



The War on Philanthropy

An administration proposal to change tax law in the name of “fairness” reveals a deeper and troubling hostility to the central role of charitable giving in American life.

By David Billet

He is a kind of Society for th' Prevention of Croolty to Money. If he finds a man misusin' his money, he takes it away fr'm him an' adopts it.

—MR. DOOLEY

CHARITY IS SAID to be a virtue without compare, and yet we all know that it arouses suspicion—about the giver’s display of his generosity, the recipient’s dependency, some essential inequity that the gift only reinforces. Perhaps for this reason, Maimonides argued that the highest level of charity was not charity at all but rather helping the needy find the means by which to earn their own living.

DAVID BILLET is associate editor of COMMENTARY.

In democratic America, what charity is and what it ought to do have been redefined in this spirit from the bestowing of alms to the performance of public-spirited works of all sorts by voluntary associations of citizens. Over the past century, such associations have grown and gradually coalesced into an economic “sector” of their own, albeit one that is not dedicated to the pursuit of profit. The chamber of commerce, the soup kitchen, churches and synagogues, the Berlioz Society, the university, COMMENTARY—these are all voices in the chorus of American nonprofits, which collectively account for 11 percent of the overall U.S. economy.

Charitable organizations have suffered along with everyone else from the present economic crisis. Estimates by the Independent Sector, a philanthropic umbrella group, are that charitable assets are collectively down by nearly a third. Some organizations have shut their doors, and the survivors have had to

make painful adjustments, let go of staff, abandon projects, and scale down ambitions for years to come, at precisely the moment when their services and patronage are needed most.

IT WAS THEREFORE surprising, and instructive, that at the same time the Obama administration was extending bailouts to troubled industries thought to be systemically or strategically important, it also presented for national consideration a change in tax policy that seemed like nothing less than a direct assault on the ravaged coffers of non-profits. For almost a century, about as long as the U.S. has levied a significant tax on income, government policy has encouraged charity by exempting donated dollars from its reach. But in February, the administration announced that it would seek to raise revenue for its ambitious spending programs by reducing the charitable deduction for the highest two income-tax brackets by as much as 30 percent—this, when their marginal rates will already rise respectively to 36 and 39.6 percent in 2011.

When a reporter at a press conference in March suggested that this was effectively a tax on charity, Obama held fast, insisting

if it's really a charitable contribution, I'm assuming that [the tax exemption] shouldn't be the determining factor as to whether you're giving that \$100 to the homeless shelter down the street. And so this provision would affect about 1 percent of the American people. They would still get deductions. It's just that they wouldn't be able to write off 39 percent. In that sense, what it would do is it would equalize. When I give \$100, I'd get the same amount of deduction as when some, a bus driver who's making \$50,000 a year, or \$40,000 a year, gives that same \$100. Right now, he gets 28 percent; he gets to write off 28 percent. I get to write off 39 percent. I don't think that's fair.

Nor was this the only virtue of the proposal, for it would also present the American people with a new pot of money to direct toward worthy societal aims:

I think it is a realistic way for us to raise some revenue from people who've benefited enormously over the last several years. And, you know, ultimately, if we're going to tackle the serious problems that we've got, then, in some

cases, those who are more fortunate are going to have to pay a little bit more.

Thus, the plan would eliminate an unfair privilege for the rich without hurting the poor—or, at least, without hurting the poor who receive charity from entirely selfless people who are certain to maintain their level of giving no matter what the federal government does. “There's very little evidence,” Obama concluded, “that this [program] has a significant impact on charitable giving.”

Casually dismissing the role of incentives in altruism may strike those of a more hardnosed bent as fanciful, and as an empirical matter, according to the economist Martin Feldstein,

A substantial body of economic research shows that, on average, each 10 percent reduction in the cost of giving raises the amount that a person gives by about 10 percent. So, the 35 percent reduction implied by current deductibility rules raises the amount of charitable giving by about 35 percent. . . . [The administration's plan] raises the cost per dollar of giving from 65 cents to 72 cents, an increase of 10.8 percent that can be expected to reduce the total giving of these donors by about 10 percent.

In other words, the President's proposal would reduce the amount of money given to charity by at least 10 percent. That would be “a significant impact” in anyone's book. Peter Orszag, director of the White House Office of Management and Budget, seemed to concede the point when he offered in mitigation that “contained in the recovery act, there's \$100 million to support nonprofits and charities as we get through this period.

MORE INTERESTING than his empirical assertion, at any rate, was the moral attitude Obama projected toward the nonprofit sector, in which he himself had worked for many years of his professional life. His argument made little of the fact that a donor does not consume a single penny of the charitable donation that is currently exempted from taxes. Financially, one is best off keeping the money. The supposed “benefit” only accrues when one gives it away, and only by lowering the “cost of giving” imposed by our progressive tax system, which already derives a majority of income taxes from the highest earners. Only givers would be

penalized under the new plan—the situation for the *uncharitable* rich would remain the same—and yet the President’s critique suggested that the system needed to be corrected in the name of “fairness.”

In one of its rare acts of defiance this year, Obama’s otherwise compliant Congress did not vote his reduction proposal into law. But this does not mean it is gone forever; he will be in a position to submit it again, especially if, as seems likely, the Treasury finds itself short of revenue. Certainly the idea of fairness underlying the proposal is very much a part of the administration’s outlook, and it fits neatly with a liberal suspicion of charity that has gained traction in recent years, and that

withholds even two cheers from American philanthropy as it is now practiced. This is a matter that should be of concern to everyone, not just those who work for and support nonprofit institutions, and not just givers who rightly feel themselves the implicit objects of improper Oval Office criticism. The war on philanthropy that appears to be developing is a challenge to the vitality of our civil society and a serious threat to the non-governmental “mediating institutions” (as sociologists call them) that have always been a particular hallmark and glory of American society.

THE SPECIFIC indictment against private philanthropy goes something like this: Because the Treasury forfeits some \$30 billion every year in various tax exemptions for charity, government has a responsibility to see that this “subsidy” (as Representative Xavier Becerra of California calls it) is justified by the use to which the money is put. Government, in this view, should not be in the business of subsidizing, say, gifts to the San Francisco Opera by residents of posh Hillsborough Heights, or the vanity projects of a closely-held family foundation, or additions to Harvard’s multibillion dollar endowment so that (wink, wink) it will admit a donor’s child. Former Labor Secretary Robert Reich argues instead that the deduction system should be calibrated so that givers receive a full deduction for poverty charities and only half a deduction for the Public Theater. According to Peter Singer of Princeton University, gifts to the arts cannot be justified *at all* while other problems exist in the United States.

Sure, the argument continues, private charities and civil-society foundations do a lot of good, but all too often they are vehicles for money laundering or dressed-up consumption that do not benefit the truly disadvantaged. This anarchic system needs to be nudged in the right direction—a little more redistribu-


tion here, a little more regulation there—to ensure the best kind of outcome. Taxing charity, according to Peter Orszag, would be paid back to society and the struggling nonprofits themselves in the coin of national health care. The critics seem to feel that there is enough wealth in this country to alleviate social problems and still leave plenty of money left

over to pay for gilded plaques at the overcapitalized opera house.

The most notable campaign against the philanthropic status quo has been waged by the California-based Greenlining Institute, a nonprofit that seeks greater “racial and economic justice” by attempting to force greater minority representation in government, commerce, and higher education, mostly by publicly shaming or suing companies into doing the right thing. (The institute’s name is a play on the practice by banks of “redlining” poor neighborhoods as bad credit risks; “most of our money,” its director has boasted, comes not from donations but “from lawsuits.”)

After a Greenlining study found that a mere 3 percent of private grant money in California went to minority-led causes, the group waged a concerted campaign on behalf of state legislation to require foundations with assets over \$250 million to disclose the race, gender, and ethnicity of board members, staff, business contacts, and individual grantees (at one point sexual orientation was also included), and to report the amount and percentage of grants to organizations in which 50 percent or more of board members and staff were minorities.

The bill passed the California state assembly and was being debated in the state senate when a settlement was reached with the Foundation Coalition, an umbrella group of California’s largest foundations. It dutifully pledged to support “capacity-building” and “leadership-development activities” of minority-led institutions to the tune of several hundred million dollars over the next few years. With this triumph secured, Greenlining has promised to undertake similar



The liberal indictment against philanthropy is based on the notion that because there is a tax exemption involved, government is providing a “subsidy.”

efforts in a number of states and on the federal level.

Critics had pointed to egregious flaws in the Greenlining study. The sample size was far too small, and an enormous gift to the United Negro College Fund by the Gates Foundation that would have represented an increase of ten percentage points was excluded. There were also numerous absurdities. The work of some of the targeted groups had no conceivable connection to race. (An environmental conservation group was one of them. Why? “Communities of color suffer most from global warming, if you look at asthma rates,” said Greenlining’s director.) A group that served minority communities could be targeted just for having too many staff members of the “wrong” color. All groups would have to spend heavily on compliance—data collection, administration, and the like. Yet none of this was enough to move the Foundation Coalition to stand up for itself against a pernicious campaign solely concerned with counting by race.

Nor is this moral weakness confined to beleaguered foundations. The National Committee for Responsive Philanthropy (NCRP) is a privately funded nonprofit organization that conducts research on and advocacy within the philanthropic sector. As a leading voice that is often called upon for authoritative opinions, NCRP released a report in March entitled “Criteria for Philanthropy at Its Best: Benchmarks to Assess and Enhance Grantmaker Impact.” The public “has a legitimate interest in the use of philanthropic resources,” the report opens, since “donors receive the privilege of tax deduction for charitable donations and tax exemption on investments.”

Among the guidelines are unobjectionable principles like “disclose information freely” and “act ethically.” But then come the ideological mandates. Nonprofits should provide at least 50 percent of their grant dollars to benefit lower-income communities, communities of color, and other marginal groups. At least 25 percent should go to “advocacy, organizing, and civic engagement to promote equity and social justice.” The majority of grant money should also go to multiyear projects. When it comes to managing endowments, at least 25 percent of assets should be invested in ways that support the organization’s charitable mission. So, to sum up: divestiture from tobacco or other such malevolent companies, not too much oversight of grantees, and a view of America as sorely in need of at least 25 percent more “equity” and “social justice.”

Thus, one element of the nonprofit sector—the element that has set itself up as the sector’s ethical policeman—is now seeking to impose its ideological view on other nonprofits through new rules that

guarantee not diversity but an iron-grip orthodoxy. Rather than encouraging the proliferation of views and ideas in the nonprofit world, they seek instead a stultifying sameness.

EVEN before Obama’s rise, philanthropists and nonprofits were feeling the heat from Washington and governments at the state and local level. In the 2006 Pension Protection Act, Congress issued hundreds of new rules on philanthropic entities, covering everything from the proper valuation of gifts of taxidermy property to exemptions for blood-collecting organizations from regular excise taxes on heavy vehicles and fuel.

Especially notable was a limit on the tax exemption for gifts to “donor-advised funds” from Individual Retirement Accounts (IRAs). This was a victory for those who dislike these increasingly popular vehicles that give a say on precise charitable allocation to donors who do not want to expend the cost and effort to set up their own foundations. Meanwhile, religious organizations, like Catholic hospitals, that receive government funding in the form of Medicaid reimbursements are coming under pressure to provide family-planning services to which they conscientiously object, else they risk a major source of funding. Other regulations are being floated in the Senate, like requiring nonprofit hospitals further to prove their bona fides by bestowing a greater percentage of their services on the poor.

Numerous states have adopted versions of the administration’s limits on charitable deductions on the state level, and several are now levying property and other taxes on charitable organizations. New York’s governor, David Paterson, has proposed a series of taxes on foundations whose investments “jeopardize the institution’s ability to carry out its charitable mission.” Even board members and foundation leaders themselves would be penalized as individuals.

The costs of complying with such onerous regulations are enormous, and draw away resources that would be better spent on actual works. The new imposts and distractions are especially demoralizing to smaller groups that do not have a bureaucratic apparatus. And this gets us closer to the unavoidable point: The role of private institutions in providing public works is something that discomfits the public sector, which time and again finds itself shown up by the competition.

The hundreds of billions of dollars that the government transfers every year to alleviate social problems have not solved the problem of poverty; government

does not do it well, and often the act of subsidizing poverty has the unfortunate effect of exacerbating rather than ameliorating it. Virtually wherever public and private groups take up the same task, the private group outperforms, whether it is the Federal Emergency Management Agency versus the Red Cross in post-Katrina New Orleans, Meals-on-Wheels before and after it was adopted by the federal government, or church-run rehab clinics achieving better recovery rates than government clinics that spend ten times more per patient. This is hardly surprising, given that the private sphere enjoys the energy of individuals passionate about their work, and has greater flexibility than a bureaucracy to be nimble, to take risks, to adjust, to weed out corruption, and to move on to the next pressing task.

For these and other reasons, the role of private philanthropy in the United States has been a matter of concern for the Left going back decades. Leftists believe these tasks are justly the responsibility of government, and that leaving them in private hands is a way of keeping the public sector from performing its true function as the administrator of social justice.

THE VALUE of private philanthropy should not be measured solely by the dollars and cents that are raised and distributed. Philanthropy is a key element in the sustenance of a civil society in which a free people are free to invest their energies in the causes that animate them—including operas and museums and, yes, magazines, which have been known to be part of a flourishing culture and which some poor people and minorities have been known to enjoy. Even Harvard has been known to conduct medical research

benefiting all society. The civil-rights movement grew out of private—and privately-funded—activism against a governmental status quo. It is impossible to predict where and when society at large will benefit, and central planning will only make it more difficult for the unexpected discovery, the unanticipated social or cultural advance, to take place.

Over the past nine months, the federal government has been extending its reach into the private workings of the United States to a degree never before seen. It is precisely at a time of accelerated growth in the public sector that voluntary associations and civic institutions are most crucial. Churches, charities, think

tanks, universities—these are not just sources of good works and interesting ideas. They also function as alternate sources of social cohesion, acting as a bulwark against the hunger of politicians and bureaucrats to enhance their power and freedom of action.

In this light, the President's proposal to limit the tax deductibility of charitable contributions while increasing the amount of money government receives in the form of tax receipts takes on a more ominous coloration. It suggests that Barack Obama believes it would be fairer for all if the government were to do as much as possible, and that the tasks of helping the less fortunate and keeping the national conversation as full-throated and diverse as possible would be better managed under the auspices of Washington.

The purposeful encroachment of the public sector on the private, therefore, will not end with the banking system or the automobile companies if the President has his way. This is why he and others who share his ideological predilections are staging a war on philanthropy from inside and out, and why they must not be allowed to succeed. 🏹



The civil-rights movement grew out of private—and privately-funded—activism against a governmental status quo.
