

## **Towards a Framework for Understanding Charitable and Economic Activities of Churches: The U. S. Example<sup>\*</sup>**

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*ABSTRACT: The paper address three principal topics: first, characteristics and patterns of charitable giving and volunteerism in the United States and their relationship to religion; second, the charitable activities of churches, again focusing on a U.S. perspective; and third, the regulatory framework governing the economic activities of churches and other charities in the United States.*

### **Introduction**

This paper will address three principal topics. The first is an introduction to the characteristics and patterns of charitable giving and volunteerism in the United States and their relationship to religion. The primary focus here will be to describe the relationship between charitable giving to churches and other types of charitable giving, both in terms of time and money. I will also suggest several factors that a legal system may take into account if there is a desire to encourage and facilitate charitable giving. The second general topic is an introduction to the charitable activities of churches, again focusing on a U.S. perspective. The primary focus here will be legal framework regulating charities in the United States and the primary mechanisms for regulating charities. It will also survey the types of charitable activities that churches are most likely to engage in, and the scale and scope of such activities. The third general topic is the regulatory framework governing the economic activities of churches and other charities in the United States. The goal of this section will be to introduce the types of issues that arise when churches and other charities that enjoy economic privileges such as tax exempt status engage in economic or political activities. I will also survey some possible approaches that the legal system may take to address these issues.

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## 1. Charitable giving and Volunteerism in the United States

### *Frequency of Charitable Giving and Volunteerism*

Since Alex DeTouqueville's prescient observations about American society, it has been well known that the United States has quite a high rate of volunteerism. Recent social science data confirms this impression. The following table summarizes the percent of American households that participated in charitable activities in the United States in 1998. (Source: Independent Sector Survey, 2001)

<b>Table # 1      Participation in Charitable Activities in U.S.</b>	
<u>Giving (Money)</u>	<u>Volunteering (Time)</u>
70%	55%

According to this survey, more Americans give money to charities than give of their time. Nevertheless, the rate of giving and volunteerism is relatively high compared to many other industrialized countries.

According to one recent survey the United States is first in terms of donating cash and property to charities, but only third, behind The Netherlands and Sweden, when volunteering and giving are considered together. Table two summarizes the percentage of a country's gross domestic product that is spent on volunteering and giving considered together (column two), and in giving based on cash and property gifts but excluding donations of time (column four) (John Hopkins, Comparative Nonprofit Sector Project).

<b>Table # 2</b>			
<b>Top Ten Countries in Philanthropy</b>			
<b>(As a percentage of GDP, 1995-2002)</b>			
<u>Country</u>	<u>All Private Philanthropy</u> <u>(volunteering and giving)</u>	<u>Country</u>	<u>Private Giving</u> <u>(cash and property)</u>
The Netherlands	4.95%	United States	1.85%
Sweden	4.41	Israel	1.34
United States	3.94	Canada	1.17
Tanzania	3.78	Argentina	1.09
United Kingdom	3.70	Spain	0.87
Norway	3.42	Ireland	0.85
France	3.21	United Kingdom	0.84
Germany	2.56	Uganda	0.65
Finland	2.43	Hungary	0.63
Canada	2.40	Tanzania	0.61

One interesting insight from this survey is that philanthropic generosity is not reserved to wealthier states. When giving and volunteering are considered together, Tanzania appears in the top ten most generous nations. When monetary giving is measured, countries such as Argentina, Uganda, Hungary, and Tanzania are among the ten most generous countries in the world. This suggests that giving of both time and money has important cultural as well as economic dimensions.

### **Value and Distribution of Charitable Giving**

Charitable giving in the United States, not counting volunteering time, has an estimated value of in excess of \$250 billion. The Giving USA Foundation, Annual Report on Philanthropy for the year 2005 estimates the volume and distribution of charitable giving in the U.S. as follows (Giving USA. 2006).

**Table # 3**  
**Amount and Recipients of Charitable Giving in U.S.**  
Total Estimated U.S. Charitable Giving in 2005: \$260 Billion

- Of this, \$199 billion (or about 77% of total giving) was given by individuals.
 

• Individuals	\$199.2 billion	76.5%
• Foundations	\$30.0	11.5
• Bequests	\$17.4	6.7
• Corporations	\$13.7	5.3
- Ninety percent (90%) of U.S. households have income of less than \$100,000, but these households accounted for over \$100 billion of giving (or about 60% of total individual giving).

It is noteworthy that approximately 76% of charitable giving in the U.S. is from individuals, as opposed to foundations (11.5%), bequests (6.7%) and corporations (5.3%). It is also noteworthy that a majority of individual giving is from households that have annual income of less than \$100,000. This might be contrary to some expectations that it is only the very wealthy who are inclined to make charitable contributions.

### **Recipients of Charitable Giving**

As summarized in table four, religious organizations receive more than one-third of total giving, and a much higher percentage of individual giving (45% by some estimates). Educational institutions are the next largest category of recipient of charitable giving (receiving 15% of total giving). Together, giving to religious organizations and educational institutions represents about half of all charitable giving. In the past thirty years, in inflation-adjusted dollars annual charitable giving in the United States has more than doubled (Giving USA, 2006).

**Table # 4**

#### **Recipients of U.S. Charitable Giving by Type of Organization in 2005**

- Religious organizations: \$93 billion (36% of total giving)
- Educational institutions: \$39 billion (15% of total giving)
- Human services: \$25 billion (10% of total giving)
- Health organizations: \$23 billion (9% of total giving)
- Foundations: \$22 billion (8% of total giving)
- Art, cultural and humanities organizations: \$14 billion (about 5% of total giving)
- Public society benefit organizations: \$14 billion (about 5% of total giving)
- International affairs organizations: \$6 billion (about 3% of total giving)

If giving to religious and educational institutions did count as charitable giving, then the amount of “charitable” giving in the United States would be much lower.

### **Recipients of Charitable Giving and Volunteerism**

Table five summarizes the percentage of Americans who make monetary contributions and contributions of time to different types of charities (Source: Independent Sector Survey, 2001).

**Table # 5**  
**Giving and Volunteering in Various Types of Charities**

% of Households Making Money		% of Households Making Time	
<u>Type of Charity</u>	<u>Contributions</u>	<u>Type of Charity</u>	<u>Commitments</u>
Religion	45.2%	Religion	22.8%
Human Services	27.3	Education	17.3
Health	20.8	Human Services	15.9
Education	12.6	Health	11.4
Environment	12.4	Environment	9.2
Arts and Culture	11.5	Arts and Culture	8.6
International	4.5	International	2.5

Table five illustrates that some households give to more than one type of charity. It also indicates that religious groups are the single largest recipients of both money and time. Forty-five percent of households made financial contributions to religious groups and twenty-two percent of households donated time to religious groups. Human Services, Health and education are the next highest categories of receiving both money and time, although in slightly different order. It is interesting to note that while education is the second largest recipient of money contributions, it is only fourth in terms of the percentage of households making money contributions.

### **Sociodemographic Characteristics and the Likelihood of Giving and Volunteering**

Table six summarizes the correlation between various sociodemographic characteristics on the percent likelihood of giving and volunteering. This table summarizes the effect of various personal characteristics on giving in the United States (Source: Independent Sector Survey, 2001).

Table six below indicates that men are less likely than women to give or volunteer. Age has a positive correlation with monetary giving, but a negative correlation with volunteering time. There is a slightly greater amount of participation for those who are married, and those with higher income levels. Higher levels of education has a positive correlation with giving of both money and time. Being a racial minority has a negative correlation with giving both money and time.

**Table # 6**  
**The Effect of Sociographic Variables on Giving and Volunteering**

<u>Sociographic Variable</u>	<u>Effect on Giving</u>	<u>Effect on Volunteering</u>
Male	-2.0%	-7.8%
Age (+10 years)	+1.7%	-2.5%
Married	+2.4%	+0.2%
Income (+\$10,000)	+2.4%	+2.7%
Education	+2.1%	+3.5%
Caucasian race	+3.5%	+6.2%
Religion	+14.0%	+17.3%

### **Correlation Between Frequent Church Attendance and Charitable Giving**

The most significant sociographic variable has to do with religious giving. Those who make contributions to a religious group have a higher rate of giving. This is true of giving to religious organizations, and is also true of overall giving. Perhaps surprisingly, religious giving is positively correlated with non-religious giving as well. Those who give to religious organizations are more likely to donate to non-religious organizations than are those who do not give to religious organizations.

Indeed recent social science data in the United States suggests that the single most important factor in determining if a person was involved in charitable activities was their level of religious participation. According to the Independent Sector survey, 74% of those who attended worship services at least occasionally gave to charity, while 50% of those who never attend do so. There is also a positive correlation between how much one gives as a percentage of income and the frequency of church attendance. Moreover, not only are those who are actively involved in a church more likely to support religious charities, they are more likely to support secular charities than are citizens who never or rarely attend religious services. Churchgoers who contribute more to their church are also more generous in their giving to other charitable organizations<sup>1</sup>.

A 1992 Gallup Poll conducted for Independent Sector indicates that households that attended religious services weekly gave a much higher percentage of their household income to charitable organizations than those who rarely or never attend church (Independent Sector Survey, 1992).

<b>Table # 7</b>		
<b>Correlation Between Frequent Church Attendance and Charitable Giving</b>		
Household Charity by	Percentage of Household Income Donated to Charity	Percentage of Income Donated to
	<u>by Weekly Church Attenders</u>	<u>Infrequent Church Attenders</u>
<u>Year</u>		
1987	2.2%	1.1%
1989	3.8%	0.8%
1991	3.2%	0.6%

Those who attend church frequently donate a larger percentage of their household income to charity than those who do not attend church frequently. Another finding that is surprising to some is that those who are religiously and politically conservative are more likely to give money to organizations that assist the poor and needy in comparison with those who are less religiously and politically conservative<sup>2</sup>.

### **Creating a Legal Framework to Facilitate Charitable Activities**

One important question that policy makers must address is whether the goal is to create a legal framework that will facilitate a robust, vibrant charitable sector. Another important question is whether the goal is to create a *bottom-up* sector, where individuals who sense a need and an opportunity to address it are encouraged to take action, or a *top-town* sector, where the goal is to delegate responsibility for social services so they are less centralized. Table eight summarizes a number of legal variables and the ways in which they may be utilized to either encourage volunteerism and charitable giving or to discourage volunteerism and charitable giving.

**Table # 8****Legal Framework Factors that Affect Charitable Giving and Volunteerism**

<b><u>Legal Variable</u></b>	<b><u>Encouraging Volunteerism and Charitable Giving</u></b>	<b><u>Discouraging Volunteerism and Charitable Giving</u></b>
Ease of creating entity	Relatively simple and inexpensive	More complex and difficult
Regulatory purpose	Desire to facilitate charitable activities	Desire to control charitable activities
Tax treatment of donations	Tax deductions for charitable donations	No or limited tax deductions for charitable donations
Tax treatment of entity	Tax exempt status; relatively broad scope of activity allowed	No or limited tax exemptions
Definition of what qualifies as a charity	Broad definition; breadth of opportunities; includes religious and educational organizations	Narrow definition; excludes significant categories of activities
Reporting obligations	Relatively light; tiered regulation with more disclosure for bigger entities	High reporting obligations
Governance	Self-governance; entity autonomy; flexibility in organization	High degree of government oversight and participation; less institutional autonomy
Financial integrity	Confidence that donations are secure and will be used as promised; confidence that charity will control its own assets	Concern that the government might assert control over charity's assets
Risk of participant legal liability	Liability risk is relatively low; ease of becoming a volunteer	Liability risk is relatively high; difficult to become a volunteer
Size of the public sector	Relatively small public sector encourages charitable giving and volunteerism	Large public sector leads to less charitable giving and volunteerism and dependence of charitable sector on the state



## **2. Charitable Activities of Religious Organizations**

In the United States many religious organizations are involved in charitable activities, including activities that do not have an explicitly religious content. These activities include running soup kitchens for the homeless, operating thrift stores that sell used clothing and other items at low prices, and sponsoring service groups such as Habitat for Humanity and blood drives. Many programs target those in particular need, including children (through health services, tutoring, mentoring, and day care programs), and those who are homeless (through emergency food and shelter, affordable housing), or without jobs (through job training).

According to one study churches in the United States spend an average of 24% of their budget on “non-religious activities,” which often serve people outside of their membership. Typically, 10-15% of a church’s budget goes to other organizations in the form of donations<sup>3</sup>.

Many historians have also noted that religious groups served as the archetype for voluntary, membership organizations in the United States. In many areas, churches were the first such institutions and provided a model for organizing communal activity that could be adopted or adapted by other groups that did not have a religious mission (Adams, 1986).

### *Case Study: The Church of Jesus Christ of Latter-day Saints*

As an example, I will say a few words about my own religious community, the Church of Jesus Christ of Latter-day Saints. I cite this example because it is one with which I am somewhat familiar. The church is quite small, with approximately thirteen million members, about half of whom live in the United States and about half of whom live outside the United States.

According to the Church’s estimates, its humanitarian assistance between 1985 and 2006 can be summarized in table 9 (Welfare Services Fact Sheet – 2006).

For LDS Charities, humanitarian and welfare aid is targeted in several specific areas, including wheelchair distribution, vision treatment, Tsunami relief, neonatal resuscitation training, measles vaccination campaigns, and clean water projects.

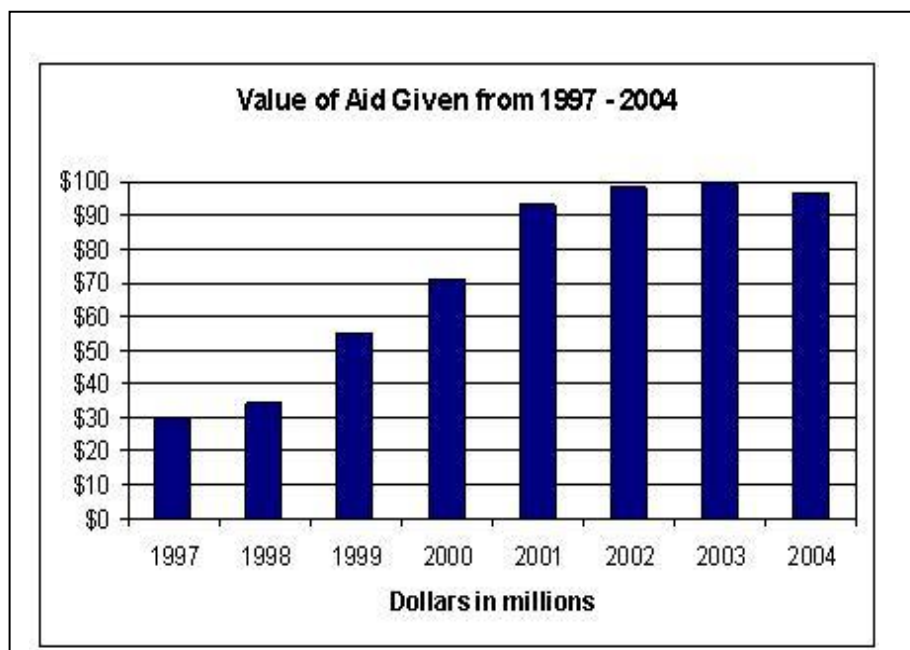
Humanitarian aid projects are funded by donations from Church members and others. One-hundred percent of these donations go directly to help those in need. In-

kind material assistance is provided through items donated by Church members and others.

**Table # 9**  
**Church of Jesus Christ of Latter-day Saints**  
**Humanitarian Assistance Rendered (1985-2006)**

Cash donations	\$201.3 million
Value of material assistance	\$705.2 million
Countries served	163
Food distributed	54,905 tons
Medical equipment distributed	9,152 tons
Surplus clothing distributed	73,226 tons
Educational supplies distributed	5,857 tons

**Table # 10**



**Government Funding of Charitable Activities of Churches**

One area of current controversy in the United States concerns the extent to which church-sponsored charities can receive federal funding to help pay for their activities. Historically, religious organizations have been quite constrained in their ability to receive grants from federal or state governments for social service programs. Starting in 1996, under the label of “Charitable Choice”, the rules of church participation in federally funded programs has been liberalized. President George W. Bush came to office in 2001 promising to expand the charitable choice agenda. Proponents of such funding argue that this merely levels the playing field between secular and religious providers of social services. On this view, Charitable Choice prohibits the government from discriminating against religion when making social service grants. It permits faith-based organizations to compete for federal funds to provide social services.

On the other hand, some worry that Charitable Choice blurs the lines of separation of church and state, and that it may result in substantial government funding of religious activities. Another concern is that funding will be channeled predominantly to politically favored churches and religious groups. A completely different set of concerns relates to the autonomy and integrity of religious groups. The worry here is that government money will come with strings attached and that as religious groups become dependent upon government funding, they will not be able to resist government conditions that may be placed in the future on the receipt of funds.

A related concern is based upon the ability of religiously-sponsored recipients of government aid to discriminate in their employment policies in favor of those who share the sponsoring church’s beliefs. Under the Charitable Choice law, the federal government allows faith-based organizations to use religious criteria when selecting employees for contracts that have been awarded by programs under Charitable Choice. Many religious leaders support the right of religion-based charities to discriminate on religious grounds when they hire employees under contracts that are funded under Charitable Choice. Others disagree, arguing that the federal government should not fund religion-based discrimination, especially of the primary rationale for allowing government funding of religiously affiliated groups is to level the playing field between religious and non-religious sponsors.

As yet, it is unclear whether the Charitable Choice provisions which provide federal subsidies to faith-based organizations, or that allow such organizations to discriminate on the basis of religion in their hiring policies, is constitutional or whether it is a violation of the Establishment Clause. What is clear is that the amount of federal money that reaches faith-based organizations is quite large. In 2005, the White House

reported that under the rubric of Charitable Choice federal agencies awarded more than \$2.5 billion to faith-based organizations, representing approximately 11% of the total funding distributed through 158 programs and seven federal agencies.

### 3. Economic and Political Activities of Religious Organizations

#### *Qualifying For Tax Exempt Status (IRS Code Section 501(c)(3))*

In order to qualify for tax-exempt status and to retain that qualification, religious organizations and other non-profit organizations must meet a number of qualifications relating to their purpose, the use of earnings, and strict limitations on engaging in political activities. Churches are allowed to engage in business activities, but income from those activities is taxable if the business activities are not closely related to the church's charitable purpose. Table 11 summarizes the requirements in U.S. tax law<sup>4</sup>.

**Table # 11**

#### **Qualifying For Tax-Exempt Status in the United States**

- The organization must be *organized and operated exclusively for religious, educational, scientific, or other charitable purpose.*
- *Net earnings may not inure to the benefit of any private individual or shareholder.* This includes no payment of dividends, no payment of unreasonable compensation to insiders (including ministers), no private benefit transactions, and no transferring property to insiders for less than fair market value. Reasonable payments for services rendered are permitted.
- *No substantial part of its activity may be attempting to influence legislation* (i.e., lobbying). Churches may involve themselves in issues of public policy without the activity being considered as lobbying. What counts as substantial is determined based on all pertinent facts and circumstances, including the time devoted (both by paid staff and volunteers) and the size of expenditure devoted.
- *The organization may not intervene in political campaigns* on behalf of (or in opposition to) any candidate for political office. This prohibition is absolute, although activities designed to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives are permitted if they are non-partisan.
- The organization's *purposes and activities may not be illegal or violate fundamental public policy.*

Churches that qualify for tax-exempt status under Section 501(c)(3) are automatically considered tax exempt and are not required to apply for and obtain recognition of their tax-exempt status from the IRS. Many churches apply to the IRS for such recognition anyway, in order to eliminate any possibility of having their status challenged, and to ensure that contributors will have their contributions be recognized as being tax-deductible.

*Business and Other Economic Activities: Unrelated Business Income*

Churches and religious organizations, like other tax-exempt organizations, may engage in business or other income-producing activities unrelated to their tax-exempt purposes, as long as the unrelated activities are not a substantial part of the organization's activities, but that income is taxed as unrelated business income. The following table summarizes the IRS's rules governing unrelated business income tax.

**Table # 12**

**Unrelated Business Income Tax (UBIT)**

A church or religious organization's activities will be subject to the UBIT if the following three conditions are met.

- The activity constitutes a trade or business,
- The trade or business is regularly carried on, and
- The trade or business is not substantially related to the organization's exempt purpose. An activity is not substantially related to the organization's tax exempt purpose just because it uses the income to further its charitable or religious purpose.

Examples of unrelated trade or business activities include advertising sold by tax-exempt organizations in their publications, gaming income from activities like raffles and in some cases even bingo, income from the sale of merchandise and publications if the items do not have a substantial relationship to the exempt purposes of the organization, parking lot income when the lot is rented to the general public.

In general churches are required to withhold, report and pay income and social security taxes for their employees.

In the United States, churches and other religious organizations frequently engage in business activities that are for profit, on the understanding that they do not receive a tax-exemption for such unrelated business income.

### **Conclusion**

While broad conclusions cannot be made based upon the information presented here, it is safe to say that charitable giving and volunteerism in the United States is enhanced due to the prevalence of giving in both time and money to religious groups. Religious giving can contribute to a climate of broader charitable giving. The legal system can do much to either encourage or discourage charitable giving, including to religious groups. Religious groups are also engaged in a wide range of non-religious charitable and humanitarian efforts, although government funding of such activities is controversial in the United States. In the U.S., religious groups are able to engage in a wide variety of economic and non-charitable activities, but when they are acting outside the scope of their charitable mission, these activities are not entitled to tax exemptions and are subject to many of the usual tax and other rules that govern the for profit sector.

### **Reference:**

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<sup>1</sup>. (See Suzanne Heller Clain and Charles B. Zech, A Household Production Analysis of Religious and Charitable Activity)

<sup>2</sup>. (See Mark D. Regnerus, Christian Smith, David Sikkink, Who Gives to the Poor? The Influence of Religious Tradition and Political Location on the Personal Generosity of Americans Toward the Poor, *Journal for Scientific Study of Religion* (vol. 37, no. 3, Sept 1998, at 482).

<sup>3</sup>. (Hodgkinson & Weitzman, 1993, pp. 77-80)

<sup>4</sup>. (See IRC § 501(c) (3); IRS Tax Guide for Churches and Religious Organizations).