

TESTIMONY BEFORE THE SENATE FINANCE COMMITTEE
HEARING ON CHARITIES AND CHARITABLE GIVING:
PROPOSALS FOR REFORM
BY DAVID KUO

Chairman Grassley, Senator Baucus and distinguished members of the Committee, I am David Kuo, contributing editor to Beliefnet.com the leading multi-faith religion and spirituality website. For two-and-a-half years I was also Special Assistant to the President and Deputy Director of the Office of Faith-Based and Community Initiatives at the White House under President George W. Bush.

My perspective on the topics we discuss this morning is informed by various vantage points on the charitable sector I've had during the past 15 years. I've worked in senior positions here in the United States Senate, in advocacy organizations and in the White House. For three years I founded and tried to create a charitable organization to objectively determine the efficacy and efficiency of social service organizations. I was even recruited to a dotcom company with the promise that I'd be able to manage what promised to be a huge foundation – they were going to give away one percent of gross revenues to charity and since they'd be making hundreds of billions of dollars every year that meant a lot of money for charitable giving. Suffice it to say that things didn't turn out quite as planned.

I also approach it from a certain philosophical perspective. I believe in government's inviolable duty to help serve the poor. This isn't just philosophy for me, it is also theology. I believe that Jesus' commands to care for the least among us means that we have to bring to social problems every available resource and every best effort. I reject some conservative notions that suggest the government is the enemy and must step

out of the way and let the private sector take over. I similarly reject some liberal notions that suggest the answer to every problem is another government program and more government money. Both of these noxious notions are born of either ignorance or indifference. It doesn't really matter which. My passion isn't for politics *per se* but for what politics can bring to bear on these matters. It is in that spirit that I want to speak to government, to the non-profit sector, and to us as individuals.

I believe in President Bush's compassionate conservative philosophy as articulated at the start of his 2000 campaign. "It is not enough for conservatives like me to praise [charitable efforts]. It is not enough to call for volunteerism. Without more support and resources, both private and public, we are asking them to make bricks without straw." His proposals for \$8 billion per year in new spending and charitable tax incentives for non-itemizers and IRA rollovers were important policies but they were something more – they were an unmistakable public signal that charity, compassion, and care for the poor were to be cornerstones of his domestic policy.

Four years later these tax incentives and other spending programs haven't yet been enacted. The White House could certainly have done more. That's already been said. However, were it not for the President's interest in these issues, we wouldn't be here today. That brings me to Congress. Save for the tireless action of this committee that has repeatedly pushed for charitable tax incentives, I have been astonished by the lack of interest in these matters by your colleagues. The CARE Act is a perfect example. For the last few years the CARE Act has had overwhelming bi-partisan support, and has gone nowhere. Why? In large part it is because of widespread congressional apathy and a desire for political gamesmanship on all sides. I have been quoted as saying that the

White House knows how to get what it really wants to get. That is true. But just as certainly Congress knows how to get what Congress wants. Why hasn't Congress been a passionate advocate on behalf of charities and the poor in the midst of economic crisis, a downturn in charitable giving and an upturn in social service needs?

As Members of the United States Senate you are called and pulled in every different direction. Every problem, every constituency demands more from you and of you. But I can think of no other area in American politics so ignored by political leaders than matters of charity, of care for the poor, of substantive debate and discussion on matters of civil society. No, America's poor do not have a powerful voice. They aren't combined into the power of the AARP. They aren't likely to flood your office with calls, emails, or letters and yet there are more poor Americans today than there were four years ago. It is always easy politics to blame either the other party or the White House but I just wonder why these matters are such a low priority for the United States Congress?

It isn't just Congress that has ignored charities. Without any doubt, the charity abuse stories that we hear are the result of a lack of IRS enforcement of existing laws. Having had my own 501c3 organization that looked into the efficacy and efficiency of other organizations I saw firsthand cases of willful misuse of funds. That kind of stuff was hardly a secret. And yet where is IRS enforcement of these existing laws? It has been AWOL and now we are to believe that *new* laws are the answer?

By themselves they are not. They may serve the appetite of a public that wants action because nothing spells action more than a new law. But without dramatic enforcement enhancements we'll all be back having the same debate five years from now.

Make no mistake, however, I am not a shiny, happy charity cheerleader. If we don't face the facts that loopholes need to be closed, reforms made, and accountability had, we will have failed just as much as if we did nothing. The IRS cannot enforce laws that make no sense or that provide loopholes for the wealthy in the name of charity. Clearly more stringent rules need to be put in place regarding the use of donor-advised funds. It hardly seems a stretch to require accounts to pay out a certain basement requirement annually. More publicly-disclosed information about charities also seems to be a no-brainer. Charities are by their very definition here to serve the public interest. The public has a right to know a lot more than they currently do about how these organizations operate, how much money individuals are making, and how the money is being spent. Donors private information should remain private but charities need to see daylight.

I'd like to add one more thing. We need to begin looking at information in different ways. To date charities tend to be judged by how well their accountants make their books look like all the money is going to serve targeted populations. Why? Because that is how "efficient" charities have been ranked by media like *US News*. Unfortunately, this mindset has prevented us from asking a more important question. "How well?" Efficacy is a far more important and relevant gauge than efficiency. We need to begin asking charities to tangibly measure how well they are doing their jobs, not just how efficiently.

Charitable abuses are real and they are offensive. They must be eliminated, serious fines must be imposed, and violators need to be exposed. But we must be careful amidst these reports not to allow these abuses to create new laws that punish the

overwhelming majority of donors or the recipients of non-profit services – the poor, the addicted, those seeking education, those in need of health care or those who simply love art. I am concerned about changes in non-cash deductions and clothing deductions that may be using disproportionate force given the problems.

Finally, the United States faces record budget deficits not because of abuses in the charitable sector but because of choices and priorities that our government has made. Much of the rhetoric around charity that I have been hearing lately seems to suggest that the charitable sector is a great target for raising more funds to ensure the continuity of our existing way of government waste. Doesn't that strike the committee as a bit odd, perhaps even a bit perverse?

Everything we're discussing today is about the culture of charity that we are creating. The culture of charity is hurt by a lack of enforcement. It is hurt by loopholes and exceptions and tricks that benefit the rich in the name of the poor. It is also hurt by laws that inadvertently discourage charitable giving. Nowhere is that clearer than in the estate tax. Congress will be revisiting this matter in the coming months. As it does so I hope that it, and this committee, will bear in mind the huge consequences that matter has on the charitable community. Conservative estimates show that a total repeal of the tax would cost the charitable sector more than \$10 billion per year. That is a lot of money and discourages the culture of charity.

I want to close by again thanking the Sen. Grassley, Sen. Baucus and their exceptional staff. We are having a vigorous debate this morning about charity, about giving, and about helping others. Everyone here should be excited about the debate

because the debate will lead to important changes, new understanding, and a stronger charitable sector benefiting America.