The Charitable Immunity Doctrine in the United States
HISTORY, EVOLUTION AND CONTEMPORARY RELEVANCE

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The charitable immunity doctrine is a legal principle that historically protected charitable organizations from tort liability. Rooted in the belief that charities served the public good and should not have their limited funds diverted to damage awards, the doctrine once provided a broad shield against lawsuits. Over time, however, the doctrine's impact has diminished as it has been challenged, limited and, in many jurisdictions, abolished altogether. Today, its application varies significantly across states, reflecting broader societal shifts in how courts and legislatures balance the protection of charitable assets with the rights of injured parties.

ORIGINS OF THE CHARITABLE IMMUNITY DOCTRINE

The charitable immunity doctrine in the U.S. has its roots in English common law. Its genesis was an 1848 English case, *Feoffees of Heriot's Hospital v. Ross. The Feoffees of Trust and Governors of George Heriot's Hospital v. William Ross and Andrew Ferguson, his Tutor ad litem*[1846] UKHL 5_Bell_37; (1846) 8 E.R. 1508; XII Clark & Finnelly 607. The case suggested that charitable trusts should not have their funds diverted to satisfy tort claims, as doing so would undermine the charitable purpose. American courts adopted similar reasoning in the late 19th and early 20th centuries, creating a broad shield for nonprofit and charitable organizations.

The doctrine was initially justified on several grounds. The first of these was the "Trust Fund Theory." Donations and assets of a charity were viewed as being held in trust for the intended beneficiaries. Diverting those funds to pay damages would violate donor intent, diverting resources away from their mission to serve the public good.

A second rationale was based on public policy. Charities were considered essential for the welfare of society; therefore, protecting them from tort liability ensured their continued operation. Protecting charities from liability was seen as a way to encourage the establishment and operation of nonprofit organizations serving a wide range of needs.

A final justification for the doctrine was the "Implied Waiver Theory." Under this theory, some courts reasoned that beneficiaries of charities implicitly accepted the risk of injury in exchange for free or discounted services.

As a result, charitable hospitals, schools, churches, and other nonprofit institutions often enjoyed immunity from tort suits, even when their negligence caused harm to individuals. Hospitals were immune from medical malpractice suits, even if negligence caused severe harm. Religious institutions were protected from liability for accidents on their premises. Educational charities were shielded from claims by students or visitors.

However, the doctrine was not always applied consistently. Some courts limited application of the doctrine to cases involving beneficiaries of the charity, while others extended it to third parties, such as visitors or employees. As society evolved, so did the legal landscape. Critics began to argue that the doctrine unfairly denied justice to individuals harmed by the negligence of charitable organizations.

THE EROSION OF CHARITABLE IMMUNITY

By the mid-20th century, the tide began to turn against charitable immunity. Courts and legislatures started to recognize that the doctrine often left injured parties without recourse, undermining the principle of accountability. Several factors contributed to this shift:

1. Expansion of Insurance Availability
The rise of liability insurance for nonprofits reduced the need for charitable immunity. As liability insurance became more widespread, the argument that damage awards would deplete charitable resources weakened. Courts recognized that charities could purchase insurance to protect themselves. Organizations could now protect themselves financially without relying on immunity from lawsuits.

2. Growth of Large Nonprofit Institutions
Many hospitals, universities and nonprofits grew into massive enterprises with substantial assets. Judges and legislators questioned whether such organizations truly needed immunity.

3. Changing Public Policy and Legislative Reforms
Many states enacted laws to limit or abolish charitable immunity. For example, in 1959, New Jersey passed legislation eliminating the doctrine, citing the need for greater accountability. The rise of modern tort law emphasized compensating victims of negligence. It was increasingly viewed as unfair to deny recovery simply because the tortfeasor was a charitable entity.

4. Judicial Skepticism of Donor Intent Arguments
In cases like *President and Directors of Georgetown College v. Hughes*, courts also began to question the fairness of charitable immunity. *President and Directors of Georgetown College v. Hughes*, 130 F.2d 810 (D.C. Cir. 1942). Courts recognized that most donors did not explicitly intend to shield charities from liability for negligence. The doctrine was increasingly seen as outdated and inconsistent with modern legal principles.

LANDMARK CASES LIMITING THE DOCTRINE

Several key cases marked the decline of charitable immunity in the United States.

- ***President and Directors of Georgetown College v. Hughes*** – Judge Learned Hand rejected the trust fund theory, stating there was no reason a charity should not bear liability for its torts. *Georgetown*, 130 F.2d at 820
- ***Pierce v. Yakima Valley Memorial Hospital Association*** – The Washington Supreme Court abolished charitable immunity, emphasizing the injustice of denying compensation to injured patients. *Pierce v. Yakima Valley Memorial Hospital Ass'n*, 43 Wash. 2d 162, 260 P.2d 765 (Wash. 1953).
- ***Raymond v. Providence Hospital*** – The Alaska Supreme Court followed suit, holding that immunity was outdated in an era of modern insurance and institutional wealth. *Raymond v. Providence Hospital*, 374 P.2d 797 (Alaska 1962).

By the 1960s and 1970s, many states had judicially or legislatively abrogated the doctrine.

MODERN STATUS OF CHARITABLE IMMUNITY

Today, the charitable immunity doctrine is largely abolished or significantly limited in most U.S. jurisdictions. However, its status varies. The majority of states, including California, New York, Illinois, and Washington, have completely abolished charitable immunity. Charitable organizations in these states are held to the same liability standards as private businesses.

A handful of states retain partial immunity, often with damage caps. For example, New Jersey retains immunity for nonprofits from suits by beneficiaries of the charity but not from suits by third parties. Texas limits

the liability of charitable organizations to a cap of $500,000 per person and $1,000,000 per occurrence under the Texas Charitable Immunity and Liability Act of 1987. Some states provide immunity for volunteers of charitable organizations under Good Samaritan laws, but not for the organization itself. At the federal level, the Volunteer Protection Act of 1997 shields volunteers of nonprofits from personal liability for ordinary negligence while performing duties for the organization. However, this does not immunize the organization itself.

POLICY ARGUMENTS REGARDING CHARITABLE IMMUNITY

Even where charitable immunity remains, it is highly debated. Proponents argue that liability risks could deplete charitable funds, reducing the organization's ability to serve its mission. There is also concern that donors may be discouraged if they believe their contributions could be diverted to legal claims rather than helping beneficiaries. They also maintain that immunity can encourage volunteerism by reducing the fear of lawsuits.

Critics argue it is unjust to deny compensation to individuals harmed by a charity's negligence, particularly when insurance can cover the cost. Many modern charities are financially robust and operate like businesses, and it is believed they should be held accountable like any other entity. There is also the school of thought that eliminating immunity incentivizes charities to maintain safe practices and prevent harm.

CHARITABLE IMMUNITY VS. SOVEREIGN IMMUNITY

It's important to distinguish charitable immunity from sovereign immunity. While charitable immunity shields private nonprofits, sovereign immunity protects government entities from liability unless explicitly waived. However, some public hospitals and universities have historically invoked both doctrines, leading to overlapping legal debates.

IMPACT ON HOSPITALS AND HEALTHCARE

Hospitals were once the primary beneficiaries of charitable immunity, particularly nonprofit religious hospitals. But as healthcare evolved into a major industry, courts increasingly held hospitals accountable for medical malpractice. Today, in most states, nonprofit hospitals face the same malpractice liability as for-profit hospitals, with only a few states providing caps on damages for charitable hospitals.

PRACTICAL IMPLICATIONS FOR CHARITABLE ORGANIZATIONS

The decline of immunity has several practical consequences for charitable organizations. Liability insurance is essential, and nearly all nonprofits now carry general liability and directors-and-officers insurance. Risk management practices have become critical, and nonprofits must adopt robust safety policies, training programs, and oversight to minimize liability risks. Governance and legal compliance are more important than ever, and boards of directors must ensure that the organization complies with applicable tort laws, particularly if they operate in multiple states with varying immunity rules. Finally, volunteer protections must be understood. While volunteers may have statutory immunity in some jurisdictions, organizations remain liable for their negligence.

CURRENT TRENDS AND THE FUTURE OF THE DOCTRINE

Legal scholars generally predict that the charitable immunity doctrine will continue to be further limited rather than expanded, as courts and legislators increasingly prioritize victims' rights over protecting nonprofit assets. The modern trend favors narrowly tailored protections rather than blanket immunity. Some states have moved toward the institution of damage caps instead of full immunity, providing volunteer immunity while holding the charitable organization liable, and enforcing minimum insurance requirements for nonprofits as a gatekeeper to certain damage caps, and to ensure injured parties can be compensated.

CONCLUSION

The charitable immunity doctrine once offered sweeping protection for nonprofits in the United States, shielding them from tort liability based on trust fund theory and public policy considerations. However, over the past century, societal attitudes have shifted toward ensuring fair compensation for victims of negligence, leading most states to abolish or severely restrict the doctrine.

Today, only a handful of states retain partial immunity or damage caps for charities, while federal law provides limited protection for volunteers rather than organizations themselves. The prevailing view is that charitable status does not excuse negligence, especially when liability insurance is readily available. For modern nonprofits, immunity is no longer a reliable defense, and risk management, insurance, and accountability are essential components of responsible charitable governance.

STATES WITH PARTIAL OR RETAINED CHARITABLE IMMUNITY

Although most U.S. states have abolished full charitable immunity, a handful still maintain limited versions—often with restrictions tied to beneficiaries, damages caps, or exceptions. Below, find the current status in some key states.

- **Arkansas**
Continues to recognize partial immunity, applying an "immunity from suit" rather than immunity from liability. Organizations must pass an eight-factor test to qualify.

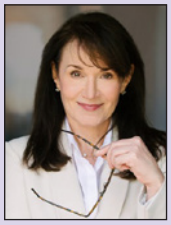
- **Georgia**
Retains immunity when charities exercise ordinary care in selecting and supervising employees. But paying beneficiaries are not protected by the doctrine.

- **Maine**
Maintains limited immunity rooted in the trust-fund theory, provided funds derive from public/private charities.

- **Maryland**
Upholds immunity for acts of ordinary negligence—but if the charity carries liability insurance, it waives immunity up to the policy limit.

- **Wyoming**
Still offers limited immunity for charge-free charitable institutions, though case law is sparse.

- **Colorado, Massachusetts, South Carolina and Texas**
No longer offer immunity per se, but impose statutory caps on damages:
  - **Colorado:** Charities are subject to suits, but execution of judgments is limited to insurance proceeds.
  - **Massachusetts**: Imposes a low $20,000 cap on tort damages for charities.
  - **South Carolina:** Historically capped damage awards—though recent case law has further refined scope.
  - **Texas**: Limits liability to $500,000 per person and $1,000,000 per occurrence for bodily injury, and $100,000 for property damage.



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