party. Of the charities interviewed, only two relied on this approach through the creation and distribution of an electoral platform, which may include policy recommendations, petitions, letter writing campaigns, and/or the purchase of advertising during the election.

One of these charities, a disease-specific charity, was quite successful in its effort to have the main political parties commit to its three-point election platform for expanded medical services and greater access to certain medications. For the charity to secure political commitments from all three parties – NDP, Liberal and Progressive Conservative – it realized that it had to start laying the groundwork *long* before the drop of the writ, in April 2010. To secure political commitments from all the parties, the charity designed a campaign that escalated throughout the election. Prior to the election, it created petitions, distributed signs and financed public opinion polling through an omnibus survey to determine how much support existed for its three-point election platform among Manitobans. These survey results would then be used to inform its media campaign. While these strategies were occurring publicly, the charity engaged in dialogue with the three parties in the background to promote its election platform. At the drop of the writ, the charity purchased nearly \$20,000 worth of advertising to promote the findings of the polling work that illustrated that a significant majority of Manitobans were supportive of the charity's election platform. Since the charity had spent money on the public opinion poll, it needed to ensure that the results were publicized vis-à-vis election advertising rather than relying on the media to pick up the story. With the advertisements in place, 7,000 supporters received a weekly 'e-blast' related to the progress of the

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<sup>10</sup> Once this information is disseminated, it is often accompanied by a call from the charity for supporters to contact or ask questions to election candidates.

charity and its electoral platform. Additionally, the charity relied heavily on the use of social media to reach younger supporters.

As a result of its campaign, this charity secured the commitment of every political party on all three priorities at an expected cost of \$20 million. With the re-election of the NDP, the charity is now working with the government to oversee the implementation of the commitment. This successful campaign resulted in important changes to health policy with the effects expected to be long-lasting according to a senior-staff person employed at this charity:

[I feel] that we had incredible impact because the winning party agreed to all of our requests...we now have the ability to show tangible results from our campaign efforts and this goes towards sustaining the organization...more donors will donate because of these results and the improved health experience that should occur (Senior staff member 11).

This change in health policy benefits any Manitoban diagnosed with this particular disease. Equally as important is the fact that as a public interest group, this charity provided an opportunity for its supporters to stake a claim in the election and thus strengthen the notion of citizenship and democracy. Despite these important gains, this approach was not used by the majority of charities in this study.

Based on these findings, we can draw an important conclusion - the activities employed by the charities interviewed for this paper were largely indirect and thus much more subtle and neutral than the campaigns of other interest groups. While the majority of respondents were certainly engaged in the election, most were involved indirectly through the tracking and information dissemination. Only two charities sought to leverage a political commitment from of the parties on key promises. These charities went beyond the use of indirect tactics and opted to use more direct means including the use of petitions, letter writing campaigns, and advertising to take a non-partisan stand on particular issues in the hope of securing commitment from all the political parties. This reliance on indirect activities, however, is not entirely surprising. In their large-scale examination of advocacy activities, Lasby and Vodarek (2011) also conclude that charities tend to employ less direct approaches to advancing their position. The logical question to ask here is why charities shy away from becoming more involved in electoral activities. As illustrated in the following section, there are three possible factors to explain this finding: lack of resources, government funding, and the advocacy limitation.

### **Barriers to involvement**

- **Lack of resources**

The availability of resources are obviously important to interest groups as they try to better position themselves and improve their chances of influencing policy (Pross 1986, 131). Yet, the most commonly identified barrier to involvement, or more direct involvement, in electoral activity by charities rests with a lack of resources including staff, volunteers and finances.<sup>11</sup> As a result of limited resources, it may be a challenge for charities to focus beyond the day-to-day to look more broadly at an election. This lack of resources is not a new theme within the literature however. Dr. Sid Frankel's (2006) examination of both non-profit organizations and registered charities in the Prairies concludes that capacity is a concern.<sup>12</sup> Within the voluntary sector, which includes both non-profit organizations and registered charities, there are significant differences in operating revenues with much of these resources held by a small number of organizations largely hospitals, universities and colleges. As Frankel (2006, 69) notes, less than one percent of organizations with budgets more than \$10 million receive 38 per cent of all the operating

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<sup>11</sup> Eight charities that engaged in electoral activities during the 2011 election report the lack of capacity as a barrier. Two charities that did not undertake any electoral activities also report this as a barrier to involvement.

<sup>12</sup> On a national scale, these trends appear to play out as well. See Hall et al. 2003.

revenue. Conversely, 44 per cent of organizations with budgets less than \$30,000 only make-up 1 per cent of the total operating revenue for the sector. Large charities in Manitoba clearly dominate with smaller charities marginalized to some degree in their capacity.

The real concern related to this discussion on electoral activities is the reported lack of policy capacity according to six charities interviewed for this chapter. Policy capacity can be defined generally as “providing policy analysis and advice, participate effectively, and exert influence in policy development” (Phillips 2007, 505). More specifically, policy capacity is about having the resources and assets such as dedicated staff and volunteers, technology, financial resources and an understanding of the public policy process to identify issues, collect information, set goals, develop partnerships and allies, participate in policy networks, strategize and evaluate the strategy. The concern noted here by six charities goes beyond just their involvement in electoral activity. Rather, the expressed concern is much broader and relates to the overall ability of a charity to take action on an identified public policy issue.

While policy capacity is important for an organization to achieve certain goals, this type of capacity is essential during an election according to one Executive Director because elections can consume a lot of resources:

More importantly is [the availability of] resources because an election could consume a lot of them...resources [are needed] to identify proposed policies in an election period and analyze and articulate the consequences. We have sufficient policy capacity, but to assess the implications of electoral announcements in short timelines is a challenge (Executive Director 9).

Recruiting volunteers to serve in this role is equally challenging according to another senior staff person whose portfolio includes advocacy:

It is tougher to recruit advocacy volunteers because they need to be able to go beyond just issues related to [our disease] and think more broadly about entire policy frameworks that span jurisdictions. Plus, there is a need to facilitate change, behaviour, legislation, regulations so there must be a pre-established skills set and a willingness to be vocal. [I] recruit both client services and advocacy volunteers [and I] find it easier to recruit client services volunteers than advocacy volunteers (Senior staff member 13).

On a related point, senior staff at three disease-specific health charities expressed concern that they struggle to become involved in elections because these diseases are severely debilitating and degenerative. As a result, it is difficult to mobilize volunteer support both internally (members) and externally (general public). Mobilizing internal support during elections is particularly challenging because diagnosed clients only live for a few months or a few years at most. The resulting implications for electoral involvement are clear according to one Executive Director:

When your clients are suffering from a debilitating disease, it changes the dynamic of what you can and cannot do from an advocacy perspective...There is a significant time requirement to work with clients because of the debilitating nature of the disease so just planning to help a client with breathing issues get to a polling station to vote or to meet a candidate takes weeks of planning and the short nature of the electoral period prevents much of we can do (Executive Director 10).

Another Executive Director similarly states:

...because this disease is degenerative, there is only a small window to have them as spokespeople volunteers so there is a continuous need to recruit, orient and train for this vital role (Executive Director 3).

Mobilizing externally is equally challenging because there is fear associated with these diseases so recruiting volunteers from the general public to undertake advocacy work is difficult.

Overall, the lack of resources is an important reason why charities may not engage in electoral activity. However, as we shall soon see, this is only one part of the story because the type of funding available to charities may also explain their ability, or lack thereof, to engage in electoral activity.

- **Government funding**

Government funding also matters to the ability of charities to engage in advocacy generally and electoral activities specifically. In recent years, the literature in Canada has identified an important trend in government funding to non-profit organizations and charities. While it is hard to generalize funding across various levels of government and departments<sup>13</sup>, the availability of core funding, which provides operational support for the organization, is thought to be on the decline in favour of project or contract funding (Hall and Banting 2000; Scott 2003). Contract funding involves the provision of government resources for the purchase of services with pre-defined goals, activities, outcomes, and reporting requirements. Beyond just identifying this trend, the literature also critically assesses the merits and limitations of this new funding regime on non-profit organizations and charities (see Phillips and Levasseur 2004; Scott 2003).

While space does not permit a thorough review of the resulting implications, two concerns arise from this new funding regime for involvement in electoral activity.<sup>14</sup> First, increases in the reliance of contract funding, regardless of whether it stems from local, provincial or federal sources, undermine the capacity of the charity to support non-contract related tasks including electoral activity specifically and advocacy more generally. Contract funding is intended to support the delivery of a pre-specified good or service. Because funding must be allocated to the delivery of goods or services under contract, there is little room to deploy resources elsewhere. Comparatively, core funding provides support to the core operations without pre-determined budgetary allocation meaning the charity in question has discretion how to use the funding to supports its activities, including advocacy. As a result, charities may not have the requisite financial support to sustain core activities including advocacy. Second, the provision of financial support from government sources was described as essential by several respondents (see Table 2). The concern with relying on government financial support is the potential loss of independence. Pross (1986, 196) concedes that government funding is a “mixed blessing” because it may breed dependence and result in a loss of autonomy to speak out on certain issues. One Executive Director echoes Pross’ concern by noting, “[our] independence is constrained and the withdrawal of [government] funding would be painful...To date, we have been selling our soul for the funding dollar” (Executive Director 5).

**Table 2: Share of government funding**

	Government funding as a share of total revenue			
	<25%	25% to 50%	51% to 75%	>75%
Charities engaged in the 2011 Provincial election (N=10)	7	1	1	1
Charities not engaged in the 2011 Provincial election (N=5)	1	1	1	2

Source: 2011 T3010 Information Returns

<sup>13</sup> Brown and Troutt (2004), for example, illustrate that of twenty-two non-profit organizations in Manitoba that formed their study, three identify a positive funding relationship with the Province of Manitoba whereas the remaining organizations describe negative implications as a result of their overall funding.

<sup>14</sup> These concerns were identified by five charities.

For some charities, dependence on government funding is a significant barrier to electoral involvement. One charity that did not engage in electoral activity, and received more than 75 per cent of its funding from government sources such as the Regional Health Authorities, Manitoba Health, Canadian Institute of Health Research and Public Health Agency of Canada, notes:

It is simply too much of a risk to our clients to engage in any non-partisan activity because much of our work is aimed at marginalized individuals on several contentious issues. Ensuring that these services continue, which could be threatened by a new government with different values, is the primary goal. [I] do not have the luxury to potentially jeopardize the services to our client....It is the prudent and intelligent thing to do at the time of an election because you do not know who will form government so we do not demonstrate political engagement of any kind (Executive Director 12).

For others, however, government funding does not determine whether they engage in such activities. Pross and Webb (2003: 84) similarly conclude that while receiving government funding may limit the ability of an organization to engage in advocacy, that it is not *the* determining variable. Some organizations that receive substantial government funding may not necessarily be co-opted Pross and Webb argue, and instead speak out on important policy issues. One charity interviewed for this chapter, which receives more than 75 per cent of its funding from various levels of government, turned to its core values to guide its decision whether to become involved in the election. The Executive Director notes that the senior staff assessed the consequences of speaking out, but the decision was fundamentally influenced by its clients and members who expect the charity to advocate on issues important to them (Executive Director 8). S/He concedes however that their budgets are probably tight because the organization speaks out on rather contentious issues.

When asked whether there had been explicit comments or overt gestures to this effect by government officials, the charities interviewed for this chapter indicate that none were ever made. Several respondents suggest, however, that the removal of government funding for speaking out is subtle and some concede it could even be an urban legend. That said, there is an asymmetrical power relationship at play. The fact that governments *can* - not necessarily *will* - remove project funding as a result of advocacy efforts may be enough to relegate charities to the sidelines of an election.

How can such a power imbalance be remedied? Charities that rely on government funding need to work towards greater diversification in their funding dollars to support their advocacy activities in addition to a return to core funding on the part of funders. Pross (1986, 199) arrives at this same conclusion:

...an independent pressure group system is as important to competent and democratic government as are a dynamic party system and a free press. Every effort should be made to eliminate the agencies' existing opportunities and manipulation rather than add to them by encouraging interest groups to look to government for financial assistance.

In some instances where charities receive most of their funding from government, this will obviously be a long-term and challenging endeavour that involves a variety of actors beyond just government and charities themselves. However, diversified funding is essential to fund arm's length advocacy positions to reduce the pressure on the organization to disengage from advocacy activities. Diversification of funding sources is important, but so is the necessity for governments to diversify the type of funding provided. This latter point includes the return of greater core funding to support the charity in *all* of its functions, not just service delivery.

- **Advocacy limitation**

While registered charities in Manitoba are relatively free to advertise during an election, the advocacy limitation associated with charitable status tempers their ability to do so. While the near majority of charities that engaged in electoral activity indicated an awareness of the advocacy limitation, few identified this as a constraint. For most respondents, the lack of capacity coupled with the constraints imposed by contract funding does not leave room in the budget to become involved in an election. As one Executive Director notes, “the Service Purchase Agreement [with the Province of Manitoba] and our funding based on deliverables is a much greater constraint because [this] funding does not leave any money to be spent on advocacy” (Executive Director 8).

For some charities, this regulatory limitation on advocacy may cause an advocacy chill. Charities that exceed the advocacy limits may prompt an audit by the CRA and possibly face sanctions or deregistration of their status. As noted earlier, given the financial and legitimacy benefits that flow from charitable status, some charities may opt not to engage in advocacy to avoid jeopardizing their status (Levasseur 2008). This is especially problematic for charities because distinguishing ‘educational’ activities, which are wholly charitable, from ‘advocacy’ activities is blurry. To avoid triggering an audit, some charities avoid advocacy altogether. A survey of registered charities in Canada reveals that 59 per cent indicate concern related to possible violations of the advocacy rule is an important barrier to their involvement in advocacy (Lasby and Voderek 2011: 547). Only one respondent in this study indicates that this regulation causes an advocacy chill for its organization:

There are two problems with this [regulation]. Some issues are inherently political so the line between charitable and political is grey and the guidelines to a degree are arbitrary between what constitutes a charitable activity and a political activity so charities can be caught in a bind (Executive Director 9).

The advocacy chill is intensifying as a result of the proposed Northern Gateway pipeline designed to connect Alberta's oilsands to the BC coast to support the export of crude. In early 2012, concern arose that the federal government may target environmental charities that oppose the pipeline in light of the comments made by Prime Minister Stephen Harper wherein he suggest that some charities in receipt of “foreign money” are undermining the pipeline review (Paris 2012; McCarthy and Chase 2012; Mann 2012; Prousalidis 2012). The federal budget (2012) confirmed these concerns by allocating more resources to monitor the advocacy work of charities. Perhaps most concerning is the possibility that this attempt to rein in charities has less to do with good governance and regulatory oversight, and more to do with political motivation to temper opposition to the pipeline as Orsini (2012) notes:

Perhaps more pernicious than this cynical, politically motivated attempt to punish “radical” environmentalists, is that this policy change has the potential to ripple across the already fragile non-profit sector. It might be radical environmentalists today, but organizations working in other areas (social services, for instance) might get caught in the crosshairs of the Canada Revenue Agency’s audit team tomorrow...Stephen Harper’s majority government has issued a stern warning to charities to quit doing advocacy, and behave more like charities, in the most paternalistic sense of that term. If you represent a charity committed to eradicating poverty, do you need to stop advocating for poor people?

Despite only one respondent citing the advocacy chill as a potential barrier to electoral and policy engagement, these documented concerns of a growing advocacy chill on the part of the federal government could have future implications for the involvement of charities in provincial policy matters. Given all of these barriers, however, it would appear that the lack of capacity coupled with the new funding regime that supports the use of contract funding better explain the limited involvement of these charities in the 2011 election.

**Concluding remarks: Unearthing hidden gems...**

The previous section has produced a somewhat bleak and pessimistic view about the possibility for charities to become involved in electoral activities. After all, charities are limited by a federal regulation in the amount of advocacy they can perform, but there are other barriers, sometimes more important, that also constrain their involvement.

Despite these barriers, research into the activities of charities in the 2011 election has unearthed several gems related to their electoral engagement. However, much of the electoral activity initiated by these charities was overshadowed by much larger campaigns such as the Manitoba Teachers Society noted as the outset of the paper. By conducting this research, a fascinating story begins to emerge as to how public interest groups participate in elections given the constraints of the previous section. Manitobans should feel no need to apologize if they were under the mistaken impression that charities had no real role to play in the 2011 election because their work was under the radar.

Based on interviews with fifteen charities, several conclusions can be drawn. First, fixed election dates matter. Second, registered charities with an emphasis on health were not passive observers of the 2011 Manitoba election. While some were certainly limited in their involvement for reasons outlined in this paper, the majority were engaged in the election in some manner even if only indirectly. Despite this subtle approach of many of the charities interviewed, these remain important activities for the promotion of democracy by bringing issues to the attention of political parties and election candidates that might have otherwise gone unnoticed in the election (Whitmore, Calhoun and Wilson 2011: 440). Third, participation in provincial elections may have less to do with regulations and more to do with other barriers. Despite being limited by the federal advocacy restriction, the majority of charities cite two key barriers to involvement: a lack of capacity and receipt of government funding. Few charities report they could afford to purchase election advertising or had the policy capacity to engage in electoral activity to a meaningful degree. This is in part because of limited resources, obviously, but also in part because of the shift in funding patterns. Several respondents report their charities no longer receive core funding, but instead rely on contract funding largely from provincial government sources and to a lesser degree from federal government sources. This type of funding often provides few, if any, resources to be applied to work outside the delivered contract. As a result, advocacy generally, and electoral-related activity more specifically, go unsupported. The key to overcoming this new funding reality is the diversification of funding to support advocacy.

Fundamentally, the story presented here is one about democracy in the keystone province. By framing registered charities as public interest groups and exploring the barriers and opportunities to their involvement in the 2011 provincial election, it is evident that they are constrained in certain ways. Yet, their participation in electoral activity is essential for the promotion of fair elections. As public interest groups, charities are well positioned to engage citizens, nurture democracy and encourage participation, but in order to do so, debate must centre on the fundamental role that public interest groups play in democracy understanding that some are constrained in different ways than others.

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