

What Legitimizes Philanthropy?

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Abstract

In this paper I argue (i) that when states and markets fail to sustain public causes, philanthropy is a legitimate funding alternative, insofar as its advantages outweigh its disadvantages. To support this pragmatic argument, I describe and analyze those advantages and disadvantages in the body of the work. I develop the case for philanthropy further, and free from pragmatic considerations, I claim (ii) that even if states and markets could succeed in sustaining all (justly demanded) public causes, philanthropy finds support within two major conceptions of citizenship in the west. Within the republican conception of citizenship, philanthropy is not merely legitimate, but a virtue. In addition, it is legitimate within the liberal conception, especially when it is used to help maintain the protection of civil rights in the state.

To Einat, with love

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Introduction

“For in everything it is no easy task to find the middle, e.g. to find the middle of a circle is not for everyone but for him who knows; so, too, anyone can [...] give or spend money; but to do this to the right person, to the right extent, at the right time, with the right motive, and in the right way, that is not for everyone, nor is it easy; wherefore goodness is both rare and laudable and noble.”

Aristotle, *Nicomachean Ethics* (II, 9)

In this essay I ask what legitimizes philanthropy. Since philanthropy entails direct private funding for public causes, it appears as if there lies an incongruity at the heart of its very being: if the causes are public, why should private individuals directly fund them? Is it not the duty of the state to do so? Do states not exist in order to carry out public causes as defined by their policy makers, whilst providing the necessary funds by imposing taxes, or via other means under their authority? Assuming we agree with Aristotle that funding other peoples' projects the right way is neither easy, nor is it for everyone, is it legitimate for the government to rely upon voluntary private funding for projects that arguably fall under its responsibility?

This apparent incongruity needs to be either debunked as not an incongruity at all, or accepted as an incongruity but justified by appeal to a higher principle. I will follow the latter line and attempt such a justification in this essay.

The first major point will be that maintaining a philanthropic system is pragmatically good for society, for in the current economic reality, states and markets fail to sustain certain public causes for which there is nevertheless a just demand. My approach will seek justification of the philanthropic system from practical reasoning whereby the state should maximize the advantages and minimize the disadvantages inherent to philanthropy. I won't interpret the concept of "just demand" here; suffice it to say that some needs are justly demanded while others are not.

Advantages include the diversification in the sources of funding, the virtues of citizen engagement, the benefits of private entrepreneurship in identifying needs and responding to them effectively, and advantages related to the tax system. Disadvantages include the lack of formal public accountability on behalf of donors, aspects related to aggrandizement of wealthy large-scale donors, frequent fluctuations in size and direction of donations which may lead to poor reliability from the grantees' point of view, and the risk that the philanthropic system can perpetuate inequalities. I will try to clarify what these issues mean from a philosophical, non-empirical standpoint and analyze conceptual problems where necessary, especially in the concept of "citizen engagement," since it isn't obvious what the relation between this concept and philanthropy actually is.

The second major point will be that even if states or markets are capable of funding all relevant public causes, both republican and liberal conceptions of citizenship are compatible with at least certain facets of philanthropy. Within the republican conception, philanthropy is more than legitimate; it is a virtue, insofar as being philanthropic is being fully active as a citizen. That is because republicanism places a high value on the active, self-ruling aspect of citizenship. Within the liberal conception, it is legitimate for private citizens to fund public causes, especially for advocacy or watchdog functions that make sure the state

protects the rights of citizens, under the rule of law. That is because liberalism emphasizes citizenship as a legal status which bestows rights upon individual members of a political community.

I will not seek to reduce the legitimacy of philanthropy to a conception of citizenship, but rather to point to the logical connections between the question of its legitimacy and two primary ways of thinking about citizenship in the west. I will also discuss connections between philanthropy and the concepts of ownership, sovereignty, and the distinction between what is called public and what is called private.

The question of “what legitimizes philanthropy?” is itself in need of clarification. There are three areas that call for clarity: the kind of ethical or political theory the question belongs to; the actions and policies of which entities – donors, grantees, governments, or other parties– call for legitimizing; and the distinction between the philosophical and the empirical aspects of the question.

The first clarification relates to whether the question is in the realm of non-ideal theory, or in that of ideal theory, in the Rawlsian sense. What is the difference between the two? “Both kinds of theory attempt to identify principles that should regulate basic social institutions for the sake of justice.”¹ The difference is that ideal theory assumes “strict compliance” and “favorable circumstances,” whereas non-ideal theory instructs how to act when these two conditions do not hold. Ideal theory portrays the long-term goal of ethical or political theory, assuming that “(nearly) everyone strictly complies with... the principles of justice.”² Non-ideal theory instructs how to deal with real situations which are far removed

¹Zofia Stemplowska and Adam Swift, “Ideal and Nonideal Theory,” in: David Estlund (ed.), *The Oxford Handbook of Political Philosophy* (Oxford: Oxford University Press, 2012), p. 375.

² John Rawls, *Justice as Fairness: a Restatement* (Cambridge: Belknap Press, 2001), p.13.

from ideal conditions, and “comprises such topics as the theory of punishment, [and] the doctrine of just war.”³

So where does the question of the legitimacy of philanthropy belong? The answer, I think, is that it belongs in both realms, and in each realm the question acquires a different form. Thus, in this essay, I will work with a two-pronged approach, corresponding to the two major points I have outlined above. The first point is located in non-ideal theory, arguing that philanthropy is a legitimate pragmatic solution to funding shortages. In asking the non-ideal-theoretical question, we acknowledge that contingent limitations prevent markets and states from providing all goods and services justly required by the public, and then we ask: “Under which conditions should the state use philanthropy to supplement funding for public expenditures?” This will be the subject of the first chapter.

In the second chapter I will deal with ideal theory, arguing mainly from conceptions of citizenship, as noted above. In asking the ideal-theoretical question, we imagine an idealized, but realistic state of favorable circumstances and strict compliance, and ask whether there is room for philanthropy in it at all. Favorable circumstances are historical, economic and social conditions that “make a constitutional regime possible.”⁴ For our purposes, I suggest to interpret the concept of “favorable circumstances,” as circumstances under which states or markets *are* capable of providing the public with all the goods and services it justly requires. Is philanthropy not superfluous in such a state? I will discuss this question. It is noteworthy that because the state is realistic, there is an inherent danger within it that circumstances will deteriorate and cease to be favorable, or that compliance will cease to be strict. I will show how this issue is important mainly for the liberal justification of philanthropy.

³ John Rawls, *A Theory of Justice* (Cambridge: Belknap Press; Revised edition, 1999), p.8.

⁴ Rawls, *Justice as Fairness*, p. 101.

The second clarification relates to the agents under scrutiny. Is our question a question in political philosophy, whereby we ask whether a certain institution is good for society at large? The agent under scrutiny in this case would be the government, for lawmakers should allow only those institutions that are good for society at large. Or are we asking whether it is morally legitimate for private people to fund public activities? Or are we asking about the legitimacy of accepting donations, on behalf of grantees?

I will deal in the body of the essay solely with the first question, whereby the agent under scrutiny is the government. Hence, in both the ideal and the non-ideal realms, I am focusing on the political question, of what legitimizes philanthropy as a system within a state. I will discuss how it relates to legislation, for the question of legitimacy is closely related to the question of what should be the guiding principles of legislation that concerns philanthropy.

The third clarification has to do with the boundaries between the disciplines that have a stake in this question. The question is relevant to theoreticians in public policy, political science, economics, social work, sociology and philosophy. Besides philosophy, all of these disciplines rely at least partially on empirical data in forging their results. This is a philosophical essay and so I will not rely on data. How can this be achieved, and how can this be justified? The ideal theoretical part poses no significant obstacle, as it involves just a question of principle. But the non-ideal theoretical part appeals to a pragmatic⁵ justification. Insofar as the philanthropic system is beneficial to society, its promotion in the state is justifiable; but for us to determine whether it is in fact beneficial, we have to rely at least in part on factual data. Since this essay is a philosophical one, I will just outline the advantages

⁵There is no specific ethical theory espoused here. I do not mean to be “pragmatist” in my approach. I mean pragmatic in the colloquial sense.

and disadvantages of the philanthropic system in a model. I accept that the debate should be a multi-disciplinary one for it to be complete.

An additional point with regard to the boundaries between the disciplines is that an important aspect of it has to do with the concept of “law”. I will discuss laws, but in what sense? “Law” has a well-known ambiguity, between its descriptive sense and its normative sense. In our quest to understand the order of a given field, we ask two basic questions: “how *do* the basic entities in that field behave?” and “how *should* they behave?” The first question is applicable to every field, whereas the second question is applicable only in instances where there are entities which are ascribed normative qualities. Philanthropy is essentially a social, economic, and political phenomenon, and as such both questions apply. I do not ask here the first question, which is best left to social science research. The question I ask here is of the second, normative kind. I ask it on a general political level. Not “how should individual philanthropists behave?” but rather “what should be the principles guiding legislation that concerns philanthropy?”

Chapter 1

Non-ideal Theory of Philanthropy:

When States and Markets Fail to Provide a Good or a Service

Within modern market economies, markets have achieved considerable success in the production and distribution of many goods and services, including food, drugs, machinery, housing, energy, communication, transportation, and legal and financial services. The principle of profit-seeking motivates agents within the system, whilst prices are determined by the supply-demand dynamic.

Markets are generally not expected to provide the public with all its justly required needs. Collective and personal security is mostly provided by states through militaries and police forces; arbitration of conflicts is provided by states through their court systems; and the regulation of financial systems is provided through ministries of finance and central banks. The regulatory and physical infrastructures within which markets operate are also typically provided by states, either wholly or partially, including food and drug safety regulation, roads and airports, zoning permits for real estate development, and more.

But what happens when neither markets nor states have sufficient impetus to provide goods and services, for which there is nevertheless a just need? Thus there come into existence gaps between states and markets, where demand for goods and services is met by neither of them. Markets stay out of these gaps because profits cannot be made in them at a given time (e.g. an orchestra, a sports center for the disabled, coping with an international health crisis), or because these areas resist commercialization on cultural or ethical grounds

(e.g. a religious school, a community center, etc.), or for other reasons. States stay out of them because they prioritize spending on account of limited resources (e.g. funding the military is perceived as more urgent or important than funding education, under certain circumstances) or because a nation's legal system prohibits the state from directly operating in certain areas (e.g. religious institutions, lobbying foreign governments, etc), or for other reasons. How should societies treat these gaps?

These gaps, if left untended, lead to non-ideal conditions (in the Rawlsian sense) in significant areas of activity within the body politic. Hospitals, welfare programs for the poor, emergency relief organizations, and other organizations or programs that cater to acute human needs may find that they have trouble carrying out their mandates because they lack funding. Such shortages may lead to social unrest and political instability. In addition, universities, libraries, museums and other types of organizations that cater to people's intellectual and spiritual needs might lack funding, perhaps leading to weaker economies or to a poorer quality of life in future times.

Philanthropy can fill in these gaps under certain conditions. Private individuals with surplus resources may choose on their own initiative to fund a hospital or a library. Alternatively, the leadership of such organizations may seek out help from private individuals with such resources. But this solution, whether temporary or permanent, whether sporadic or systematic, has consequences in the body politic beyond the actual provision of funds.

What advantages and what disadvantages can modern states expect when using philanthropy to fill in these gaps? Do the advantages outweigh the disadvantages? What conditions determine whether the advantages outweigh the disadvantages? I will discuss these issues in this chapter.

The culmination of the discussion will be that the state can maximize the advantages and minimize the disadvantages by use of legislative tools, whilst taking into account a society's norms and customs. Being pragmatic is the guiding principle for legislation in this non-ideal theory of philanthropy.

Advantages

a. Diversification

The first advantage of having a philanthropic system in place to provide funding for activities is that private funding constitutes a diversification⁶ of the sources of funding. A few examples will illustrate that this advantage is pertinent.

A hurricane hits a city in a modern state, and the estimated cost of rebuilding the city is an order of magnitude larger than the state's emergency relief budget in that given year. Markets have no incentive to rebuild the city because neither the municipality nor the residents themselves have enough buying power.

What should be done? The question under real circumstances is undoubtedly very complicated. To simplify matters, we can say that the state has a number of options at its disposal, such as imposing further taxes, diverting funding from other budget items, taking a loan, nationalizing property, finding ways to incentivize markets to act, or others. It can usually find ways to fund the rebuilding project, in case policy makers consider it important

⁶Rob Reich, "Toward a Political Theory of Philanthropy," in: Patricia Illingworth, Thomas Pogge and Leif Wenar (eds.), *Giving Well: The Ethics of Philanthropy* (New York: Oxford University Press, 2011), pp. 187-188.

or urgent. However, any route it takes will come at a cost. Appealing directly to private donations or enabling factors within the city to appeal to private donations is another option in its toolbox. The use of this tool will also come at some cost. The question of using the philanthropic system to help rebuild the city is simply a question of cost-benefit, of pragmatics, in this case. Of course the state can also neglect the city, but neglecting the city is a breach of citizens' faith in the willingness of the state to take care of emergency situations that hit parts of the nation. The state has an obligation to help the city and it cannot justify simply neglecting it.

It is clear that the option of appealing to private individuals becomes a tool in the state's toolbox. The actual appeal will be carried out by organizations with the mandate and the capability to carry out the emergency relief mission, and this appeal will be facilitated by the state. From the point of view of entities that need relief aid, the philanthropic system constitutes a diversification of the sources of funding, in addition to state factors.

A university's leadership strongly believes in the potential of genome research, and directs the university to reach world-class achievements in this field. For this purpose, the university needs to buy highly specialized and very expensive state-of-the-art equipment for the biology department's labs. It so happens that the state has not prioritized genome research in its multi-year plan, and state officials say it is impossible to change the funding policy for the duration of this plan. The university's leadership believes that the people running the state's systems are wrong and they are missing an opportunity, but it fails to change minds anywhere in the state's funding systems. For-profit companies are reluctant to enter a partnership with the university, and vice versa. The companies try to impose conditions that the university cannot accept, but without such conditions they are not convinced that the program will be profitable for them.

What should the university do? Under such circumstances, the university has only two options: accept rejection by the state and by markets and stay put, or seek philanthropic funding. It is quite clear that the advancement of research will be served by a private donation. The specific donor's money would otherwise have been used elsewhere, and that specific research program would have been delayed or abandoned.

An individual, belonging to a minority ethnic group in a modern state, strongly believes her kin have been marginalized and discriminated against. She seeks to mobilize members of the group and supporters from other ethnic groups, either within the state or abroad, in order to pressure the state's policy-makers to change its policies towards her group. Markets have no incentive to invest in her group, and she does not even imagine there can be any profit from her activity. She does not seek any profit for herself, as she is completely dedicated to what seems to her to be a just and important cause. She cannot reasonably seek funding from the state, as its funds are controlled by the very policy-makers she opposes.

So, what can she do? She has three options – appeal to private individuals to support her cause, appeal to foreign governments, or abandon the cause. Appealing to foreign governments for her cause might be illegal in her state, or perhaps the prospective donor states might not be prioritizing her cause at the time. The option of appealing to private individuals is crucially important for her. Unless she is calling for actions that could harm the state's national security, it would be anti-democratic not to allow private funding for her cause, which otherwise she would simply be forced to abandon.

These examples illustrate just a small portion of the types of activities that fall within the gaps between states and markets. If one does not allow private individuals to fund them, the initiators of these activities will, more often than not, have nowhere to go.

Allowing philanthropy is not a trivial matter. In a broad historical perspective, the view against it cannot be dismissed as a straw man, because certain states could consider the philanthropic system as a competitor. Philanthropists might be perceived by the state as manipulatively trying to undermine state authority, whether or not the state is explicitly opposed to philanthropy as such. In Machiavelli's *Discourses*, we find an interesting anecdote to that effect. Ancient Rome was ruled for centuries by privileged, exclusive elites whose objective was to perpetuate their lineages' hold on power throughout the generations. It was a centralistic state (oligarchic, by modern standards, in the times of the Republic, and tyrannical in the times of the Empire), and as such the power of the ruling elites was the ultimate objective of many political processes. One passage in the *Discourses* shows how such a state could feel threatened by private philanthropy:

“The city of Rome was afflicted by a famine; and as the public magazines were insufficient to supply the deficiency of food, a citizen named Spurius Melius, who was very rich for those times, resolved to lay in a private stock of grain and feed the people at his own expense. This liberality attracted crowds of people, and so won him the popular favor that the Senate, fearing the evil consequences that might arise from it, and for the purpose of putting an end to the evil before it should grow too great, created, expressly against Spurius, a Dictator, who had him put to death”.

Machiavelli praises the Senate for doing so, as in his opinion the state of Rome was preserving itself as an entity by channeling its private citizens' ambitions through public channels, and Spurius breached that self-preserving rule⁷. This kind of scenario is not a viable possibility in modern democracies, but nevertheless I think we should not ignore history and take states allowing philanthropy for granted. Suspicion with regard to

⁷Niccolo Machiavelli, *Discourses* (New York: The Modern Library, 1950), p. 493.

philanthropists' motives may be so entrenched as to smother the growth of philanthropic systems, leaving funding for public causes monopolized by the state.

b. Citizen Engagement

Citizen engagement is a facet of philanthropic systems. I will try to make clear how this facet relates to philanthropy. I will first argue that for small donations, philanthropy is the same kind of thing as citizen engagement. There is a complication with regard to large donations, due to the possibility whereby philanthropy, when practiced by wealthy individuals, may be used to maintain inequitable social orders. Such “unmasking” of philanthropy strongly calls for the kind of clarification of the relationship between citizen engagement and philanthropy that I am undertaking here. If such possible claims have merit then the legitimacy of philanthropy may be undermined by them⁸. Lastly, along lines suggested by Alexis de Tocqueville, I will argue in favor of citizen engagement and philanthropy as advantageous to society at large.

The feature that citizen engagement and philanthropy have in common is that they include private individuals giving *something* to the public sphere, *whilst retaining their standing as private individuals*. What is that *something*? The concept of philanthropy today is associated almost exclusively with giving money. “(T)here is no single, widely agreed-upon

⁸I should also add that it is not a black and white matter, for more nuanced views could be canvassed. For instance one could point out that philanthropy is giving money, and while money can and should be used for the purpose of exchange, it has certain features that give it power over and above other kinds of things. Thus it should be barred from dominating certain goods, and thus society should be especially careful with the role it allots to philanthropy. (see: Arto Laitinen, “Michael Walzer on Recognition as a Dominated Good,” in: Arto Laitinen et al (eds.), *Sisäisyysjäsunnistautuminen: JuhlkirjaJussiKotavirrälle* (Jyväskylä: SoPhi, 2014), p. 587.

meaning for the term”⁹ of citizen (or civic) engagement, but its usage is generally associated with citizens giving time, share of mind, self-mobilization, and knowledge for public or community causes, “to improve conditions for others”¹⁰ in both political and non-political realms¹¹. When associated with “social responsibility,” citizen engagement also involves restricting oneself from taking part in socially harmful activities. In any case, with regard to the difference between citizen engagement and philanthropy, the former usually does not have money-giving connotations, while the latter obviously does.

The concept of philanthropy is commonly associated with wealth. This is most pronounced in the concept of “philanthropist”. One may be a very generous person with one’s money, giving a considerable portion of it to charitable causes, but if one isn’t wealthy enough for the donation to have significant impact, one is not called a philanthropist.

However, it does not follow that the philanthropic system upon which the state relies to supplement funding of public causes, is necessarily based upon the giving of wealthy individuals. The philanthropic system is based on donations in general, of any size. In the case of non-wealthy individuals who give relatively small sums of money, one cannot plausibly claim that there is an integral sinister aspect involved, for non-wealthy people have no special interest in maintaining inequitable social orders in which they have no privileged position. (By “small donation” I mean the sacrifice of a fraction of earnings that otherwise would have been saved or used for consumption, and is perceived as such).

⁹ Richard P. Adler and Judy Goggin “What Do We Mean by ‘Civic Engagement’?,” *Journal of Transformative Education*, Vol. 3, no. 3 (July, 2005), pp. 236-253.

¹⁰ Ibid.

¹¹ I wish not to take sides with regard to the question of whether there can be true altruism or whether all seemingly altruistic behavior is essentially ego-centric in the biological, psychological or sociological sense. It is enough for a citizen to perceive, in good faith, that he or she is doing something to improve conditions for others, for the action to be called citizen engagement. We would not be able to use the concept of citizen engagement if we were to demand an answer on whether there can *really* be behavior that is meant to improve conditions for others, so in order to use the concept cogently at all, all we can expect is that the giver perceive in good faith that that is his or her goal.

Since a small donation of money by a non-wealthy individual does not buy dominance over others, its immediate goal as perceived by the giver, all other things being equal, is like a small donation of time by that same individual. When amounts are small and the donor non-wealthy, money and time are likely to be felt as equally valuable, because that same donor typically exchanges his or her time for his or her wage in the economy. Thus, insofar as the concept of “philanthropy” is applicable to the donations of non-wealthy donors, philanthropy is a form of citizen engagement whereby what is donated is money.

In terms of ethical evaluation, a person volunteering time might be treated differently than a person giving money, because in volunteering one creates a giving experience that may be much more personally meaningful than the experience of giving money. It can involve sensations of sacrifice over and above the calculated sacrifice of giving money, and it might create emotional bonds between the giver and those given to, possibly inducing a good deal of appreciation by others and by oneself. But my goal here is not to explore in-depth the ethical evaluation, but rather to point to the advantage citizen giving has for society. For society at large, it does not make a difference whether one volunteers time to care for elderly patients at a non-profit hospice, or donates money to help cover the hospice’s expenses on food, equipment, staffing, volunteer support, and so on. Society at large benefits from the existence of the hospice, and the voluntary nature of the care is all the more valuable, for it is meaningful to people to know that the care is not administered just because it is being paid for. The voluntary nature of the care is valuable for social cohesion at large.

The special case of large voluntary donations made by wealthy individuals should be dealt with separately. The analysis becomes more complicated. This is because wealth is an aspect of a high level of economic inequality, just like poverty is. Insofar as a high level of

economic inequality is unjust, wealthy individuals benefit from an unjust order. The question of how unjust that order actually is relates to how much economic inequality can be justified.

The level of justifiable economic inequality, and for what reasons, is a profound issue about which arguments have been raging since the institution of private property itself materialized historically. The analysis of the relationship between philanthropy and citizen engagement thus becomes mired in the controversies of socio-economic and political battlefields. Is there a way out of this entanglement? Must we pre-suppose a position with regard to the justification of concentration of wealth in order to proceed with the analysis?

I think we must. I think one's views on the relationship between philanthropy and citizen engagement in the case of wealthy donors are influenced by one's general view on wealth. This is so because if one views wealth as inherently unjust, and considers the wealthy as aware of the injustice, then philanthropists are guilty first and foremost of being too rich¹²; their philanthropic spending is merely an attribute they have along with other attributes of wealth, such as owning factories and mansions. Upon that view, philanthropy cannot be merely a form of citizen engagement and virtuous and beneficial to society as such, for very wealthy citizens are far too privileged in the first place.

However, if one does not view wealth as inherently unjust, then one will judge an individual's philanthropy according to its own specific merits, case by case. In each case, the judgment of whether an act of philanthropy is an act of citizen engagement, or is a different kind of act, will be judged according to its different ethical attributes: the motivations of the donor, the consequences it has, and its relations to other circumstances (for instance, whether the donor is or was previously involved in harmful or illegal activities).

¹² Alternatively, one may take the view that there may be many wealthy people who are personally innocent and unaware of the injustice, but are merely beneficiaries of an unjust system.

I take the view that wealth is not inherently unjust, and so I think that a wealthy individual's philanthropy is by default an act of citizen engagement, unless it is proven otherwise. The argument in a nutshell is the following: some wealthy individuals are philanthropists, and some wealthy philanthropists may use philanthropy for unjust reasons. But since wealth is not inherently unjust, it does not follow that all wealthy philanthropists use philanthropy for unjust reasons. In those cases where wealthy individuals practice philanthropy for just reasons, it is a form of citizen engagement¹³.

A philanthropic system consists of voluntary organizations whose work is made possible by voluntary donations of money or time, by citizens who have the ability to give one or both¹⁴. So the question I ask now is why this giving of time and money on behalf of citizens is at all advantageous to society¹⁵. I will discuss in the following passages the advantages of the philanthropic system as a whole; voluntary donations and voluntary associations alike.

Alexis de Tocqueville wrote about the advantages of "associations" or "societies" as he calls them, in *Democracy in America*¹⁶. "The citizen of the United States is taught from his earliest infancy to rely upon his own exertions in order to resist the evils and the difficulties

¹³ An interesting question is how to view philanthropic activities that seem just to the philanthropist, but in fact have unjust effects nevertheless. Do they qualify as citizen engagement? The question is whether the concept of citizen engagement is defined by motivation or by consequences. This of course is just part of one of the most basic questions of ethics – is the concept of good defined by the agent's motivations, by consequences, by character or perhaps by something else.

¹⁴ In reality, voluntary organizations are frequently partially funded by the government as well. This complication does not matter, for if they are wholly funded by the government, they become in essence a part of government and so this discussion is irrelevant to them. But if they are even partially funded by voluntary donations, then this discussion is relevant.

¹⁵ For a sociological overview of volunteerism see: Robert Wuthnow, "The Voluntary Sector: Legacy of the Past, Hope for the Future?," in: Robert Wuthnow (ed.), *Between States and Markets: The Voluntary Sector in Comparative Perspective* (Princeton: Princeton University Press, 1991), pp. 3-29.

¹⁶ Alexis De Tocqueville, *Democracy in America* (London: Penguin Classics, 2003), pp. 219-228.

of life¹⁷,” he wrote. “If a stoppage occurs in a thoroughfare, and the circulation of the public is hindered, the neighbors immediately constitute a deliberative body; and this extemporaneous assembly gives rise to an executive power which remedies the inconvenience before anybody has thought of recurring to an authority superior to that of the persons immediately concerned”¹⁸.

De Tocqueville’s descriptions portray genuineness and sincerity in the endeavors he describes. Private individuals form associations to get public problems solved. In doing so, they express their values and their freedom. The assumption that somehow the state is neglecting its responsibilities, and therefore private citizens are grudgingly compelled to fill in a vacuum, is foreign to his discussion. In de Tocqueville’s America, there is no ideal of an efficient, powerful state which takes care of all public needs. The ideal is rather of an empowered citizenship that is able and willing to take care of public needs voluntarily, whilst the state has limited duties.

In addition, the notion that somehow the associations are seeded with corruption is anathema to him. Cynicism is absent. On the contrary, he writes: “societies are formed to resist enemies which are exclusively of a moral nature, and to diminish the vice of intemperance: in the United States associations are established to promote public order, commerce, industry, morality, and religion; for there is no end which the human will, seconded by the collective exertions of individuals, despairs of attaining.”¹⁹

Andrew Carnegie, who was born poor in a weaver’s cottage in Scotland and made a fortune as a railroad industry magnate in late 19th century United States, embraced the ideas

¹⁷ Ibid., p. 353.

¹⁸ Ibid.

¹⁹ De Tocqueville, *Democracy in America*, p. 354.

of citizen engagement and social responsibility in his philanthropic philosophy, and developed them further in a short text he published, called *Wealth*²⁰. His approach to philanthropy was grounded in his belief that his role as a competent individual, who reached great affluence by utilizing his organizational talents, should be to use these talents for the benefit of society, in the latter part of life. This position is further rooted in his view that competition in the marketplace rewards those of exceptional organizational talent, whilst unfortunately bringing about vast inequalities and distrust between “capital and labor”, or between “the employer and the employed”. Carnegie professed belief in the ideal of harmonious relationship between people, and so according to him the negative effects of the inequalities have to be addressed²¹. The remedy should come not by a wholesale dismantlement of the capitalist system, whose benefits to humanity are unquestionable and should be preserved in his opinion, but by voluntary giving by the most successful²².

With Carnegie and some other extraordinarily rich individuals (such as Gates and Buffet) who commit great portions of their wealth to public causes, giving becomes an expression of a worldview. Upon this worldview, a highly worthy use of private wealth (if not the most worthy) is for the improvement of humanity’s condition. In *Wealth*, Carnegie explicitly defines three different possible uses of surplus wealth (what’s left after one’s and

²⁰Andrew Carnegie, “Wealth,” *North American Review*, Vol. 148 (June, 1889), pp. 653-665. Later the paper was published under the name “The Gospel of Wealth”.

²¹ Since Carnegie was himself a man of action, his views are susceptible to ad hominem questioning. Did he live up to his professed ideals during the Homestead strike of 1892, in which the Carnegie Steel Company fought with unionized labor? Were his ideals sincere? It is a question worthy of historical research, but this essay is not the place for that. I take his words at face value and try to assess the ideas professed.

²²The late 20th century and early 21st century have witnessed a surge in inequality within western states, coupled with a revival of Carnegie’s worldview. Warren Buffett and Bill Gates were inspired by Carnegie’s text to initiate the Giving Pledge, a public, non-contractual “commitment by the world’s wealthiest individuals and families to dedicate the majority of their wealth to philanthropy,” according to the initiative’s website. Over one hundred billionaires have signed the pledge, and Buffet and Gates continue to proselytize others to sign. It is an empirical question to check whether such an initiative could exist without a well-developed philanthropic system, which will be called upon to ensure the feasibility of the administration and use of the very large sums committed.

one's family's lifetime consumption has been taken care of): leave it to your descendants upon death, bequeath it to the state upon death, or administer it in your own life. He is decidedly critical of the first two modes, whereas he praises the third, especially for those of exceptional organizational talent. Of course, administering wealth can also be interpreted as trying to accumulate further wealth through investments. But that would bring one back again to the same question, of what to do with surplus wealth.

On the volunteering side, giving is again an expression of a worldview, whereby one's time and one's knowledge is best used in improving humanity's condition. Youth movements, women's organizations, environmental movements, and religious organizations have grown out of the volunteering ethos, and maintain themselves through it. One may find such an ethos among active volunteers of non-profits of every shape and size.

A nation imbued with customs and values along de Tocqueville's and Carnegie's lines generates an engaged and responsible citizenry. In and of itself this is an advantage, because these virtues contribute to the quality of human life. The argument is both ethical and political. A powerful, genuine philanthropic ethos creates dispositions to generosity. People accustomed to such an ethos truly believe that giving to society is good, and they practice it in their lives. Such an ethos can transform their lives and the lives of others.

If such values can be genuinely upheld, philanthropy is an ethical achievement. Critics may say that perhaps such values can be upheld, but nevertheless, the disadvantages of philanthropy outweigh the advantages. I will discuss these criticisms below.

c. **The Entrepreneurship Factor**

The third advantage is actually a set of advantages that stem from the principle that private initiation has many advantages over state initiation. This basic principle, used mainly to justify free-market economic policies, is not necessarily limited to profit-seeking within markets. The argument for entrepreneurship is based not only on the idea that the profit motive is strong and can be counted on to drive people to action. It is based also on the idea that private individuals, taken as a set of intelligent eyes and ears on the ground, can identify needs and opportunities far more efficiently than the inevitably much smaller number of state bureaucrats in their offices, who may attempt to command an economy²³.

This idea has merit whether the needs and opportunities are game for monetization or not²⁴. Private individuals can see, as mentioned by de Tocqueville, that “a stoppage has occurred in a thoroughfare,” and act right away to provide the solution. Frequently, people identify problems that result from market or state activity, like when pollution from a plant damages a river, or when local wildlife is endangered by a city’s expansion. Markets and states prefer inaction sometimes, and then it is only the power of concerned citizens that could possibly force them to act, or act in their stead. The environmental movement is a prominent example of citizen entrepreneurship at work, petitioning governments and companies to act or discontinue harmful actions, or acting independently for the environment.

²³ L. Robert Heilbroner, *The Worldly Philosophers: The Lives, Times and Ideas of the Great Economic Thinkers* (New York: Simon and Schuster, 1961), pp. 39-44 (Chapter 3, “The Wonderful World of Adam Smith”).

²⁴ I am referring here not to the argument that is based on the idea that the price mechanism transmits all the needed information. This isn’t the case in philanthropic entrepreneurship, because there is no price mechanism at work. I am saying that the decentralization of decision making and power adds many more possible initiatives. I do not claim that the innovation argument (which can be applied to philanthropy) is as powerful as the information argument (which cannot), but nevertheless it has merit.

Entrepreneurship is a powerful force in educational, scientific and cultural fields. States cannot plan the birth of ideas in these fields. Sometimes, the development and implementation of ideas in these fields requires considerable funds, well beyond the ability of the initiator of the idea. Because ideas in these fields are not always readily deployable in profit-making operations, markets have no reason to invest in them. Since they cannot make profits, only states or private individuals (acting as non-market agents) can fund their development and implementation. Since ideas in these fields are novel and experimental, it may not even be possible to properly define the criteria for the approval of state funding for them. State money is tax-payers' money and there is a limit to how much risk tax payers can justifiably be called upon to take on experimental ideas. So the only alternative is philanthropy.

But perhaps we should qualify and note that it could be rational for the state to check overspending in these areas. It funds activities in these areas, according to rationally developed criteria, perhaps it is for the better? This is partially an empirical question. The matter of principle that I would like to note here is that citizen entrepreneurship develops and later offers those developed options for state decision-makers. Initial private funding is in any case beneficial, for some ideas cannot just be shown on a drawing board. They need to be developed, tested and piloted. The possibility of having private seed money fund risky early stage development of creative ideas is arguably a benefit to society (though it should be compared to other means, such as riskier government policies).

The spontaneity of citizen entrepreneurship can also be an advantage²⁵. Private people are able to respond fast and without bureaucracy. For small and start-up enterprises this is important. In a developed philanthropic system, such enterprises can be born and nourished.

If the promoters of causes prove themselves, states can adopt their recommendations, like with the environmental movement. The philanthropic system serves as a breeding ground and laboratory for “grassroots” solutions to problems of concern to the public, much to the benefit of the state, which does not have to take the risks of failures involved, can wait for a non-profit cause to reach fruition, and then adopt it according to policy.

d. Tax-Related Advantages

The fourth set of advantages has to do with taxes. The literature on the subject of tax-deductions is vast. According to Saul Levmore it “focuses on the [...] deduction as promoting a kind of pluralism”²⁶. I have outlined the pluralism (or diversification) advantage above, so here I would like to focus on other possible advantages related to tax.

One possible advantage (if the tax law is well-designed) is that a vibrant philanthropic system might enable low tax rate policies, not just on the rich, but on the entire population. Philanthropy is, in essence, a voluntary source of funding for public causes that bypasses the state bureaucracy on its way from private hands to the implementation of those causes. It is not a voluntary tax, because taxes are sources of state revenue; it is rather a direct funding mechanism that bypasses the tax system. Bypassing the state can save citizens the pain (for

²⁵It can also be a disadvantage, when private people behave capriciously and discontinue funding on a whim. I discuss that below.

²⁶Saul Levmore, "Taxes as Ballots," *University of Chicago Law Review*, Vol. 65, no. 2 (Spring, 1998), p. 404.

want of a better word) of compulsory taxes that the state would otherwise have levied to fund those public causes²⁷.

An empirical question is whether the philanthropic system can be designed more efficiently than the state in terms of overall overhead costs. Non-profits as implementing agencies typically have significant overhead costs of management and fundraising so it is not as if these can be eliminated. But at least the money from the citizen on its way to the implementing agency does not have to go through the income tax system, the treasury, and the relevant ministries and their mechanisms, shedding overhead to them on the way. The money will have to pay for the implementing agency's overhead, which may be substantial. But that overhead may be substantial anyway, even if the money comes from the government to the implementing agency, whether it is incorporated as non-profit or as a government agency. So it seems that at least the money lost on overhead by going through the state system can be saved, but it is indeed an empirical question how to design such a system efficiently.

Saul Levmore expounds the idea that charitable tax deductions can make government decision-making in funding public causes automatically more in sync with constituencies' preferences²⁸. He has it that "the charitable deduction makes the government a partner in every gift-giving venture; [...] Hence each individual taxpayer's choice, deduction, or "ballot," not only reflects a private contribution but also triggers a matching government contribution in the form of a reimbursement of part of the taxpayer-donor's gift. The

²⁷ This advantage should be empirically assessed whilst considering the loss in publicly funded services in proportion to the loss in tax revenue

²⁸ Levmore, "Taxes as Ballots," p. 405.

government may of course choose to increase its support with direct grants beyond the amounts generated by the matching scheme.”²⁹

An additional observation is that state taxes are compulsory, and as such they limit freedoms. Thus, within a liberal-democratic worldview, if a voluntary donation can be relied upon as much as compulsory tax, it is better, all other things being equal.

In and of themselves, voluntary actions taken en masse are and can justifiably be relied upon. Commonly, a state’s security depends on individuals voluntarily choosing to perform roles such as piloting fighter jets, serving as combatants in elite units, becoming officers, etc. People risk their lives in such roles, yet they choose to do it anyway, and states rely upon new volunteers year in and year out. Military service is of course incentivized by honor and prestige, but so is philanthropy (in very different ways) through donor recognition. It is an empirical question whether volunteering for life-endangering roles would take place without measures of compulsion in certain aspects of the military.

People voluntarily choose professions, in their search for meaning and fulfillment, at least as in the search for monetary compensation, and the state relies on them to do so. Doctors, nurses, teachers, fire-fighters, and in fact all professions in modern western societies are chosen voluntarily, and though it happens from time to time that the marketplace experiences shortages of certain professions, no-one in a democratic society would suggest that the state should force people into professions. The state of course provides incentives, material and other, for them to do so. But the idea is that it can and does provide incentives for voluntary donations as well.

²⁹ Ibid. Government is forced into a partnership for a cause it may not have prioritized. It depends on one’s perspective whether this is considered an advantage or not.

My point is just that states rely on people voluntarily choosing certain roles, and that it works under certain circumstances. The conclusion is that it possibly can be designed to work under certain circumstances for voluntary donations as well, unless there is something in principle different in voluntary donations.

We should note that a compulsory tax isn't necessarily reliable just by being compulsory. Many people are disposed to evade tax payments if they feel they can get away with it, and thus the state has to set up a system of enforcement. Moreover, in the age of globalization, it is relatively easy to set up offshore tax havens. In addition, there are many loopholes and legal ways to minimize taxes. The state is in a constant effort to collect taxes at sufficient rates. A vibrant, supervised, regulated voluntary donation system could arguably do a lot of work for the state, succeeding where the enforcement system fails. It is a matter for further research and trial and error to determine exactly how. In any case, the philanthropic system has to be truly vibrant for this to work³⁰.

Disadvantages

a. Accountability

In democratic states, there are well-developed norms for holding public officials accountable for their actions. If they are elected officials, they or their parties have to face the public every cycle of elections. If they are appointed officials, they must answer to their superiors

³⁰See: Matthew Bishop and Michael Green, *Philanthrocapitalism: How the Rich Can Save the World* (London: Bloomsbury Press, 2008). This book describes the idea of commitment on behalf of very wealthy individuals and business leaders to public causes through philanthropy, and shows how it is done in specific cases.

who, at the top of the hierarchy, are elected. Both types are held accountable by the press. In addition, there is the function of state comptroller for systematic internal accountability of government. Finally, the law clearly defines public officials' roles, responsibilities, and the punitive actions to be taken in case an official is found guilty of breach of public trust.

Accountability is important to check incompetence and illicit behavior in the public service. What tools are in place for holding accountable decision-makers within the philanthropic system? This is not a problem with the implementing agencies, for on their side, the state's non-profit registrar is responsible for supervising them. And they themselves are normatively accountable to their funders. The problem, as I will illustrate in this section, is with lack of accountability of the funders towards the public, sections of which are beneficiaries of the actions funded, by definition.

What systems are in place to keep the private funders accountable for the public activities they fund? What systems can be put in place? As funders, they are the primary decision-makers within the system, yet the public can hardly hold them accountable, insofar as they maintain their immunities as private individuals. This is not a technical problem. As stated earlier, philanthropy is private individuals giving money to public causes *whilst maintaining their standing as private individuals*. As citizens, they enjoy an array of protections with regard to their privacy. Yet as funders of public causes, their influence on public affairs can be compared to the government in some cases. The public can demand accountability from public officials. But can it demand it from private citizens? Not in the same way. Thus, powerful private citizens who may want to use philanthropy for an array of interests are entitled to protections, which are perhaps unjust when looked at from the point of view of public interest. The charities they fund are normatively accountable to them, but

they are accountable to no one, even though their projects serve the public. A few examples will illustrate why this is a problem.

A wealthy individual has strong opinions regarding a controversial subject. His opinions are considered extreme relative to the average at the time he starts getting actively involved. For the sake of the illustration, let that subject be experimentation on animals. He is interested in making experimentations on animals as widespread as possible, because he believes that animals were created by a deity for the purpose of serving humanity in all possible ways. He disregards any notion of animal rights.

Using his money, he establishes a philanthropic foundation to promote his goals, and accepts proposals from implementing agencies. Any kind of agency may apply. This includes universities with biology labs that need to fund ongoing experiment programs on animals, researchers with novel ideas for experimentation, museums that showcase the benefits to humanity of using animals, periodicals to the same effect as the museums, non-profits specializing in lobbying legislators against the (misguided, in their eyes) idea of animal rights, non-profit farms that grow animals for experimentation, and non-profit umbrella organizations of cosmetics firms that use animals for their production purposes.

It so happens that the opposing animal rights movement simply does not have wealthy benefactors at that period in the state's history, and is constantly underfunded compared to the anti-animal rights movement, once the aforementioned funder starts his activity.

A few years go by and the foundation succeeds in its goals. Animal rights ideas and activities become first quite unpopular in that state, and later some activities even become outlawed due to the robust lobbying efforts carried out by the foundation's grantees. All the while, animal rights advocates have appealed to the government, to the universities, to the

museums, to the editors of the periodicals, and to public opinion to fight the trend started by the funder, but were constantly told that as a private individual he is entitled to fund what he pleases, as long as it is legal. The philanthropist was always careful not to break the law, and when he wanted the law changed, he lobbied for it, sometimes successfully. He never had to explain to the public his reasons nor his motives. He just funded the activities and that created the changes he wanted, though public opinion was initially against them and would not have let politicians make such changes.

A central government responsibility in liberal democracies is education. Politicians and civil servants are held accountable by the public for changes in educational performance in the state. Let us now imagine a philanthropist with a religious mission to make society predominantly religious, rather than secular, as it is the day he begins his activities. He works within the boundaries of the law, investing in religious educational institutions which teach exclusively religious texts in extra-curricular programs. His institutions are highly popular among low-income families, because he provides hot meals, afternoon care, and free health services to pupils of all ages. The state has retained control of the standard curriculum, but performance in subjects within the curriculum in low-income areas lag behind, due to poor staffing, pupil engagement after school in religious learning, and for a range of socio-economic reasons beyond the ability of the state to remedy. The state's average educational performance, as measured by international standards of scientific and English proficiency, suffers as a result.

This is not to say anything against the religious mission of the philanthropist, but perhaps he has too much influence on what children are learning? Who is accountable? Can concerned members of the public hold the philanthropist accountable? No, because he has acted within the boundaries of the law. He provided enrichment programs at his expense to

the public. The fact that parents decided that their children spend time there rather than do homework on the curriculum is certainly not his fault. He owes those concerned citizens no answer. The political decision-makers who do need to answer to the public may perhaps be accused of poor staffing, and overall letting the state-run education system lose to the competing religious system on pupils' desire to learn, but the philanthropist cannot be held accountable for competing with the state.

The argument against philanthropy in this case is that if the state is responsible for educational performance, it means taking responsibility over extra-curricular activities as well as the curriculum. In such a case, the state will be held accountable for the performance, and will have the means to do what it is responsible for, without competition or intrusion from private individuals, who are acting according to their own private or sector-specific agenda and cannot be held accountable.

These examples show how problems can arise from private individuals being inherently less accountable than public officials, yet still making decisions for the public. Donors may hide behind their being private people. They may have motivations other than the general public good. The motivation could be anything, from benign to egotistical to subversive. Contrary to state decision-makers, with private decision-makers it is hard to prove and subsequently correct.

b. Aggrandizement of Philanthropists

A prominent feature of philanthropy is the honor bestowed upon major gift-makers by recipient organizations. In states where there exists a highly active philanthropic system, one

may find hospitals, stadiums, universities, and other major public institutions, or their physical facilities, named after donors.

Is it appropriate in a democratic society to honor donors to such a degree? There seems to be no other feature of the philanthropic system that generates as emotionally charged objections as this one does. In places where the feature is dominant, the public domain is (on the level of appearances) appropriated by donors, and it is this appearance of appropriation that frequently induces public outrage. How justified are the objections?

Michael Walzer in *Spheres of Justice* treats recognition as a social good. Upon his pluralistic theory of justice, the distribution of a social good should be according to criteria that derive from the nature and meaning of the good itself. Goods differ in nature and meaning, and thus it isn't so that the distribution of *all* goods should be carried out according to the rules of exchange in the marketplace. The marketplace justly governs only the exchange of commodities. But not all things are commodities, especially not recognition.

In the context of philanthropy, this means that honors should not be bought and sold. Insofar as this is the case in honoring donors, it is a bad practice.

Asking the same question about other types of people who receive great honors – statesmen, literary figures, scientists, etc – and trying to compare shows how the differences stand out. Philanthropists, in a sense, “buy” honors. The power of money, as opposed to the importance of an achievement, is what drives the honor-giving. Moreover, the decision of naming a facility after someone is essentially made by the donor himself (after having been offered it by the institution in exchange for the donation).

The outcome of such naming practices is that exceptionally wealthy individuals are made to seem superior to ordinary citizens. Ordinary citizens may feel that public spaces do

not belong to them, but rather to the super-rich, and thus they may feel like second class citizens. Moreover, such practices may intensify grievances with regard to the sources of wealth. One's wealth might have been acquired through exploitative or other unethical (albeit legal) means, yet still the public honors are bestowed, much to the chagrin of ordinary citizens who (perhaps justifiably) feel robbed.

Thus, important liberal-democratic values are under threat from naming practices. A sense of equality, citizen ownership, and plain decency may be endangered if such practices are carried out unchecked.

The conclusion is that lacking clear, sound criteria for naming public institutions, a state's liberal-democratic egalitarian values are being compromised by such practices.

Lastly, aggrandizement may induce cynicism with regard to philanthropy in general. For cynics, philanthropy is inherently an exercise in deceit of self and others, as according to their attitude, all human actions are at root selfish. Cynicism as an attitude may be harmful for the beneficial parts of philanthropy in society, because it may harm modes of recognition that are justifiable.

c. Reliability

Is the philanthropic system reliable? By "reliability of the system" I mean with respect to the public. Can the public rely on non-profits to provide for certain needs systematically, comparable to how it relies on the government to provide for certain needs?

For particular organizations or projects who rely on one or just a few donors, the answer is that the public can rely on them much less than on the government. A donor might

pass away and his heirs might not find the cause worthy of donations anymore. Or the donor's abilities may be hit by a financial crisis, and then the first expense to cut could justifiably (from the donor's standpoint) be the donations. Or a donor might simply change his or her mind for any reason whatsoever, even capriciously. Then the institution or project will find itself without sufficient sources of funding, and the organization's beneficiaries will suffer. If the services are considered vital or essential, this is evidently a disadvantage.

This is a clear disadvantage for particular organizations and their particular target populations. If the philanthropic system as a whole has a large number of organizations who rely on a small number of donors, then its reliability is questionable.

This disadvantage can be quite harmful in some situations. If a hospital fails, it could mean that hundreds of patients, scores of doctors and other staff members, and even a region's population that relies on the hospital in cases of emergency, are harmed. If a hunger-prevention program fails (for instance, when the donor's finances are suddenly frozen due to implication with criminal activity, as was famously the case with Bernard Madoff's victims), then suddenly people will experience unexpected food insecurity. Is it justifiable that states expose their citizens, or citizens of developing countries, to such possible dangers?

Above I have noted that activities of voluntary nature can be relied upon. It is not the voluntary nature that is unreliable. It has more to do with the liquid nature of money, which makes philanthropic funding from a small number of sources unreliable at times. Money's liquidity means that large reservoirs of it could freeze or disappear overnight. This is also true of the state's reservoirs, but the state can safeguard its reservoirs more effectively, create buffers, emergency reservoirs within contingency plans, and other means. Private individuals are hardly expected to do so, yet since they fund activities of great importance, perhaps they

should be. Or, if they shouldn't be, then this is indeed an inherent disadvantage of the philanthropic system.

An additional problem related to reliability is that personal caprice is much more of a factor in the decision making process, as it is similar, in the eyes of some donors, to personal consumption. It seems that lacking proper education for such individuals, public organizations are at the mercy of personal whims, rather than the rational (or at least publicly accountable) decision making processes of states.

d. Perpetuation of Inequality

Henry David Thoreau in *Walden* took up an unmasking approach to philanthropy, writing “he who bestows the largest amount of time and money on the needy is doing the most by his mode of life to produce the misery which he strives in vain to relieve. It is the pious slave-breeder devoting the proceeds of every tenth slave to buy a Sunday’s liberty for the rest”³¹.

A philanthropic system might be used to perpetuate wealth inequality or even an oppressive and exploitative system. Perhaps if there were no philanthropic system, states would be able to give good reasons for imposing more taxes. Taxes on the wealthy are a possibly powerful means to decrease inequality³², but the wealthy, as a class, will most probably never voluntarily give up their privileged position. They will donate only up to a level that will keep them their privileges. Compulsory tax is different in that sense.

³¹David Thoreau, *Walden* (Boston: Ticknor & Fields, 1854), Chapter E-1.

³²Thomas Piketty, *Capital in the Twenty-First Century* (Grand Haven: Brilliance Audio, 2014).

This is the reverse concomitant of Carnegie's views. The wealthy classes, having understood that they can pacify the public, or give to public causes in order to achieve "harmony" between the classes, can use philanthropy to solidify their control over the economy.

The wealthy can use their influence to modify tax incentive policies. They can claim that low taxes on the rich are justified because it allows them to give more in donations (it would be a poor argument from a logical point of view, but one which nevertheless can carry rhetorical weight).

Finally, the wealthy can make major gifts to various institutions and projects, some of which have the goal of perpetuating inequality, or at least economic policies favorable to the wealthy. John D. Rockefeller, Carnegie's contemporary, founded the University of Chicago, whose department of economics became a global leader in promoting free-market policies, which tend to include low tax rates for top earners as the primary drivers of such economies. Was it Rockefeller's intention that this be so? That is a matter for empirical research. We do know that Rockefeller said the university is the best investment he had ever made. Did he mean to say that having influenced tax policies on a global scale, he succeeded in preserving class inequalities, thus favoring his descendants? We don't know, but the story makes one think about how the philanthropic system can be used, on a grand scale, to preserve class inequalities, even if historically Rockefeller himself had completely different things in mind.

Insofar as philanthropy threatens the ideal of equality, it is a clear disadvantage for modern liberal democracies to rely upon it. But perhaps this disadvantage has also to do with the system's malleability or corruptibility, at least as much as with the core aspects of the system. It is a matter for empirical research to understand this better.

The major variable that the state can directly control with the goal of maximizing advantages is the relevant laws and regulations that govern the practice of philanthropy. Legislation should be in place to ensure transparency in order to boost public trust in the system; Laws should define how to establish public committees to decide how to honor donors, with the goal of minimizing aggrandizement; Tax laws should be designed to maximize advantages for the public; Fund-raising should be regulated; Laws should be in place encouraging partnerships between market, state, and philanthropic players, for full integration of the philanthropic system within the state; And there should be laws and regulations making it as simple as possible for social entrepreneurs to reach out to state decision-makers with their projects.

Legislation should also take into account prevailing customs and attitudes with regard to philanthropy. It is not enough to technically maximize advantages and minimize disadvantages, for there may be certain values that cannot be ignored. With regard to the value system, it is not obvious that people want philanthropy to be part of their lives, and it is not obvious how they perceive their role in it if they do. The point is that the success of philanthropy is not only dependent upon legislation, but also upon willing participation. The content, genuineness, and power of the relevant components of the value system of a population at a given time will determine, together with the law, whether the philanthropic system in a non-ideal state succeeds in filling the gaps left by the state and markets, or not.

The conclusion of the entire discourse above about advantages and disadvantages is that in a non-ideal state, the justifiability and the desirability of a philanthropic system depend on maximizing its advantages, and minimizing disadvantages, for society.

In the next chapter I will discuss ideal theory. I will lay out the idea that philanthropy has a place in an idealized state too. The discussion about legislation in the next chapter will show that non-ideal considerations are not enough.

Chapter 2

Ideal Theory of Philanthropy:

Private Action in the Public Sphere

Let us now imagine a state in which the government or markets *are* capable of providing the public with all of its justly required needs. I interpret Rawls' notion of "favorable circumstances" this way³³. Is there room for philanthropy in such a state? I will now argue that there is, based both on the republican conception of citizenship, and on the liberal conception of it, but in different ways.

Both conceptions of citizenship, the republican and the liberal, understand it as a legal status assigning a set of rights and duties to an individual member of a political community, who is accordingly called a "citizen". The republican conception emphasizes the role of the citizen as an active agent in the community, whereas liberalism stresses the citizen's entitlement to protection of his or her rights under the rule of law³⁴.

The legitimacy of philanthropy follows from republican thinking, insofar as agency is understood to include both political and non-governmental public activity alike. As long as the state is not threatened by non-governmental activity, like in the case of Spurius Melius,

³³Rawls considered the ideal state as achievable. He thought it could be realized in the long term, without expecting heroism from citizens. How could states possibly achieve it? They need to become capable of compensating for markets' underproduction of public goods. Or it may occur if modifications in how business activity is motivated and incentivized come about, resulting in markets producing more public goods. It is plausible that such conditions already exist today in certain areas in certain states or cities of prosperous nations. (For a discussion about Rawls' view on this, compared to the views of Bernard Williams, Amartya Sen, G.A. Cohen and other thinkers, see: Stemplowska, "Ideal and Nonideal Theory," pp. 379-385).

³⁴Dominique Leydet, "Citizenship," in: Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy* (Spring, 2014), URL = <<http://plato.stanford.edu/archives/spr2014/entries/citizenship/>>

there is no reason to be against it. Philanthropy in the widest sense, including donations by non-wealthy donors, is an act of citizenship. Citizens are called upon to take part in shaping the political community at large, and philanthropy is one way to do just that. In republican thinking, the concept of citizenship has both private and public facets, both of them appearing prominently. A citizen who fails to live up to the public facet of citizenship, fails the republican ideal. Philanthropy is not just legitimate upon this ideal, it is a virtue.

Where does philanthropy fit in the liberal conception of citizenship? Indeed, it fits in when independent funding is required for advocacy or watchdog functions, enabling non-governmental factors to make sure that the state does in fact protect those civil rights that its duty is to protect. Such a role is legitimate in ideal theory, for strict compliance has to be maintained. It is not clear that the state can maintain it without independent civilian oversight.³⁵ A strong citizenry (of which robust philanthropy may be a feature) is a check and balance to the state and markets. There is constant danger of markets and states overstepping their legitimate goals and mandates, reverting societies back to non-ideal conditions. Market and state factors might attempt to dominate societies in ways which diminish citizens, whose interests both governments and markets are, according to the liberal viewpoint, supposed to be ultimately subordinate to. The individual citizen is the weakest entity in a world in which the actors are citizens, corporations and government bodies. Strengthening the weakest entity will curb the ability of the other two types of entities to gain undue control over collective affairs. Strengthening means enabling that entity to be an influential decision maker in collective affairs, and that can be served by allowing or even encouraging it to voluntarily engage in public causes.

³⁵ Ideal theory is realistic, in the sense that it can be realized in this world. If it is realistic, then we can assume that it is not a necessarily stable state, and can lapse back to non-ideal conditions if allowed. The liberal conception would have it that it is legitimate for citizens to act so it doesn't lapse back.

However, in the liberal conception of citizenship, if the state or markets can provide for the public's justly required needs and there is not much room to worry about deteriorating back to unfavorable conditions, it seems superfluous for citizens to become involved in funding hospitals, universities, orchestras, and other such organizations. It is the state's role to do so. And so liberalism generates an ambiguity towards philanthropy. Superfluous things are not illegitimate; however they are to be avoided. Liberal thinking does not disallow philanthropy in principle, but it will tend to discourage it when the state can be trusted to do the funding.

The portrayal above is ideal-theoretical, but it can have practical implications, for both republicanism and liberalism are major contemporary frameworks of political thinking with regard to the relation between a citizen and a state³⁶. The divergence of positions potentially complicates matters of legislation regarding philanthropy, for laws would not be based just on the pragmatic considerations of maximizing the advantages and minimizing the disadvantages of philanthropy, they will also be weighed in light of legislators' core political beliefs. Cases for legislation and regulation with regard to philanthropy may follow the respective lines of argument provided for its legitimacy (or redundancy, in certain liberal attitudes), for in public discourse legislative proposals will be better defended if those who put them forward appeal first and foremost to the legitimacy of the actions under the law's concern³⁷.

³⁶The issue becomes more complicated with international donations, for in that case we might perhaps to take a concept similar to "citizen of the world" and apply it to philanthropy. I will not dwell on this in this essay.

³⁷ Of course, even the lines of argument I am suggesting here do not comprehensively cover the possibilities, because legislation knows many different approaches to the question of what should be its guiding principles. Theology, class structure, wartime considerations, and customs inherited from ancient times have all been and continue to be used for that purpose.

Another interesting point with regard to liberalism and republicanism is that they may differ on their judgment of philanthropy insofar as it affects equality. Inequality is the Achilles' heel of philanthropy, for regardless by which conception of citizenship we approach it, philanthropy empowers citizens by the very act of their giving, in ratio to the extent of their giving. A citizen who initiates and funds a public project can acquire influence through that project. By giving, the donor signals that he or she has the ability to part with the sum given, thereby advertising his or her financial power and displaying generosity. And once a citizen responds to requests for funding a public cause, the implementation of that cause by that institution becomes dependent upon his or her continued willingness to fund it. The more one gives, the more impact one can have, the more one is honored, and the more one is needed by the institutions implementing the causes. Thus, the empowerment of citizens through philanthropy is unequal. It is stronger for those who have more.

The different conceptions of citizenship will diverge in their evaluation of the legitimacy of such empowerment. Both conceptions highly regard equality, but for liberals philanthropy might not offer a valuable offset. Republicanism might be more tolerant with regard to its effects on inequality, whereas liberalism will be critical. Within the logic of republicanism, active citizenship very much deserves its rewards. Contrary to that, in liberal thinking, active citizenship is valued insofar as it protects the rights of citizens. If the price paid is more inequality, it may not be worth it in many cases.

Where do the conceptions nevertheless converge? Philanthropic giving can be valued by both conceptions of citizenship in the very fact that it is free voluntary action for a purpose that is an end in itself. A voluntary donation in the mind of the giver is rationally deliberated and ultimately justified by the cause given to, which is considered good in itself. It is informed by a normative drive to action, unlike action mediated by desire for monetary profit,

which characterizes market activity, or coerced action, which is the hallmark of the state³⁸.

Both conceptions of citizenship value normatively justified action, since both value free rational decision-making as a basis for action, as they share a conception of humans as rational animals. This point is important because it is not obvious that the rationality of the public is acknowledged or valued in certain societies. Philanthropy, as a product of rational decision making, is valued only where the rationality of ordinary citizens is valued.³⁹

I have outlined above how the different conceptions of liberalism and republicanism with regard to citizenship lead to different conclusions with regard to the legitimacy of philanthropy. But perhaps various objections to, or other affirmations of the legitimacy of philanthropy will involve additional conceptions, not just those of liberalism and republicanism with regard to citizenship. What other conceptions can there be to inform this question?

I think there are at least three such conceptions, one having to do with the question “what is the difference between something that is private and something that is public?”; The second relates to the question of “who can legitimately own parts of the public realm in a political community?”; and the third speaks about “who is the legitimate sovereign of a political community?” The concepts of ownership and sovereignty, and the distinction between private and public do belong to the discourse about citizenship. Notions about them have their place in the spectrum of ideas between liberalism and republicanism. But I would

³⁸There may be cases with mixed motivations, for instance when a donor wants both to give and eventually to profit from the business connections gained through association with other donors. The different motivations do not necessarily exclude each other.

³⁹The historic context of the birth of both republicanism and liberalism might perhaps help us shed light on the reasons for both their similarities and their differences. Republicanism is traceable to the conception of citizenship in Greek city-states, which was an extension of kinship, while liberalism’s origins can be traced to the Roman Empire, the expansion of which resulted in conquered peoples’ acquiring citizenship rights. Citizenship in the Roman Empire meant less being active in forming laws, and more being passively protected by them as a result. See: Leydet, "Citizenship", in: Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy* (Spring, 2014), URL = <<http://plato.stanford.edu/archives/spr2014/entries/citizenship/>>

like to approach them without trying to reduce the entire discussion to citizenship, for it is not clear that such a reduction is justified.

I will start with the distinction between the private and the public. Philanthropy is a crossing of the border between the private and the public, so one's conception on the nature of that border will supply premises for arguments in favor or against philanthropy. How we justify the crossing of that border depends on how we justify the establishment and maintenance of that border in the first place. For instance, taking the view that private property itself is illegitimate will have the consequence that philanthropy is illegitimate, because in order for philanthropy to exist in the first place, there must be private property.

The discussion is not just speculative, for conceptions of the public and the private vary considerably across eras and cultures. For the Greeks, from whom the category of "public" was transmitted to the west "bearing a Roman stamp," the sphere of the *polis* was common to the free citizens, and was separated from the sphere of the *oikos*, the household⁴⁰. The political order was superimposed on a slave economy, and slaves were strictly barred from having a *bios politikos*, a public life. Having a public life meant being eligible to take part in discourse about common actions and interests such as waging war and competing in games; it also meant sitting in courts and participating in various judicial matters. Men with fully developed public lives were citizens with influence over their compatriots, whilst the condition of being permitted to have a public life was being a master of a private sphere which included slaves⁴¹. Such a conception of the private and the public supports the legitimacy of philanthropy. But it would not be able to support a justification for philanthropy within contemporary theories of citizenship, because such a conception would be

⁴⁰Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge: MIT Press, 1991), p. 3.

⁴¹Ibid.

unacceptable for more important reasons: it also supports slavery, whilst disapproval of slavery as an extremely illegitimate institution follows immediately from the basic principles of dignity and freedom, which are at the core of modern conceptions of justice and citizenship in the west⁴².

The upshot of the changing distinction between private and public is that the borderlines crossed by the philanthropist, those between the private and the public sphere, are in no way unequivocally defined at all times. Thus, on a general level, it isn't clearly defined for all times what we're talking about, when we say that philanthropic giving is private citizens crossing the border between the private and the public spheres by way of contributing money to public causes. A relevant comment to the idea that the legitimacy of philanthropy is connected to citizenship is that we must account for historical variance in the concepts when we discuss the subject.

It is interesting to note that contemporary market-economy conceptions with regard to "private goods" and "public goods" tend to support the legitimacy of philanthropy, but more in line with the pragmatic, non-ideal theory as discussed in the first chapter. This comes from the theory that markets have an inherent tendency to under-produce public goods, due to the

⁴²Habermas shows us in his analysis that the distinction between the concepts of private and public was dependent upon the underlying political and economic structure of the cultures and epochs he treats in his enquiry. With the sweeping historical transformations across Europe, the sum of which is subsumed under the encompassing title of "modernity," there took place shifts in the meanings of the concepts of public and private. The rise of the bourgeoisie and private bourgeois *salons* which hosted discourse over public concerns, the separation of church and state, the disintegration of the status of knighthood and the flowering of monarchical court life before it itself was demolished under the march of revolution, and modern deliberative processes being influenced by mass media – each and every such historical phenomenon affected and continues to affect what it means to be private or public. This means also that the meanings of these two concepts together with the meanings of their related and derived concepts, such as "privacy," "private property," "private life," "private good," "public opinion," "publicity," "public affairs," "public good" and others, were in flux. I note in passing that perhaps if we identify changes in the meanings of these concepts, it can lead us to identify changes in the underlying political and economic structures of our societies today, and vice versa; the way the internet has developed may have changed the distinction between public and private information.

free rider problem⁴³. This means that the pragmatic need for philanthropy is not accidental. If the tendency is indeed inherent, then it makes sense to compensate for it by using either state budgets or philanthropy. If state budgets are short, then according to this theory, societies cannot rely on markets to compensate, and so it lends legitimacy to philanthropy⁴⁴.

The quality of ownership, of who owns this or that territory, this or that object, this or that privilege, or anything else, is widely applicable. It is also highly important for individual and collective survival to establish who owns what in a given realm.

There are things that are not owned by anyone, like sunlight, musical notes and language. Other things like shirts, books, and toothbrushes, are very frequently owned by private individuals. Some things, like companies, intellectual property rights, and real estate are widely owned not just by one individual, but collectively by groups of individuals, or by the state. What kind of thing is a political community in this respect? Can any individual or group legitimately claim to own it, or parts of it? With regard to private property, we know that by definition it is owned by a private individual. But what can we say about the public

⁴³Paul A. Samuelson, "The Pure Theory of Public Expenditure," *The Review of Economics and Statistics*, Vol. 36, no. 4 (Nov., 1954), pp. 387-389.

⁴⁴A relevant question is what role economic policy plays in determining the function and scope of the philanthropic system. Neo-classical economic theory places emphasis on the notion that markets should supply a good or a service whenever they can because they are highly efficient at doing so. The question is what other considerations in addition to efficiency should be taken into account. Should society allow market agents to become disproportionately powerful at the expense of citizens and states? On the other side there is the emphasis that welfare state theory places upon the notion that the state should undertake to materially secure the well-being of its citizens to a high degree, above and beyond building the legal and material framework for the operation of private enterprises. Should the state monopolize this responsibility at the expense of citizen responsibility?

Another point is that from an economic point of view, philanthropists might be considered consumers, even if they buy for someone else's sake. In that case, philanthropy can't supersede the market, for it operates within it. I don't think that it is a general rule that philanthropists are simply consumers on behalf of others. They share aspects not just with consumers, but with planners. They are akin to state planners, albeit decentralized. For example, Andrew Carnegie built over 2500 libraries throughout the world in order to help working class children educate themselves. As such he can hardly be compared to a consumer, but rather to a government function with responsibility over education. In addition, if philanthropy were inherently just buying for the sake of others, its special status within the tax code would be unacceptable for policy makers in modern states. The fact that it is acceptable means that they tend to think that philanthropy is inherently unlike taxable consumption.

realm of a political community? Which parts of it are not owned by anyone, which are collectively owned by members of the community, and which are owned by the legal entity that is the state?

Answers to these questions vary, and the justification of the answers depends on one's conceptions, not just of citizenship, but of the definition of the state as a legal entity. If by definition, the state owns anything that is not privately owned, then there can be hardly any room for public non-governmental entities. If one allows that specific third type of entity to own property, then one legitimizes philanthropy in the legal sense. This legal sense is the basis for the categorization of the entirety of such entities as the "third sector".

Within non-profit non-governmental entities themselves, the subject of ownership is fuzzy, for on the one hand the entity's members cannot sell it or its possessions for a profit, but on the other hand they have full control over it, as long as it is working to fulfill its mission. Since donors effectively control whether such an entity will operate or not, it gives them considerable power over public institutions. Such control leads to practices such as naming public institutions in the public realm on behalf of donors, projecting an appearance of ownership. A possible objection to the legitimacy of philanthropy can be devised based on the argument that such fuzziness is harmful to equality in the public realm, and thus the entire public realm of a political community should be owned by the state. Argumentation based on such a premise would call for a strict distinction between private and public. Since philanthropy is a crossing of the border between private and public, it would disallow it.

Certain medieval conceptions with regard to ownership can be shown to generate different meanings of the concepts of "private" and "public" themselves, rendering the modern conception of philanthropy meaningless in that context. This is interesting not because medieval conceptions are relevant to the contemporary question of the legitimacy of

philanthropy, but because it illustrates again how the justification is sensitive to the underlying conceptual framework. In medieval Europe, there occurred a fusion of private and public under certain feudal arrangements. Under the laws of manorial authority, the lord of the manor had rights and duties very different from those of the Greek or Roman citizen. “In medieval documents, ‘lordly,’ and ‘*publicus*’ were used synonymously,” writes Habermas⁴⁵; “‘*publicare*’ meant to claim for the lord.” An appropriation took place through which what was previously considered common property could belong to the lord as a person. But conceptually that didn’t mean, in the eyes of contemporaries, making something which was public into something private, as we might conceive it in our times. It meant on the contrary, that the lord, as an embodiment of the public realm, was entitled to such claims as if he were himself the public.

Such context makes it very hard to compare the philanthropy of the Medicis, for example, to modern philanthropy, because in their conception, they might have been justified in feeling that they somehow owned the very public institutions which they funded. This is also relevant to the public/private distinction. The House of Medici was a political dynasty that dominated public offices in Florence and also controlled commercial enterprises; and so in what sense was their philanthropy a crossing between private and public spheres? The borders were not conceived as they are today.

The concept of sovereignty is likewise relevant to our discussion, not unlike how ownership is relevant, but with different emphases. Sovereignty is supreme authority in a territory. If one views the citizenry as sovereign, along the lines of Rousseau and Jefferson⁴⁶, whereby the citizenry should have primary power in governing a nation’s collective affairs,

⁴⁵Habermas, *The Structural Transformation of the Public Sphere*, p. 6.

⁴⁶Thomas Jefferson, "The Declaration of Independence," Continental Congress, Philadelphia (PA), July 4, 1776. See: http://www.archives.gov/exhibits/charters/declaration_transcript.html

then the state and its different bodies, especially legislature and the executive branch, derive their authority directly from the citizenry, through elections or other means of enabling representation. This view leads to the legitimization of philanthropy, for one may interpret citizen sovereignty to mean that groups of citizens have the right to authorize non-governmental organizations to act on their behalf for a public cause. Such authorization will be subject to the rule of law, which is an additional principle of citizen sovereignty. However, if one views the state or one of its bodies (for instance, legislature), as sovereign, then it may legitimately disallow non-governmental organizations from implementing public causes.

I have described above how conceptions with regard to the public/private distinction, ownership and sovereignty are relevant to the question of the legitimacy of philanthropy. Despite their relevance, I think the most illuminating discussion is the one regarding conceptions of citizenship, because it can help explain why the different political ideologies of liberalism and republicanism tend today to treat the question of the legitimacy of philanthropy differently.

Conclusion

Many people donate money to public causes in one form or another. Our donations are ultimately the result of our deliberations as private persons. We are not state functionaries. We are by definition non-governmental. We may be engaged as citizens, publicly minded, socially responsible, aware, enlightened, kind and even efficient and strategic in our grant-making large and small, yet we remain private individuals.

What makes it legitimate for the state to rely on private individuals to fund public causes? The question is important for it concerns the basic relation between a citizen and a state. It concerns the borderlines between the private and the public spheres, and asks what legitimizes the crossing of that borderline in the sense of private individuals taking responsibility over public affairs. I have asked the question and sought to answer it in the realms of both ideal and non-ideal theories.

In the realm of non-ideal theory, the justification for philanthropy is based on the benefit society can expect from it. This means maximizing the advantages and minimizing the disadvantages associated with philanthropy.

The advantages include diversification of funding pathways, a strengthened value of citizen engagement and social responsibility, enablement of the entrepreneurship factor in non-profit contexts, and the possibility of enjoying a low tax rate.

The disadvantages include the lack of accountability to the public on behalf of private individuals for activities they fund, the negativity associated with aggrandizement of certain individuals above others, the possibility that the philanthropic system can prove unreliable as

a system under certain circumstances, and the possibility that the system can be used to perpetuate inequality if abused.

In the realm of ideal theory, justifications for philanthropy or reservations with regard to it follow from our conceptions of citizenship, from our ideas about the distinction between the public and the private, from our views on citizen sovereignty, and from the institution of ownership. My main point was to show how philanthropy can find robust support within republicanism, and that the liberal conception of citizenship also supports it, albeit with an emphasis on a specific role philanthropy may have to help maintain the protection of civil rights.

I have maintained that the issues of legislation and legitimization are closely linked, for in public discourse one cannot propose legislation without appealing first and foremost to the legitimacy of the actions under the law's concern.

A full account of the subject requires a multi-disciplinary approach, to understand empirically how philanthropic systems actually behave, and to suggest how to improve them whilst keeping ourselves theoretically informed of what our ultimate goal is, or what our ideal theory is.

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מה מעניק לגיטימיות לפילנתרופיה?

גיא שולץ

03834287

תזה בתואר שני, החוג לפילוסופיה

מוגש לפרופ' דניאל אטאס, החוג לפילוסופיה

האוניברסיטה העברית, ירושלים

מאי 2015

תקציר

במאמר זה אני טוען (א) כי כאשר מדינות ושווקים נכשלים במתן מענה לצרכים ציבוריים, הפילנתרופיה היא אלטרנטיבה לגיטימית למימון אותם מענים, כל עוד יתרונות ההישענות עליה עולים על החסרונות. על-מנת לתמוך בטענה פרגמטית זו, אני מתאר בגוף העבודה את היתרונות והחסרונות הללו ומנתח אותם. אני מפתח עוד את הטענות בעד פילנתרופיה, ללא קשר לשיקולים פרגמטיים, וטוען (ב) כי גם אילו מדינות ושווקים היו מסוגלים לתת מענה לכל הצרכים הציבוריים (המוצדקים), הפילנתרופיה נתמכת על-ידי שתי תפיסות מרכזיות של אזרחות במערב. במסגרת תפיסת האזרחות הרפובליקנית, היא איננה רק לגיטימית אלא היא אף מידה טובה. בנוסף, היא לגיטימית במסגרת תפיסת האזרחות הליברלית, במיוחד כאשר משתמשים בה למען המשך שמירה על זכויות אזרח בתוך המדינה.