

**Repugnant to the Very Idea of Democracy?
On the Role of Foundations¹**

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This is a draft chapter from a manuscript provisionally titled “Just Giving: Toward a Political Theory of Philanthropy.” One of the main aspirations of the manuscript is to make philanthropy a compelling topic of inquiry for political philosophers. To the extent that philosophers have addressed questions about philanthropy, it has been the preserve of moral philosophers, such as Peter Singer, who seek to understand the personal morality of giving. Circumscribed within the domain of personal morality, the questions that arise include asking whether giving is supererogatory or obligatory, to whom and how much should one give, and whether motive or only consequences matter in philanthropy. From the perspective of political philosophy, different questions emerge. What attitude should the state have toward the preference of individuals to give money away for a public purpose? What role, if any, should philanthropy have in the funding or distribution of essential goods and services? When is philanthropy an exercise of power deserving of democratic scrutiny? Is philanthropy always remedial or second-best to the pursuit of justice? How and when should the state structure, shape, subsidize, limit, or block individual preferences to give money away?

Cast in this manner, the phenomenon of philanthropy presents unavoidable and fundamental questions of public morality. But there is a second reason to focus attention on philanthropy. It may seem that philanthropy is just voluntary activity, a result of the exercise of individual liberty. A moment’s reflection suggests otherwise. Contemporary philanthropy in most democratic societies is embedded

¹ This chapter draws upon my “What are Foundations For?” *Boston Review* 2013 and “On the Role of Foundations in Democracies,” in *Philanthropy in Democratic Societies: Origins, Institutions, Values*, Reich, Bernholz, Reich, eds. (University of Chicago Press), forthcoming.

within a set of legal rules that structure and encourage it. Philanthropy is not an invention of the state but can be viewed as an artifact of the state. Whether, when, to whom, and how much people give is partly a product of laws that govern the creation of foundations and nonprofit organizations and spell out the rules under which these may operate; that set up special tax exemptions for philanthropic and nonprofit organizations, and that frequently permit tax exemptions for individual and corporate donations of money and property; that enforce donor intent, often beyond the grave, creating philanthropic projects and entities that can exist, in principle, in perpetuity. What, if anything, might justify such policies?

In this chapter, I focus attention on a peculiar philanthropic entity: the private foundation. Analogues of the contemporary philanthropic foundation can be found in antiquity, where endowments funded the creation and sustenance of public monuments and educational institutions, including Plato's Academy. But the modern grant-making foundation in which private assets are set aside in a perpetual, donor-directed, tax-advantaged endowment with a fraction of the assets annually to be distributed for a public purpose is a recent institutional form, distinctly American, no older than the early 20th Century. It is by definition a plutocratic entity, representing the legal permission, indeed tax-subsidized invitation, for large wealth to play a consequential role in public life. What, if anything, could confer legitimacy on such an entity in a democratic society?

Abstract

Foundations represent the institutional codification and promotion of plutocratic voices in democratic societies. With low accountability, donor-directed preferences in perpetuity, and generous tax subsidies, they are institutional oddities. What, if anything, confers democratic legitimacy on foundations? I first show why foundations might be a threat to democratic governance and then defend a particular mode of operation that offers qualified redemption. I argue that foundations can play an important *discovery* role in democracy, a mechanism for experimentation in social policy over a long time horizon.