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Valuing Philanthropy: The Charity Ethic and the Spirit of Capitalism

Ideal theory gives us two dominant understandings of how to evaluate charity and philanthropy. Deontological liberals have tended to presume a justice/charity distinction that maps onto the obligatory/supererogatory distinction: charity is a moral problem, something ethically optional for an individual who aspires to be more than just. Utilitarians, on the other hand, downplay the justice/charity distinction: practices attempting to secure social benefits can be evaluated by a single consequentialist standard, such that "charity" may be morally obligatory in a society that is less than just. Neither of these two positions is of great help in evaluating charity in a non-ideal context: the first is concerned principally with motivations, the second with outcomes, but both are inattentive to the possibility of principled distinctions in kinds of philanthropy, or in its social practice and political effects. For example, does it matter whether the people and organizations carrying out charity or development work are public or private? Whether their operating philosophy is more informed by public policy or by business practice? Whether decision-making power in international development accrues increasingly to billionaires, as a byproduct of their philanthropic efforts? How should we evaluate the relationship between large-scale charity and private power? In particular, some models of charitable giving reflect concentrations of wealth and reinforce concentrations of power, aim at greater donor control of the recipient, and displace political decisions on social welfare spending to less accountable private actors. The problem with these forms of charity or philanthropy is not merely the fact of economic inequality which both makes them necessary and makes them possible, but also their constitutive effects in displacing and fragmenting the public and the political.

Several authors, most notably Michael Sandel and Elizabeth Anderson, have articulated a position that I (following Sandel) will refer to as market skepticism. They have in common a concern with the extension of markets and market-like practices. This objection is not limited to empirical claims about the distributive consequences of market mechanisms or to a suspicion that markets do not operate under fair background conditions and therefore are not a genuine reflection of the choices or consent of participants. Rather, market skeptics worry about valuing goods and practices in the appropriate ways and argue that the market principle inappropriately imposes a single, commercial mode of valuation rather than recognizing a plurality of kinds of value. This attention to modes of valuation provides a helpful way into a non-ideal theory of philanthropy. I begin by examining some of the positions that I take to be constitutive of market skepticism. I then outline a way in which market skepticism can inform a critique of new models of philanthropy: market skeptics are sensitive to category errors that have been obscured in the familiar theoretical treatments of charity; they deny the commensurability of all values and so better equip us to recognize trade-offs to be made; and they are attentive to the social and political consequences of transactions by private actors.

Market Skepticism and the Case of Charity

Most critiques of markets and their extension have come from egalitarians concerned about the negative distributive impact of privatization or marketization. However, in several notable cases, the author's egalitarianism does not exhaust the scope of his or her objections to the market. I use the term "market skepticism" to refer to a constellation of views that share something distinctive: a critique of markets, whose force comes not from the potentially objectionable distributive consequences of the market but instead from intuitions about the moral inappropriateness of market logic for the treatment of some goods, practices, or relationships. These views have in common a critique of extensions of the market or of the marketization of society. The authors and the concepts that they work with (including those of the "gift relationship," "appropriate valuing," and corruption) are not necessarily anti-capitalist. None of the market skeptics I refer to has advanced the view that markets are objectionable in all cases. Most accept markets as an efficient means to the allocation of commodities: debate occurs around the question of which things are properly treated as commodities.

Such a pattern of argument is much older than the contemporary market skeptic position that I associate with Sandel and Anderson. In the 1940s, Karl Polanyi was already contrasting the comparatively successful use of markets in restricted spheres of commodity exchange with 19th century liberals' socially devastating attempts to create self-regulating markets in the "false commodities" of land, labor, and money.[1] Polanyi's position is compatible with work such as Amartya Sen's, which criticizes a reified classic liberal view of markets as inherently good, either because they will result in an efficient allocation in all circumstances or because they are morally special in modeling free choice or consent. Against this ideal-type pro-market stance, Sen argues for a purely instrumentalist view of markets, one which recognizes both their utility in some circumstances and their inappropriateness to others. (Sandel has characterized this position as "market-friendly liberalism," where support for markets is conditional on fair background conditions and a just distribution.) Market skeptics would agree with Sen's acceptance of markets in restricted circumstances, but would deny that the appropriate questions to ask in deciding whether to marketize a given good are ones of efficiency and utility alone. To a greater degree than authors like Sen, whose major concern remains an efficient or equitable distribution of goods, market skeptics harbour principled suspicions of extensions of market mechanisms to spheres traditionally regulated by other means.

A major touchstone for market skeptics is Richard Titmuss's classic study of blood banks and what he called the "gift relationship." Titmuss compared rates of blood donation in the United Kingdom, where it was illegal to offer or receive monetary compensation for blood donation, and the United States, where blood services had been partially marketized to permit paid donations. He found that, while economists and policy makers might have predicted higher rates of donation in the system that permitted financial compensation, rates of donation were lower in the United States and had declined since the introduction of for-profit blood donation. Titmuss hypothesized that many of the people willing to donate blood in a non-profit system would be reluctant to sell their blood for a price, because what had previously been a meaningful gesture of social solidarity would appear to have been converted into a tawdry opportunity to earn some easy cash. The study is a powerful ally to market skeptic arguments for two reasons. First, it suggests that marketizing some goods

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[1] Karl Polanyi, *The Great Transformation* (Boston: Beacon, 1944).

or practices (whether or not this results in increased efficiency) can change the meanings that those goods or practices have for participants, and can result in a perceived corruption or degradation in some important cases. Second, it denies that markets are *even* efficient in all cases: Titmuss's study makes the case that some important social desiderata are better achieved by appealing to people's moral sentiments than to their desire for profit. Part of the appeal of Titmuss's study lies in its consequentialist but non-utilitarian stance on social problems: like Titmuss, contemporary market skeptics attempt to weigh competing values without reducing them to a single metric.

Sandel's Tanner Lectures ask the question, "Are there some things money can't buy?" and return the answer, "sadly, fewer and fewer. Today, markets and market-like practices are extending their reach in almost every sphere of life."[2] Sandel surveys examples including commercial surrogacy contracts, organ-selling, prostitution, vote-selling, and paid exemptions for military service as examples of extensions of market principles and practices that are likely to offend our moral intuitions. He differentiates between two possible objections to these extensions of the market. First, one might make an argument from coercion and base one's objection on the expectation of unfair and unequal bargaining conditions. In most cases, the argument from coercion goes, the decision to sell one's organs, one's vote, or one's sexual, reproductive, or combat capacities is not a meaningful choice but the result of poverty and a lack of other options. By permitting markets in such things, the state would be increasing the scope of life choices available to the wealthy and effectively coercing desperate people into selling what they would otherwise prefer not to part with.

The second argument that Sandel considers does not depend on such prior inequalities or expectations of coercion. Sandel makes the case for a second and independent argument from corruption: he claims that valuable things may be degraded when we treat them as commodities and that this may be reason enough to morally oppose (and, in some but not all cases, legally prohibit) their commercialization. This conclusion would hold – about commercial surrogacy, for example, if we believe it to be akin to baby-selling and therefore view it as a corruption of our proper attitude to reproduction and children – even if it were the case that the surrogate were wealthy, had other employment options, and freely chose to sell her reproductive capacity, perhaps because she enjoyed helping childless couples. The argument from corruption is therefore, as Sandel notes, intrinsic, in the sense that it refers to moral properties of a practice itself and not to the consequences of that practice for the participants. Sandel does not deny that such an intrinsic objection could be outweighed by other considerations: the market skeptic argument need not operate as a trump in order for its force to be recognized.

Sandel refers in his lectures to Elizabeth Anderson's work on commercial surrogacy, which argues that the practice alienates the surrogate's labour "because she must divert it from the end which the social practices of pregnancy rightfully promote – an emotional bond with her child."[3] Anderson develops what she calls a "pluralist theory of value" at greater length in her book *Value in Ethics and Economics*.[4] This theory denies that different goods

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[2] Michael Sandel, *What Money Can't Buy: The Moral Limits of Markets,* The Tanner Lectures on Human Values (Brasenose College, Oxford, May 11 and 12, 1998), p. 90.
[3] Elizabeth Anderson, "Is Women's Labor a Commodity?" *Philosophy & Public Affairs* 19 (Winter 1990), p. 83. Cited in Sandel, p. 101.
[4] Anderson, *Value in Ethics and Economics* (Cambridge, MA: Harvard UP, 1993).

are commensurable and therefore – *contra* utilitarian and economistic perspectives – disputes that goods can be reduced to a single metric of valuation, monetary or otherwise. Instead, Anderson argues in Aristotelian terms that we must first decide how a particular good is properly to be valued, given its appropriate function. If, for example, the proper function of sex is to serve as a mutual expression of love and intimacy, it will be wrong to assign a price at which sex becomes available, since commercialization makes a mockery of its appropriate function: we should value sex as a manifestation of a partner's love and not for its earning potential.

On a superficial level, the market skeptic position has been formulated in ways that make it difficult to accommodate the case of charity. Market skeptic arguments have focused on market *exchange* as the problem, and have paid less attention to more unilateral economic relationships. While the paradigmatic cases of value-inappropriate marketization appeal to a gift relationship – to the offensiveness of commercializing or commodifying life, death, or love – this is not a necessary limitation of the market skeptic critique. Instead, market skeptics acknowledge that appropriate ways of valuing a practice will involve modalities other than commodity exchange and solidaristic gift. Sandel himself includes a detailed argument in his Tanner Lectures against the commercialization of relationships that are properly political. He uses the examples of military service, voting, and income and wealth distribution and argues that "there is reason to limit the role of markets in governing these three practices more severely than we are accustomed to do. In each case, an excessive role of markets corrupts an ideal the practices properly express and advance – namely, the ideal of citizenship as the republican tradition conceives it."[5] Sandel and Anderson's skepticism about whether some goods should be exchanged on the market, independent of the distributive context or consequences of marketization, can be extended: we might also ask whether some goods should be provided by private actors, or whether private provision changes the nature of the good in important ways.

In the following sections of the paper, I consider three ways in which the market skeptic perspective can inform a political theory of philanthropy. First, we must pay attention not only to the ethics but also to the practice of philanthropy: transformations of the relevant agents and institutions can change the social meaning of charity in important ways. Second, not all values are commensurable: treating aid as another kind of investment begs the question of the kind of return that is expected. Third, decisions about how to value a practice are properly political, and philanthropy is no exception.

Gift Relations: What does it mean to give money away?

One attraction of the market skeptic perspective is its sensitivity to category errors. In the case of charity, the presumed supererogation or innocuousness of almsgiving may militate against serious consideration of philanthropy as a problem for political theorists. A non-ideal theory of philanthropy must pay adequate attention to the scale of modern philanthropy and to its loci of power. I want to explore the problems that arise when we resort to an ethical vocabulary that grew up around the practice of handing alms to a beggar and use it to describe far more complicated exchanges, with many institutional intermediaries between giver and recipient (registered charities, foundations, operational NGOs, and the US tax code, to name a few). Questions about how appropriately to value a social practice – and about who decides the metric of valuation – can help us to see the ways

[5] Sandel, *What Money Can't Buy*, pp. 107-108.

in which practices that seem to fall within the same analytic category can undergo important changes in social meaning and political effect.

In debates around international distributive justice, Peter Singer is often cited as advocating an unusually demanding level of voluntary giving. This reputation rests largely on "Famine, Affluence, and Morality," a 1972 article in which Singer argues for the moral irrelevance of borders and concludes that "we ought to give until we reach the level of marginal utility – that is, the level at which, by giving more, I would cause as much suffering to myself or my dependents as I would relieve by my gift."[6] Writing more recently in the popular press, Singer seems to have softened his views, at least regarding the ethical evaluation of billionaires. In a discussion and appreciation of Bill Gates and Warren Buffett's philanthropic records, Singer shows a new willingness to praise (as exemplary if not supererogatory) what his earlier views would have classified as merely the minimal or incomplete fulfillment of an ethical obligation. Nonetheless, he is sensitive to the fact that these men have not, through their giving, impoverished themselves to the level of most developing-country citizens, or even plunged themselves into the ranks of mere multimillionaires. He notes, for example, that

> Gates may have given away nearly $30 billion, but that still leaves him sitting at the top of the Forbes list of the richest Americans, with $53 billion. His 66,000-square-foot high-tech lakeside estate near Seattle is reportedly worth more than $100 million. Property taxes are about $1 million. Among his possessions is the Leicester Codex, the only handwritten book by Leonardo da Vinci still in private hands, for which he paid $30.8 million in 1994. Has Bill Gates done enough? More pointedly, you might ask: if he really believes that all lives have equal value, what is he doing living in such and expensive house and owning a Leonardo Codex? Are there no more lives that could be saved by living more modestly and adding the money thus saved to the amount he has already given?
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> Yet we should recognize that, if judged by the proportion of his wealth that he has given away, Gates compares very well with most of the other people on the Forbes 400 list.[7]

There are a number of things to question in this passage, not least the assumptions that lead Singer to treat a comparison of Gates with his co-occupants of the Forbes 400 list as a satisfactory answer to the question of whether Gates himself has done enough. However, the question that interests me is even more basic: what makes Singer say that Gates has, in fact, given his money away?

More specifically, what makes Singer say that Gates has given his money away in the sense relevant to an article entitled "What Should a Billionaire Give – and What Should You?" In this 2006 piece for the *New York Times Sunday Magazine*, Singer proposes a sliding scale for personal donations to supplement government financing of the United Nations' Millennium Development Goals. He notes that a task force lead by Jeffry Sachs estimated the annual

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[6] Peter Singer, "Famine, Affluence, and Morality," *Philosophy & Public Affairs* 1:3 (Spring 1972), p. 241.

[7] Peter Singer, "What Should a Billionaire Give – and What Should You?" *New York Times*, 17 December 2006.

cost of meeting the MDG at $121 billion for 2006, going up to $189 billion by 2015. Singer subtracts "existing official development aid promises" from these figures and suggests that, to make up the annual $48 (for 2006) to $74 (for 2015) billion dollar shortfall, we "look at the incomes of America's rich and superrich, and ask how much they could reasonably give."[8] He uses US tax data from 2004 to construct income brackets, each with its own proposed tithe: these range from one third of one's annual income for the top 0.01 percent (a proposed donation that would leave each of the 14,400 people in this group with an annual income of at least $3.3 million), to one quarter for the top 0.1 percent, one fifth for the top 0.5 percent, 15 percent for the top 1 percent, and finally 10 percent for the top 10 percent. Singer does not propose a tithe for the bottom 90 percent of the nation's earners, so in this version of the scheme (which he acknowledges to be only one of many possible scales of donation) no donor is left with an annual income of less than $83,000. Rather than quibble over what fraction of income given away is appropriate on a $100,000 as compared to a $10,000,000 annual income, I want to consider – as Singer does not -- whether donations vary importantly in kind as well as in scale. The market skeptic perspective is helpful here: to focus either on a superficial similarity (the act of "giving") or on the conscious motivation of the agent (a desire to do good) can obscure important differences in the social and political significance of a practice.

There are two senses in which Gates's giving departs from the traditional understanding of charity. First, his grants – like those of Buffett and other large-scale philanthropists – raise the issue of whether a promise or commitment to give one's money away belongs to the same conceptual category as actually giving money away. This is partly a descriptive detail: should Singer, for example, factor into his account of Gates's giving to date only that money that has actually been spent, as opposed to the prospective commitments made? But this is not a mere technicality: where giving comes increasingly in the form of prospective commitments, the giver retains control over the money, and the ability to influence the behavior of the intended recipient, for longer periods of time. In the case of the Gates Foundation and other recent models of philanthropy (as discussed in the following section), the relationship between giver and recipient is neither fleeting nor limited to a single transfer.

Second, Gates's example raises the question of whether we should make conceptual distinctions between the *kinds* of recipients a giver might target – human beings, operational organizations, or grant-making foundations – and, in the cases where the recipient is a corporate body or institution, whether the *ownership* of that institution – public, private, or, in Gates's and several other important cases, one's *own* foundation – is relevant to the categorization. Of the money that Singer repeatedly identifies Gates as having "given away," the most important share has gone to the Bill and Melinda Gates Foundation. Related to but distinct from the first question of *when* the control of the relevant money actually changes hands in complex philanthropy is the more basic question of whether control of the money changes hands *at all*.

In most cases, when I say that I have given my money to someone, I mean that that person now has free use of the money. She controls it, and may spend it as she sees fit. I may attach conditions to my gift, as in the case of a will, in which case failure to spend the money within the terms specified may lead to its forfeiture. But there are good reasons to make a distinction between giving one's money away and spending it or investing it. When an

[8] Ibid.

aspiring entrepreneur invests his personal capital in a start-up, we do not ordinarily think of him as having given his money away: rather, he has spent it on a project from which he expects returns. The question, then, is whether it is only the entrepreneur's expectation of profit that makes us think of his investment that way, or whether the fact that he has a say in all future operations of his start-up also militates against thinking of his decision as an auto-expropriation. I want to argue that setting up a corporation and setting up a foundation are analogous in important ways; both involve the *use* of money, the spending of money, and the risking of money, but neither act alienates one from the power associated with the money in question. This thought is difficult to express in the familiar vocabulary of charity. Discussions of charity as an obligation for the individual rarely continue past the moment when I write my check to Oxfam: as far as I am concerned, that money is gone, and my obligation discharged.

In some of the most famous recent examples of charitable donations, the decision to give is only the beginning of a complex contractual relationship. On June 25, 2006, Warren Buffett became the largest charitable donor in history with his bequest to the Bill and Melinda Gates Foundation. Adjusting all the relevant amounts for inflation, Buffett's bequest was larger than the lifetime giving totals of Andrew Carnegie and David Rockefeller combined. While the sheer size of the bequest was the main reason for the attention it has attracted, I want to consider two additional aspects: the conditions attached to it and the reasons given for the choice of recipient. Buffett's pledge took the form of about 10 million Class B shares in Berkshire-Hathaway. In 2006, the value of these shares was approximately $30 billion. The Gates Foundation received 5% of these shares in July 2006 and is to receive 5% of the remaining designated shares (i.e. a decreasing number of shares each year) in July of each subsequent year, subject to the Foundation's continuing to meet the conditions laid down by Buffett. The structure of this bequest has allowed Buffett to retain some control over how his gift is used. Buffett's gift came with three conditions. First, the earmarked shares in Berkshire Hathaway would continue to be paid out each July only for as long as (at least one of) Bill and Melinda Gates remained alive and active in the Foundation's administration. Second, the Foundation must continue to qualify as a charity; under existing US law, this means that the Foundation must donate at least 5% of its assets each year. Third, and raising the bar set by the second condition, the amount donated by the Gates Foundation in each year must be greater than or equal to the previous year's Berkshire gift *plus* another 5% of the Foundation's net assets. This last condition was included as part of Buffett's attempt to increase (in fact, to double) the Gates Foundation's annual giving rather than simply to expand its endowment. Buffett has also become, along with Bill and Melinda Gates themselves, one of the three trustees controlling the Foundation's activities; he has not fully renounced control of the money involved, either to the global poor or to Bill and Melinda Gates. As for Buffet's choice of where and how to donate: while he has expressed strong support for the goals and management of the Bill and Melinda Gates Foundation, he has given another reason for selecting it as the recipient of his gift. He has expressed doubt that any other organization would have been able to absorb such an increase in endowment; the vast concentration of resources that the Gates Foundation had already achieved allowed for economies of scale. Buffet's gift points to the possibility of an increasing concentration of charitable resources. This is altogether different from what occurs when ordinary people give money away. Most of us can have little expectation that our donating patterns will encourage others to cede vast charitable resources to our control.

Our intuitions about the acceptability of philanthropic economic relationships will likely be shaped by our intuitions about the acceptability of the power relationships involved. If charity seems not to place the giver in a position of arbitrary power, or if we do not think that that power can be exercised in such a way as to do any real damage, charity may look harmless. We are likely to become proportionally more suspicious of individual-to-individual charity as the desperation of the recipient or the volume of giving makes a relationship of severe or lasting dependence more likely. Similarly, we are likely to have different intuitions about foundation-based philanthropy as it increases in ambition and scope and where the practice is bound up with the increasing concentration of private power. To understand this concern with private power, change the example from economic charity to involve the use of physical force. Imagine a billionaire funding a private army – but one that would only be used for justified humanitarian interventions.[9] Even an imaginary case in which everyone agreed on the desirability of the objectives and the efficacy of the means, we would be entitled to have reservations about the moral permissibility (to say nothing of the political prudence) of this arrangement. To decide whether our intuitions in the military intervention case should enable us to infer anything about more apparently innocuous charitable interventions, we would need to decide how high the stakes are in the kinds of international philanthropy practiced today. Yet here is a case where Sandel and Anderson's objections seem intuitively to be correct: if knowledge of a profit motive can change the meaning that a practice has for participants and observers, so can the fact of private provision.[10]

There are other, more mundane examples that can illustrate how the concentration of wealth and power sometimes may seem to us to be inoffensive in the charitable sphere. Singer himself praises Buffett's famously restrained conception of appropriate inheritance: Buffett "believes in giving his children 'enough so that they feel they could do anything, but not so much that they could do nothing.' That means, in his judgment, 'a few hundred thousand each.'"[11] Singer acknowledges that such an inheritance is still large relative to what most Americans (to say nothing of most people worldwide) are able to leave to their families. However, Signer discourages criticism of Buffett on this account:

> But even if Buffett left each of his three children a million dollars each, he would still have given away more than 99.99 percent of his wealth. When someone does that much – especially in a society in which the norm is to leave most of your wealth to your children – it is better to praise them than to cavil about the extra few hundred thousand dollars they might have given.[12]

Such appreciations of Buffett's disinterested attitude toward his children are common; they are also surprising in light of the fact that, in 2006, Buffett gave each of his three children $1 billion dollars. This would likely have attracted some suspicion of hypocrisy, had Buffett not specified that the billions of dollars involved were to be directed to his children's charitable foundations. A cynical interpretation of these gifts might note that their effect

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[9] This example was suggested to me by Nancy Rosenblum.

[10] Consider the debates around privately run prisons in the US: is the objection that prisons should not be run for profit, or that they should only be run by the state?

[11] Singer, "What Should a Billionaire Give?"

[12] Singer, "What Should a Billionaire Give?"

was not so different from an inheritance: Susie Buffett draws a $100,000 annual salary from the foundation her father endowed, while Jennifer Buffett (the spouse of Warren's son Peter) serves as president of the couple's foundation and draws a salary of $148,000.[13] I think, though, that to accuse Buffett of covertly seeking to enrich his children and their families would be to miss the point. (On the other hand, the three Buffett children also inherited $10 million each after their mother's death and have, in recent years, received gifts of $1 million from their father on every fifth birthday.[14] This suggests both that Buffett's efforts to instill a hard-won work ethic in his children should not be exaggerated and that the Buffet family's conception of how much money is "so much that they could do nothing" may not be shared by everyone.) With the stroke of a pen, Buffett was able instantly to make each of his children a significant player in the philanthropic sector; suddenly, they could advance their own favored causes and influence other organizations. By giving $1 billion in designated charitable capital to each of his children, Buffett was not trying to give them additional income: he was giving them power. And yet his gifts were widely reported as an exemplary act of charity, with virtually no discussion of the policymaking qualifications of either Buffet or his children; one might think that charity could do no wrong.

Commensurable Values: Venture Philanthropists and Social Entrepreneurs

In the previous section, I set down some thoughts on the protagonists of large-scale philanthropy and on how we should understand their giving. I now turn from the problem of a concentration of philanthropic power to the manner in which it is used. My interest in trends in nonprofit management goes beyond the examples of the major players discussed above. New models of charity such as venture philanthropy and social entrepreneurship are not only friendly to markets, profits, and capitalism; they self-consciously seek to appropriate management strategies and understandings of accountability from the private sector, with the aim of achieving greater donor control over charitable "investments." While themselves unaccountable, wealthy donors and powerful foundations are increasingly eager to hold recipients of funding to account. Again, I think that the concerns raised by market skeptics can help us to ask important questions: can business practices be imported unproblematically into the world of non-profit management? Are the values of the private sector and the third sector commensurable?

The kinds of philanthropy that I am interested in represent a range of commercialization. Sometimes, these business-friendly models involve an attempt to partner with corporations. Bill Clinton and his Clinton Global Initiative have received attention for inventing a new kind of philanthropy: Clinton aims to use his personal capital to bring together buyers and sellers and "create" markets. He first used this strategy in his campaign to arrange lower-cost provision of antiretroviral drugs in HIV-afflicted developing countries. He found that drug companies that had previously been unwilling to lower prices were more flexible about price cuts when assured that a larger market share would make up for marginal losses. A laudatory profile in the *Atlantic* magazine quoted Clinton touting

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[13] Jeff Baily, "Daddy Givebucks: Lessons Learned When Warren Buffettt Hands You $1 Billion," *Fast Company* 138, September 2009. (Available at http://www.fastcompany.com/magazine/138/daddy-givebucks.html?page=0%2C0)
[14] Ibid.

the win-win philosophy of his foundation: "I think it's wrong to ask anyone to lose money."[15] Clinton's foundation aims not to overcome the profit motive of its corporate partners, but rather to channel it. While Clinton himself disclaims the label of charity for his efforts, the Clinton Global Initiative clearly fits within the trend of market-friendly entities attempting to help people and corporations "do well by doing good." The only "donation" in evidence is the time and energy of Clinton and his staff: developing-country consumers benefit from lower prices while partner corporations enjoy increased revenue. It is difficult to determine how much of the organization's success should be credited to its strategy of creating "buyers' clubs" and markets and how much relies on Clinton's celebrity: it is unclear whether this is a model of philanthropy that could successfully be adopted by less well-connected practitioners. In either case, Clinton provides one of the most striking examples of the substitution of business leadership for political leadership.

Gates himself has praised Clinton as an example of "creative capitalism," which he defines as "a system where market incentives, including profits and recognition, drive the change . . . . an approach where governments, businesses, and nonprofits work together to stretch the reach of market forces so that more people can make a profit, or gain recognition, doing work that eases the world's inequalities."[16] Most people's opinions about creative capitalism are unlikely to diverge dramatically from their opinions on capitalism's non-creative variants: the literature on microcredit reflects this divide, with supporters stressing the success of such programs in helping participants to achieve financial independence and detractors pointing both to data indicating more mixed results and to the possible amorality of profiting from interest on loans to destitute people. While the profit incentive is arguably the surest way to ensure sustained financial backing for such schemes, and while the success of development-oriented versions of microcredit such as the Grameen Bank have given such schemes a positive public profile, the difference between these programs and the more stereotypically predatory banks may be one of degree rather than kind. Questions have also been raised about potential conflicts of interest in non-profit foundations. The Gates Foundation and Warren Buffett, for example, have attracted scrutiny and criticism over allegations that investments by Berkshire-Hathaway give the Foundation a stake in corporations working at cross-purposes to public health and development initiatives. Interestingly, given his status as the donor of the single largest charitable bequest in history, Buffett is a critic of "ethical investing." He denies that models of corporate social responsibility will help profitability, and is on the record as believing that a corporation's financial affairs and the owner's philanthropic commitments should be separate enterprises. There are any number of examples of the complicated interactions of contemporary philanthropy with capitalist markets. I think that the consequences of these interactions for conceptualizations of accountability are more interesting than the moral motivations the individuals involved. For now, I turn to the specific case of management strategy.

One catalyst for the most recent round of debate on philanthropic models was an article published in the *Harvard Business Review* in 1997. Titled "Virtuous Capital: What Foundations Can Learn from Venture Capitalists," it argued that the logic underlying the relationships between venture capitalists and their start-ups could productively be applied

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[15] Jonathan Rauch, "This Isn't Charity," *The Atlantic* (October 2007), p. 70.
[16] Bill Gates, speech at the World Economic Forum (Davos, 24 January 2008). Available at http://www.gatesfoundation.org/speeches-commentary/Pages/bill-gates-2008-world-economic-forum-creative-capitalism.aspx

to the relationships between philanthropists and their non-profit grantees. The authors advocate for a move away from the traditional grant-making foundation and toward a more business-oriented approach. They begin by identifying the problem: "Traditionally, foundations make grants based on their assessment of the potential efficacy of a program." While this might not sound disastrous if the concern of charity is to help the recipients, the authors complain that, "Although that approach creates an incentive for nonprofits to devise innovative programs, it does not encourage them to spend time assessing the strengths, goals, and needs of their own organizations."[17] Proponents of venture philanthropy are not the first to claim the label of "strategic" for their preferred charitable models. Eagerness to stress the novelty of new philanthropic models should not obscure the degree to which the whole history of philanthropy has reflected efforts to construct more rational programs. In a brief history of the private aid sector, Sogge writes that,

> The endowed foundations were the trend-setters. They took the long view. Unlike most private aid agencies, foundations have never chosen the strategy of the small charity project and emergency aid. John D. Rockefeller had abandoned this 'retail' philanthropy even before setting up his foundation in 1909-13. The strategic approach of his 'scientific' philanthropy resembled some progressives' notion of social planning and policymaking – except of course that it was wholly in the hands of the super-rich.[18]

While these earlier foundations aspired to social-planning roles, or even a kind of private-sector-led Keynesianism, new players aspire to labels like "social entrepreneurship:" private sector involvement that enthusiastically embraces its capitalist roots.

The *Harvard Business Review* article does not recognize any fundamental difference between the organizational priorities of venture capitalists and prospective venture philanthropists: "Clearly, foundations and venture capitalists face similar challenges: selecting the most worthy recipients of funding, relying on young organizations to implement ideas, and being accountable to the third party whose funds they are investing."[19] There is nothing shocking or objectionable about a philanthropic disinclination to waste money, but program longevity and cost-recovery are not ends in themselves. The interests of host countries and populations are difficult to articulate within a notion of accountability that aims at the satisfaction of the investor. The authors compress both capitalist and charitable investing to forms of service-delivery, to which a conception of accountability drawn from the business world is appropriate. This is a defensible move if we think that the most important accountability relationship at stake is the one between funders of programs and operational NGOs (with the latter having a duty to account to the former). Such a relationship would parallel the one between a venture capitalist and a start-up in a relatively unproblematic way. However, we ordinarily think of businesses as being subject to the demands not only of their investors but also of their consumers. It is less clear how host states and their populations – the "consumers" in this scenario – could or will make their demands on foundations and nonprofits felt. As models

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[17] Christine W. Letts, William Ryan, and Allen Grossman, "Virtuous Capital: What Foundations Can Learn from Venture Capitalists," *Harvard Business Review*, March-April 1997, p. 37.

[18] David Sogge, "Settings and Choices," *Compassion and Calculation: The Business of Private Foreign Aid* (Chicago: Pluto, 1996), p. 7.

[19] Letts, Ryan, and Grossman, p. 37.

of nonprofit-driven "market-creation" recognize, poverty entails an inability to express demand in market terms. This is not to say that nonprofits do not consider or care about the interests of their target populations; indeed, they may claim to represent the interests of these populations in governmental, intergovernmental, or transnational arenas. Even if we think that this status as representatives may simply be asserted (or purchased), a moral claim of representation is not equivalent to a relationship of political or economic accountability.

In a study that seeks to extend Amartya Sen's work on famines to the African context and to the efforts of humanitarian relief agencies, Alex de Waal argues that aid is objectionable to the extent that it impedes the development of political contracts for famine prevention. De Waal defines the latter as including "a political commitment by government, recognition of famine as a political scandal by the people, and lines of accountability from government to people that enable this commitment to be enforced."[20] He argues that, whatever its material benefits to host populations, "The aid relationship is . . . fundamentally different from a political contract. The benevolent ethos of aid should not obscure the practical and ideological ways in which it erodes the basis of political contracts."[21] De Waal suggests that successful programs by private aid agencies are possible but rare and "depend upon a strong pre-existing political contract." What de Waal writes with specific reference to the case of famine relief applies equally to cases of, for example, public health emergencies: the risk is that donor activity will create a reversal or displacement of accountability relationships. Such arguments are vulnerable at once to being caricatured as Malthusian or to being dismissed as naïve: is de Waal really saying that it would be better to do nothing? Not necessarily: to call for attention to the political consequences of aid is not to dismiss the relevance of shorter-term consequentialist concerns, or to deny the necessity of making trade-offs. Indeed, de Waal's argument, like those of the market skeptics, calls attention to the fact that a trade-off (rather than a simple utilitarian calculus to determine the best policy) is what is called for: that plural and sometimes competing values need to be recognized and balanced.

The Welfare Sector: "Lessening the Burdens of Government"

Finally, I want briefly to consider the ways in which nonprofit activity is embedded in public law and policy. In the United States, the (minimal) regulation and (extensive) subsidization of nonprofits suggests that we should attempt to think about philanthropy as a social institution – as one important way that the political community provides for the welfare of its own members and sends aid abroad. Americans have economic as well as ethical incentives to create and donate to nonprofits. Philanthropy becomes, in a sense, public spending; in this case, the government pays through the tax code. (This may link to my earlier questions about what it means to give money away: is there something different about giving when the cost of one's contribution is defrayed by other taxpayers?) I can see two reasons for the freedom and resources accorded to the nonprofit sector: it may reflect a valorization of associational activity (focusing on the benefits to the giver) or it may reflect a preference for the private rather than public pursuit of some social goals. Singer cites the apolitical qualities of philanthropy as an advantage:

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[20] Alex de Waal, *Famine Crimes: Politics and the Disaster Relief Industry in Africa* (Oxford: James Currey, 1997), p. 2

[21] Ibid., p. 138.

> even if official U.S. aid were better-directed and comparable, relative to our gross domestic product, with that of the most generous nations, there would still be a role for private philanthropy. Unconstrained by diplomatic considerations or the desire to swing votes at the United Nations, private donors can more easily avoid dealing with corrupt or wasteful governments.[22]

It is easy to see the expediency of such a policy in some contexts, but the goal of working outside of politics may also have drawbacks of the kind that de Waal anticipates.

The Internal Revenue Service regulations approved on June 22, 1959 establish a definition of "charitable," for the purposes of tax exemption, as follows:

> The term "charitable" is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of "charity" as developed by judicial decisions. Such term includes: relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments or works; lessening of the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.[23]

Why establish these guidelines for a charitable purpose – why try to harmonize the activities of nonprofits with the goals of public policy, if the main rationale for allowing the sector such freedom of operation were to channel the irrepressible Tocquevillian energies of ordinary Americans? Rather, the expectation seems to be that a public charity will either duplicate or replace certain government functions. However, commenting on this definition and the vicissitudes of its interpretation, both by the Supreme Court and by the IRS itself in the notices and publication that it has issued, Fremont-Smith concludes that, "overall, the Service has been liberal in its interpretations of the definition of charity, expanding the category of public purposes to meet changing societal needs."[24]

Nonprofit accountability is perhaps most often discussed with reference to the case of international NGOs. I think, though, that there is a domestic dimension to the problem. For 2008, the $300 billion that Americans donated to registered public charities cost the US Treasury an estimated $50 billion dollars in foregone tax revenue.[25] This is approximately double the annual US foreign aid budget. It represents an amount of spending whose significance would normally call for public debate; however, Reich, Dorn, and Sutton find

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[22] Singer, "What Should a Billionaire Give?"
[23] Treas. Reg. §1.501(c)(3)-1(d)(2) (T.D. 6391) (1959)
[24] Marion R. Fremont-Smith, *Governing Nonprofit Organizations: Federal and State Law and Regulation* (Cambridge, MA: Harvard UP, 2008), p. 245.
[25]Rob Reich, Lacey Dorn, and Stefanie Sutton, "Anything Goes: Approval of Nonprofit Status by the IRS," Stanford University Center on Philanthropy and Civil Society (October 2009), p. 3.

that, on the contrary, oversight on IRS approval of 501(c)(3) organizations is virtually non-existent. They report that the IRS approves more than 50,000 organizations for 501(c)(3) status every year and rejects very few (for 2008, only 2.17% or 1,211 of the 56,190 that applied and received IRS determinations); they conclude that "Obtaining recognition by the IRS as a public charity is an embarrassingly easy thing to do."[26] Oversight of established nonprofits is similarly minimal. Indeed, according to Fremont-Smith, qualifying for exemption from federal taxes is the closest most nonprofits must come to accounting for their ambitions and activities: "Governments require no accountings of the methods by which nonprofit organizations pursue their missions nor make any attempt to assure that charitable assets are used effectively or efficiently."[27] Why not? There is no necessary reason why a government could not establish a hierarchy of philanthropic purposes, with corresponding levels in tax relief. If the justification for the tax benefits enjoyed by private actors is public purpose, public debate over how best – and how highly – to value these private contributions seems to be in order.

Conclusion

There are several advantages to be gained from the application of a market skeptic perspective to the cases of charity and philanthropy. Market skepticism does not depend for the force of its critique only on intuitions about the injustice of the economic inequalities that make philanthropy possible: it asks not only whether there should be people as rich as Gates and Buffet (though a market skeptic might of course ask this too) but also what kinds of things rich people should be allowed to do with their money. As such, market skepticism can augment more familiar egalitarian critiques by prompting us to make principled distinctions between kinds of philanthropy and perhaps to make principled objections to specific trends in the private aid sector. Furthermore, market skepticism is able to resist the technocratic impulse to reduce goods and social practices to a single metric of valuation (whether that metric is strictly monetary or one of "welfare"). This makes it better able to pose questions about the appropriate ends of philanthropy, and to interrogate the degree to which private-sector management principles are likely to serve or frustrate that end. As I have tried to show, these are reasons not for preferring market skepticism to egalitarianism, but for attempting more fully to integrate market skepticism within an egalitarian position. What the case of large-scale philanthropy demands, and what egalitarianism and market skepticism would be better able to offer together than apart, is a debate about how to prioritize and reconcile short-term welfarist objectives and concerns of democratic accountability. Market skepticism offers one fruitful way into a necessary repoliticization of private economic activity.

This project is not intended as an ethical condemnation of Gates, Buffet, or other philanthropists; the problem of unaccountable private power exists whether one sees these actors as exemplary in their generosity, as the best practical hope for the world's poor, or as merely the latest in a long line of robber barons turned philanthropists. I am not trying to suggest a better way in which Gates and Buffet might use their money: my objective is not to take laws as they are and billionaires as they might be, but rather to interrogate the ways in which foundation and nonprofit activity is incentivized and regulated, and how this activity is embedded (or not) in public policy. I want to suggest that the welfare state implies a

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[26] Ibid., p. 4.
[27] Fremont-Smith, p. 2.

political contract for aid and continued redistribution in ways that the private welfare sector does not. Charitable giving by the very rich sometimes suggests the image of a surplus being distributed, and new philanthropic models posit a symbiotic relationship between egalitarian aims and capitalist methods. There is a role for voluntary giving in our non-ideal theories about how to redress existing injustices, but this role is obscured by rhetoric that treats charity not as something made necessary by capitalism's failures but as something made possible by capitalism's successes.

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