the Giving Review

Conservatism & THE FUTURE OF TAX-INCENTIVIZED BIG PHILANTHROPY

A Symposium

FEBRUARY 2023

TABLE OF CONTENTS

INTRODUCTION

THE GIVING REVIEW CO-EDITORS
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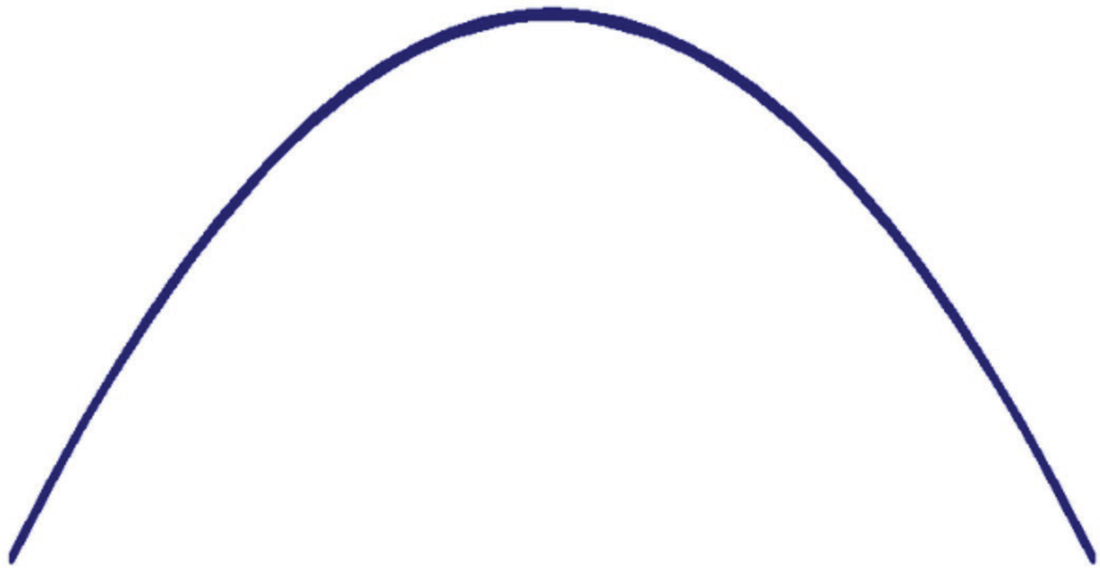
Establishment philanthropy in America increasingly is on the defensive, and it may be even more so in the future, potentially including before policymakers. There is a history of Congressional interest in philanthropy, and there would be no shortage of subjects for any such official investigation to address, or of proposed policy reforms to consider.

This symposium, "Conservatism and the Future of Tax-Incentivized Big Philanthropy," is meant to earnestly and meaningfully explore conservatism's past and future relationships with the country's philanthropic establishment, which is overwhelmingly predominantly progressive, in our view. The symposium features several contributions, including from those squarely within conservatism and others who have respect for it.

The exercise raises what we think are hard questions, sometimes uncomfortably including self-critical ones. Implicitly or explicitly, in fact, various contributions criticize the grantmaking of the foundation for which we all once worked, the website that we all now co-edit, and a nonprofit organization of which one of us was once a visiting fellow.

It begins to offer what is maybe a little bit wider range of proposed potential answers than heretofore considered. We hope others may expand upon and develop them even more—as conservatism itself undergoes its continuing, uncomfortable redefinition and refinement—moving forward.

We think and hope the "Conservatism and the Future of Tax-Incentivized Big Philanthropy" effort will help better inform ongoing debate and discussion about what Big Philanthropy is doing in, and to, America—and what could and should perhaps be done, including by enlivened conservatives, about it.



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THE RISE AND DECLINE OF BIG PHILANTHROPY IN AMERICA

It has reconstituted the very system that Alexis de Tocqueville once famously lauded Americans for not having. We should end charitable tax exemptions.

JEFFREY CAIN

This article originally appeared in The Giving Review *on January 26, 2023. A shorter version* *appeared* *earlier in* The Chronicle of Philanthropy *on January 24, 2023.*

Some years ago, I was sitting in the Lillian S. Wells Foundation quarterly board meeting just off Fort Lauderdale's sun-drenched Los Olas Boulevard, when our foundation chairwoman asked: *How much are we required to give away this year?*

The question didn't strike me then the way it does today. It was routine. I've heard it asked—and have asked it myself—a hundred times during the past 20 years as a foundation director, nonprofit executive, and philanthropic advisor.

Like all charitable foundations, we were required by the U.S. Internal Revenue Code to distribute five percent of the foundation's assets to qualified nonprofit organizations annually. So, naturally, we asked: *How much are we required to give away this year?*

Most Americans, though, never ask that question. Most Americans wouldn't give it a second thought. Why would they?

The overwhelming majority of taxpayers don't itemize their federal income taxes or claim the charitable deduction. Most Americans will never start their own foundation or open a donor-advised fund (DAF). Most don't have a tax accountant, philanthropic advisor, or private account at Northern Trust.

Long before the Revenue Act of 1917 created a tax deduction for charitable contributions, Americans gave to charity and formed voluntary associations of every kind. The genius of American philanthropy, it is often said, is that nearly all Americans, of every income level, give. But the tax-exempt portion of the Internal Revenue Code is not for all Americans.

For most Americans, charitable giving begins by asking: *How can I help? What do they need? How can I make a difference?* They would never think to ask: *How much am I required to give away?* That's the animating question of tax-incentivized Big

Philanthropy, not charity.

American charity, in other words, pre-dated the creation of the Internal Revenue Code and the federal income tax. It didn't need to be "incentivized" into being by government tax policy. Charitable exemptions in the Internal Revenue Code are for those few Americans who practice philanthropy, not the many who practice charity. Tax-incentivized Big Philanthropy is the business of giving that begins by asking: *How much are we required to give away?*

When I think about the future of Big Philanthropy, I am struck by the great and growing chasm between the very few whose giving is calculated by asking *How much are we required to give away?* and the great many whose charity begins by asking *How can I help?* What does this division tell us about the future of Big Philanthropy?

Charitable exemptions in the Internal Revenue Code are for those few Americans who practice philanthropy, not the many who practice charity. Tax-incentivized Big Philanthropy is the business of giving that begins by asking: *How much are we required to give away?*

THE BIG PHILANTHROPY LEGISLATIVE BUZZSAW

The formidable body of tax-exempt law, policy, and regulation created and overseen by lawmakers over the past 100 years provides the framework for tax-exempt Big Philanthropy. Enacted with the ostensible intention of keeping America's charitable sector independent, I wonder today: *Whom do these laws serve? What have they protected? Is America better off because of them?*

In November 2020, philanthropists Laura and John Arnold announced an initiative to increase charitable giving by making modest changes in the laws governing tax-incentivized Big Philanthropy, the Initiative to Accelerate Charitable Giving. The Arnolds previously won plaudits for signing The Giving Pledge in 2010 and for their "impactful" giving along a broad range of public policy areas, like prison reform and scientific integrity. The Philanthropy Roundtable feted Laura Arnold as one of "10 Exceptional Women in Philanthropy."

At the height of the Covid-19 pandemic, many believed that charitable foundations, with nearly $1.5 trillion in tax-advantaged assets, could distribute more. After all, one of the arguments in favor of perpetual charitable trusts and tax-advantaged foundations with large endowments is that they can be mobilized in times of crisis. The Arnolds agreed. Their initiative set out to increase giving by promoting greater accountability and fixing inefficiencies in charitable-giving tax laws.

The Arnolds' initiative includes, among other changes, a provision that would disallow foundation family members from counting their salaries and travel expenses toward their foundation's annual charitable-payout obligations. Contributions to DAFs—charitable-giving holding accounts that allow donors to retain advisory privileges over how funds are distributed—would not count toward annual foundation payout requirements. The five percent of assets that tax-exempt charitable foundations are required to payout annually would have to be put directly into charitable purposes.

The Initiative to Accelerate Charitable Giving would also compel gifts to DAF holding accounts to be distributed within 15 years to receive an up-front tax benefit—which they get under current law, but with no time limit. Presently, donors can contribute to a DAF and receive an immediate tax deduction but are under no obligation to distribute the funds in the year they receive the deduction.

Legislation influenced by the Arnolds' initiative currently languishes in Congress. But to Big Philanthropy, the Arnolds' proposal was dead on arrival. Nonprofit executives, think-tank leaders, university faculty, DAFs themselves, policymakers, and fellow philanthropists—from both the political right and left—panned the Arnolds' initiative and related legislation. The Wisconsin-based Bradley Foundation president Richard Graber dismissed the initiative as "a solution in search of a problem."

Of the 85,000 private, family, and community foundations in America, the Initiative to Accelerate

Charitable Giving website lists fewer than 15 foundation members. The liberal Council on Foundations and its member groups oppose legislation based on the Arnolds' proposal because it adds "complexity and costs for foundations and donors." Writing to Congress in 2021, the Philanthropy Roundtable, representing "64 other free-market and conservative organizations," warned that "this proposal would severely hamper Americans' ability to give to causes they care about."

The Arnolds' initiative has run into the same Big Philanthropy buzzsaw that shredded the 2017 Trump tax cuts. A flurry of reports, studies, press releases, op-eds, and countless interviews and podcasts foretold the collapse of charitable giving if the Trump administration's proposal became law. Americans would become "less generous," a *Time* headline emblazoned.

The Tax Cuts and Jobs Act nearly doubled the standard deduction to offset the cost of lower tax rates for all taxpayers. The University of Pennsylvania's Wharton School of Business warned that raising the standard deduction would give taxpayers fewer incentives to give, because fewer would itemize and claim the charitable deduction. The Wharton School warned that Donald Trump's tax cuts would lead to a "$22 billion drop in charitable giving." That did not happen.

In 2019, Americans contributed $450 billion to charity, the second-highest amount ever at the time in nominal, inflation-adjusted dollars. "People donate when they have more after-tax income and when the economy is strong," the Tax Foundation reported in 2020, "not when they are induced to do so by the tax rate." In other words, lower taxes and a good economy have a bigger influence on most American charity than the charitable tax exemption.

RISE OF THE PROFESSIONAL PHILANTHROPIC CLASS

Why such bipartisan opposition among America's elites to changes in the tax-exempt portion of the Internal Revenue Code? Why is it that nonprofit organizations funded by George Soros, the Gates Foundation, and the Koch brothers walk in lockstep when it comes to opposing changes to tax-incentivized Big Philanthropy? Why do ideological, policy, and political differences evaporate when it comes to charitable tax advantages for wealthy Americans?

Why is it that nonprofit organizations funded by George Soros, the Gates Foundation, and the Koch brothers walk in lockstep when it comes to opposing changes to tax-incentivized Big Philanthropy? Why do ideological, policy, and political differences evaporate when it comes to charitable tax advantages for wealthy Americans?

The tax-exempt portion of the Internal Revenue Code allows donors to make tax-advantaged charitable contributions to various giving vehicles, including charitable trusts, foundations, and DAFs, among others. It generally requires those same funds to be distributed to qualified tax-exempt nonprofits. Nonprofits may in turn use their tax-exempt dollars to advocate, educate, and even lobby in support of tax-exempt charitable laws that, in turn, inure to the benefit of the nonprofit's major donors. In other words, philanthropists can use their tax-advantaged funds to advocate for greater tax-incentivized charitable laws through the tax-exempt nonprofits they support. And they do.

This circle of self-serving charitable giving has helped to spawn a permanent, parasitic, and professional philanthropic class that knows who butters its bread: Big Philanthropy. America's professional philanthropic class—which includes employees of universities, nonprofits, think tanks, philanthropies, journalists, DAFs, investment banks, financial and philanthropic advisors, and charitable foundations—all drink from the same government-regulated trough of tax-advantaged charitable funding, creating a conflict of interest that is baked into the Internal Revenue Code's charitable tax exemptions.

This conflict of interest helps explain why the professional philanthropic class often stands uniformly opposed to even modest changes to charitable tax laws. Its opposition arises from the conflict inherent in the charitable tax-exempt system. The livelihood of the professional philanthropic class is dependent on Big Philanthropy's tax-advantaged charitable grantmaking. Because nonprofit grant recipients have a financial interest in advocating for favorable charitable policies, tax exemptions have been a powerful means of accelerating the growth of Big Philanthropy. This structural conflict of interest also renders Big Philanthropy's research, education, and advocacy as suspect as that of Big Tobacco in the 1970s.

The professional philanthropic class has been successful in preventing legislative changes adverse to Big Philanthropy's interests. Its success, however, is also its weakness. Things impervious to change or self-reform are often in decline, even when they appear strong.

In a diverse, stratified, and rapidly changing society, Big Philanthropy stands ossified, out of place and outside of time, like the towering Tyrannosaurus Rex in the concourse of the Chicago Field Museum. At the very moment when its size and influence seem greatest, Big Philanthropy is weak.

Despite the triumph of tax-incentivized Big Philanthropy, America's nonprofit or independent sector grows stagnant and increasingly dysfunctional. America's government-regulated regime of tax-incentivized philanthropy has remained about two percent of gross domestic product (GDP) since the 1970s. Year-to-year giving fluctuates, to be sure. But changes in monetary policy, fiscal policy, tax policy, charitable tax exemptions, the general health of the economy, generational giving spikes, or innovations in charitable giving vehicles have not moved charitable giving beyond the roughly two-percent-of-GDP threshold since President Gerald Ford was in the Oval Office. Events from recent history are instructive on this point.

Although the Federal Reserve added the equivalent of Sweden's entire GDP every year for the past 15 years to the U.S. economy, ballooning its balance sheet from $900 billion in 2008 to nearly $9 trillion today, charitable giving as a portion of GDP declined. It went from 2.2% in 2008 to 2.1% in 2021. The largest intergenerational transfer of wealth in U.S. history of $68 trillion from aging Baby Boomers to younger generations beginning in 2007, likewise, has not grown the charitable sector as a portion of GDP. What about the great innovation in giving vehicles hyped by the professional philanthropic class as "democratizing philanthropy," DAFs? Despite DAF accounts swelling in number from 181,000 in 2008 to more than 1 million today, DAFs have had exactly zero effect on total charitable giving as a portion of GDP.

Tax-incentivized charitable giving laws, whatever their intended purpose, have not incentivized charitable giving beyond two percent of GDP for over 50 years. It seems reasonable to ask, therefore, if charitable-giving tax policies suppress giving, acting as a charitable giving ceiling rather than a floor. Big Philanthropy gives as much as it is *required* to give away each year, not more, to maximize tax advantages. Tax benefits for wealthy Americans, rather than "tax incentives" that promote giving, seem to be the *de facto* purpose of the exempt portion of the Internal Revenue Code.

BIG PHILANTHROPY IS A RACKET: END CHARITABLE EXEMPTIONS

While the independent sector languishes decade after decade in two-percent-of-GDP purgatory, the past 15 years boomed for America's most wealthy. For the first time in American history, the top one percent of Americans owns more assets than the country's entire middle class. Their increased wealth is insulated by tax-incentivized charitable giving.

For most Americans, however, this same stretch of time since the Great Recession represents lost years in terms of wealth creation and preservation. Most Americans have seen a slow but sure decline in wealth, a dramatic rise in debt, and more recently a drop in savings, even in an economy awash

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with cheap money, soaring stock valuations, and spectacular increases in real-estate values.

In protecting the underlying logic of tax-incentivized Big Philanthropy, the philanthropic professional class has served its patrons well, but not the bulk of Americans. The rise of Big Philanthropy has contributed to a historic retreat in public trust in nonprofit institutions.

Household giving to charity across all racial and ethnic groups is also in steady decline. For those households that do give, "the average amount given is going down for all but the wealthiest families," according to The Generosity Commission.

Americans grow weary of Big Philanthropy's special tax privileges. The Internal Revenue Code says emphatically that Bill and Melinda Gates are treated differently under the law because they give more money to a private, tax-advantaged foundation (which they control). They're philanthropists; most Americans are merely charitable.

Unequal treatment through charitable tax-exemptions promotes division in America. Tax-incentivized philanthropy doesn't serve most Americans. It contributes to the concentration of wealth through charitable tax exemptions and incentives. And it requires voluntary associations of every kind to petition the privileged philanthropic class for patronage and funding.

Americans are right to chafe at the rise of tax-incentivized Big Philanthropy, for it has emerged over the past 100 years as a simulacrum of the medieval European spoils and patronage system that revolutionary Americans once rejected and warred against: a system where, in order to get things done, the many must petition the few—government and the aristocracy—for recognition, license, and funding.

Tax-incentivized Big Philanthropy, in other words, has reconstituted the very system that Alexis de Tocqueville once famously lauded Americans for *not* having in his *Democracy in America*. The rise of Big Philanthropy has contributed to the stagnation of voluntary associations, broad-based charitable giving, and civil society. It has helped to create a popular loss of faith in the American system, its institutions, and its leadership and managers. Big Philanthropy is fundamentally un-American.

The future of tax-incentivized Big Philanthropy in America is a story of decline at the very moment when its influence seems boundless. Because conflict of interest is baked into the Internal Revenue Code's charitable tax exemptions, the prospect for meaningful self-reform seems remote. Whenever the specter of reform materializes, like with the Arnolds' proposal, the professional philanthropic class mobilizes, resists, and conjures hollow counter-reforms like the above-the-line charitable deduction, adopted in the 2020 CARES Act.

Following passage of the CARES Act, charitable giving in 2021 declined by 0.7% after adjusting for inflation. In a year when the S&P 500 gained 26.9% and home prices increased by 18.8%, an expanded charitable deduction had zero impact on giving. This was predictable, of course, because everybody knows that for the overwhelming majority of Americans, the charitable deduction is meaningless. An above-the-line charitable deduction is a cynical Beltway strategy to protect tax-incentivized Big Philanthropy by redirecting the reform conversation away from meaningful change. It's a game.

When the world is viewed through the inherent conflict-of-interest prism of tax-incentivized charitable giving, it's difficult to see, much less acknowledge, that 100 years of charitable tax exemptions have arrested the development of the independent sector. It's difficult to see that most Americans are nonplused by tax-incentivized Big Philanthropy: unmoved by encomiums to wealthy donors served up by the professional philanthropic class at awards ceremonies and in news outlets funded by tax-incentivized charitable dollars. When you're living in the tax-incentivized charitable-giving conflict-of-interest bubble, you simply

[M]eaningful reform of the tax-exempt sector will be driven by populists outside of Big Philanthropy instead of from conflicted parties within it. These reforms will be of the hatchet, not the scalpel variety … and they will come from both the political right and left. Occupiers. Tea Partiers. Democratic socialists. Trumpers.

don't see what's apparent to most Americans: Big Philanthropy is a racket.

This is why meaningful reform of the tax-exempt sector will be driven by populists outside of Big Philanthropy instead of from conflicted parties within it. These reforms will be of the hatchet, not the scalpel variety, embodying the spirit of the Trump tax cuts, not the Arnolds' modest proposal; and they will come from both the political right and left. Occupiers. Tea Partiers. Democratic socialists. Trumpers.

Policymakers and the professional philanthropic class should stop playing cat-and-mouse Beltway games that never address the inherent conflict of interest baked into tax-incentivized Big Philanthropy. Instead, policymakers should embark on a bold new project: remove the conflict of interest inherent in tax-incentivized Big Philanthropy by ending charitable tax exemptions of every kind. Under this regime, wealthy Americans can emulate the giving habits of the 90% of Americans whose charitable giving is made with after-tax dollars. Removing the charitable-exemption lid will inaugurate a new era of greater giving, and the independent sector can finally live up to its name.

Jeffrey Cain *has been chief executive officer of CrossFit, president of the Arthur N. Rupe Foundation, director and secretary of the Lillian S. Wells Foundation, and vice president of the Intercollegiate Studies Institute. He is also a co-founder of American Philanthropic, from which he retired in 2017.*

FORGO MANDATES AND WORK TO CHANGE PHILANTHROPY THROUGH EXCELLENT GRANTMAKING

Improve lives, grow and strengthen civil society, and demonstrate the power of private giving based on our core values.

JOANNE FLORINO

This article originally appeared in The Giving Review *on January 30, 2023.*

It is certainly true that, as *The Giving Review* has noted, private philanthropy in the United States "is increasingly on the defensive." Whether such a position is justified, however, is a subject of debate. American philanthropy has a long and distinctive heritage, but it is no stranger to controversy. Anyone familiar with John Rockefeller's struggle to obtain a federal charter for the Rockefeller Foundation (first funded by the donor in 1909 when philanthropy was not yet "tax-incentivized") knows that his opponents characterized such an institution as an enemy of democracy. The federal charter never materialized, but with a New York State charter in hand, Rockefeller went on to build a legacy of private giving that continues to this day.

As the number and size of private foundations increased through the 20th and early 21st Centuries, concerns about these vehicles continued, always with the question of whether donor-directed philanthropy was actually focused on the "public good," a term that defies an unbiased definition. Rules and regulations followed to stem activities that were deemed political, mandate an annual payout, prohibit self-dealing, and require tax filings that included transparency around compensation, grantmaking, and investment management. Yet despite the complex compliance demanded by IRS overseers, Senate Finance Committee Chairman Chuck Grassley opened a set of 2004 hearings on the nonprofit sector (charities and foundations alike) by complaining, "Big money, tax free, and no oversight have created a cesspool in too many cases."

Facing its critics, the philanthropic sector has never denied that abuses occur, nor has it opposed reasonable regulations. But the dialogue about philanthropy has changed over the past five years or so, and unlike my colleagues at *The Giving Review*,

I am concerned that a conservative nod to new regulatory mandates based on someone's opinion of "what Big Philanthropy is doing in, and to, America" will have a disastrous impact on philanthropic freedom, on private giving, and on civil society.

I am concerned that a conservative nod to new regulatory mandates based on someone's opinion of "what Big Philanthropy is doing in, and to, America" will have a disastrous impact on philanthropic freedom, on private giving, and on civil society.

Three books published in 2018 questioned the legitimacy—even the very premise—of private philanthropy in the United States. In *Just Giving*, Stanford University professor Rob Reich, who had once viewed even "big" philanthropy as a counterweight to big government and big business, questioned whether tax-advantaged private philanthropy was simply power exercised willfully and without public accountability, a force that might undermine democracy. *Winners Take All* became the platform through which former McKinsey consultant Anand Giridharadas questioned the motives and the efficacy of philanthropists who, he alleged, used their giving to avoid confronting how they came by their power and wealth. Edgar Villanueva's *Decolonizing Wealth* explored the relationship among racism, an extractive economy, and wealth creation, and called for increased power-sharing and greater equity in philanthropic decision-making.

With those three books as a backdrop, private philanthropy faced the 2020 challenges of responding to a national health crisis, lockdowns, ensuing economic and educational crises, and a simultaneous racial upheaval. The response was overwhelming from small and large foundations that represented a wide spectrum of philosophical persuasions. Beyond providing additional funding that year, foundations changed their grantmaking operations. They eliminated or streamlined applications and reporting requirements, fast-tracked the approval process, used electronic transfers for quicker payments, redirected project-specific grants to general operating support, and removed challenge or matching requirements. Nonetheless, the doubters and critics of philanthropy continued to demand more. In that tumultuous year, a group calling itself Patriotic Millionaires pushed Congress to double the minimum share of assets foundations would be mandated to distribute. One of their spokespersons, Scott Wallace of the Wallace Global Fund, remarked that "only Congress has the power to force this massive injection of wealthy people's money into jobs and nonprofit charitable organizations working in vital areas like health care, food banks, poverty alleviation, education, social justice, and economic development and job creation."

In response, I suggested that it was hardly "patriotic" to interfere with the decisions of foundation boards—the rightful stewards of their endowments—regarding foundation payout or lifespan, or to mandate that they abandon their values, missions, or donor intent in their grantmaking. Instead, we should allow foundation governance to work and produce a healthy variety of voluntary responses. And foundations did, in fact, differ in their responses to increased need, with some immediately ramping up their giving overall and others sticking with their typical annual payout while refocusing some dollars on health or on economic issues resulting from the lockdowns.

But there is a more important lesson here. All too frequently, the advocates of what appear to be simple, structural changes to philanthropy are seeking to destroy what Karl Zinsmeister once called "a riotous patchwork" of private giving choices in order to drive all philanthropy to their own notions of the what-should-be-obvious central problems of American society.

Conservatives should be wary of what's behind the curtain and protect

> the broad range of causes and organizations funded by nongovernmental dollars, the increasing number of ways donors can deliver those dollars, and the many timetables on which those dollars are expended [which] all make for a vibrant civil society that is nimbly responsive, deliberately experimental, and determinedly focused all at the same time.

Conservatives should also reject the premise behind many of the "reforms" currently suggested for both private foundations and donor-advised funds (DAFs) that tax incentives designed to grow giving and protect civil-society institutions from unreasonable government control are actually subsidies that transform dollars privately donated into assets that belong to the public and are therefore subject to democratic control. This claim has been successfully rebutted, most notably by Evelyn Brody and John Tyler in their publication, *How Public is Private Philanthropy?* We should be clear in our acknowledgment that the state has the authority to regulate and supervise all §501(c)(3) entities to ensure that their assets are not used for private benefit. Beyond that, however, tax incentives do not oblige private foundations and other charities to use their assets to serve the same ends as government. "Autonomy has been one of the defining characteristics of American foundations and other charities," Brody and Tyler concluded. "Such entities are free to support and pursue differing and even contrary programmatic visions, strategies, methods, and structures provided that they do not stray from their mandate to serve charitable purposes."

We should also acknowledge that the Internal Revenue Service definition of "charitable purposes" covers a multitude of causes that may not appeal to Americans of one political persuasion or another. I find it quite ironic, for example, that the Hewlett and Ford Foundations and the Omidyar Network are utilizing their charitable resources to replace "the neoliberal paradigm" that liberty and prosperity are best achieved with limited government in a free-market system when their assets originated from the disruptive innovation that flourishes in that very system. Many conservative outlets—including *The Giving Review*—have also expressed their unhappiness with the grantmaking of the multi-billion-dollar Ford Foundation, and with CEO Darren Walker's advocacy of moving "from generosity to justice." As two of its co-editors noted, "Whether Big Philanthropy's power is in the hands of detached professionals or radical activists, it is very far from what everyday American citizens have in mind when they think of charitable activity."

While I understand this concern, the distinction between philanthropy and charity is not new; the search for root causes engaged John Rockefeller throughout his life. Today, foundations of all sizes and philosophical persuasions frequently supplement

Sen. J. D. Vance seems to have decided that $100 million is the magic number, suggesting that foundations with more than that amount in assets be required to pay out 20% each year or else lose their tax-exempt status. That is, in essence, a mandatory death sentence for a broad swath of foundations in this country.

their support for basic community needs with grants to support research or policy-focused nonprofit organizations. We see this in admittedly conservative grantmakers like the Bradley Foundation, which blends its support of faith-based, human service and arts organizations in Milwaukee with its grants to "advance federalism and limit government at the national, state, and local levels." And we see it in progressive funders like the Park Foundation, which combines grants "dedicated to advancing a more just, equitable and sustainable society" with support for human service and cultural nonprofits in its home community of Ithaca.

Finally, any attempt to define "Big Philanthropy" will be fraught with challenges. Sen. J. D. Vance seems to have decided that $100 million is the magic number, suggesting that foundations with more than that amount in assets be required to pay out 20% each year or else lose their tax-exempt status. That is, in essence, a mandatory death sentence for a broad swath of foundations in this country. And even if there were agreement on a significantly higher number, does it make any sense to demand that foundations that, in Vance's words, constitute "a massive left-wing bias at the heart of our society" flood civil society with even more progressive dollars?

As I noted in a *RealClearPolicy* article,

> It's essential that those who seek to kneecap philanthropic generosity on ideological and political grounds remember what goes around comes around. Ill-conceived government mandates will not discriminate—nor should they. Additional regulations will not just burden the foundations politicians or bureaucrats dislike, but all foundations governed by the same rules.

It's likely that any new regulations would have a far greater negative impact on small and regional organizations than “big” ones and reduce the amount of charitable dollars available to those in need.

We should also recognize that that limiting foundation and DAF lifespans and adjusting payout rules will never satisfy the hard-core opponents of philanthropy, those who maintain that wealth itself is the problem and that confiscatory taxes and expanded government spending are the solutions. In the process of attempting to appease them, conservatives will sacrifice both donor intent and donor privacy, essential elements of philanthropic freedom.

Instead, conservatives should forgo the use of government mandates and work to change philanthropy through the optimism and excellent grantmaking that was so evident in the last quarter of the previous century. We can encourage and assist conservative donors to commit to the long term and build new institutions where none exist or where existing ones have grown bloated and stale; to defend and advance our nation’s constitutional principles; to restore democratic norms, including free speech and religious freedom; to promote limited government and voluntary association; to expand economic opportunity within the free market; to strengthen families and communities; to build character and reinforce the value of personal responsibility; and to stand up for individual rights and the equality of all people.

That is how we improve lives, grow and strengthen civil society, and demonstrate the power of private giving based on our core values. Our success—and the strength and resilience it will bring to our communities—is how we can meet the challenge of so-called “Big Philanthropy.”

Joanne Florino *is the Adam Meyerson Distinguished Fellow in Philanthropic Excellence at the Philanthropy Roundtable.*

RESPECTING THE RULE OF LAW, AND CONSIDERING PHILANTHROPIC REFORM

Recognizing a tenuous credibility, and reviving a true charity.

CRAIG KENNEDY

This article originally appeared in The Giving Review *on February 2, 2023.*

I am not a conservative or, at least, I am not a conventional conservative. Nonetheless, I often find myself aligned with that part of the ideological spectrum because I do believe in the rule of law and the commitment that every citizen should have to following the rules as they were intended. Currently, the rules and regulations that govern philanthropy have been twisted and bent so their original intent has been lost. With a few simple changes, this situation could be reversed, and the credibility of the charitable sector could be reaffirmed.

For decades now, the American public has supported the idea that giving money to charities is good and so good that we are willing to provide donors with tax deductions to encourage their generosity. While incentives for giving have been in place for a long time, the current framework was really set in 1969 when, after many hearings and reviews, Congress passed a comprehensive reform package designed to ensure that the recipients of charitable deductions were actually giving their money for legitimate charitable purposes. Prior to 1969, donors to foundations could get a significant tax benefit and not make any serious grants. The new framework required foundations to give away at least five percent of their assets each year and it reduced the tax deduction for the donors to foundations on the grounds that the real charitable impact of the money would be delayed. If you gave your money directly to an operating nonprofit pursuing a real charitable purpose, you received the full benefit. If you decided to create a foundation and give the same amount of money over many years, you received a lower benefit.

In addition, the 1969 Tax Reform Act also sought to prevent all donors, individuals, and foundations from using charitable gifts for the pursuit of political goals. One impetus for Congressional hearings in the 1960s was a concern that nonprofits were engaging in partisan politics through voter-registration and get-out-the-vote (GOTV) activities to benefit particular candidates and that foundations and other wealthy donors were supporting this work as part of their charitable mission. For example, during the Cleveland mayoral campaign in 1967, the Ford Foundation made grants to several nonprofits that focused on voter registration in the black community. When Carl Stokes became the first black mayor of Cleveland, politicians noticed. The new framework adopted in 1969 put serious constraints on what §501(c)(3) organizations can do in relation to elections and, in doing so, made it difficult for donors to make contributions to entities involved in election-adjacent projects.

For some years, these strictures were effective. Foundations made their five-percent distributions each year and, even though grant-related expenses can be counted towards that requirement, most institutions were very careful to keep their expenses low so that Congress had no reason to start a new round of investigations and hearings. Similarly, the constraints on giving to politically motivated projects were effective for the same reason. After watching Ford Foundation leaders and others stumble and stammer before House and Senate Committees, no one wanted to see their institution's chair or president in the hot seat. Internal Revenue Service scrutiny of nonprofits engaged in voter registration and other election-adjacent activities was also significant enough to discourage major violations of these rules.

Today, the framework set in place in 1969 has been sharply distorted through the strenuous efforts of clever tax advisers and smart lawyers.

Today, the framework set in place in 1969 has been sharply distorted through the strenuous efforts of clever tax advisers and smart lawyers. Many wealthy people forego the creation of foundations and opt to give their money to donor-advised funds (DAFS), for which they can get a full charitable deduction and have no requirement to give any of the money away. Unlike foundations that are required to make public their annual contributions, DAFs are not subject to the same disclosure rules, so a donor can operate literally under the radar and avoid any complications regarding their philanthropic endeavors. DAFs are also used by foundations to fulfill their distribution requirements. A recent Bloomberg report revealed that a number of major hedge-fund managers have created foundations whose money is still managed by them and that these foundations fulfill their five-percent payout requirement by giving all or most of it to DAFs.

Similarly, foundations, individuals, and nonprofits have taken advantage of ambiguities in the restrictions on political activities. The advent of large, well-staffed, and well-lawyered national organizations that sponsor local and statewide voter-registration, voter-education, and GOTV activities has resulted. The 1969 legislation required organizations engaged in this type of work to operate in at least five states. These national groups easily meet that requirement, yet still allow entities with local brands to actually do the work. This may all technically be within the legal boundaries, but their ads, messaging, and actual activities certainly do not come close to accord with the spirit and intent of the 1969 law.

Another way the law has been subverted and twisted is in the growth of highly politicized §501(c)(4) organizations that are allowed to involve themselves more directly in elections and engage in almost every aspect of electoral politics except making direct contributions to a candidate. Because of their wide scope of permissible action in partisan politics, contributions to (c)(4)s are not eligible for charitable tax deductions. However, (c)(3)s are allowed to support these groups as long as the specific projects they fund are aligned with the donor's charitable mission. As a result, a wealthy political activist can make a charitable contribution to a (c)(3) and that group can then transfer some or all of the money to a (c)(4). Foundations and DAFs can also directly support (c)(4)s as long as they exercise "expenditure responsibility," a technical term referring to the need for more-detailed financial and programmatic reporting on how the money advances the applicable charitable purpose. One way or another, foundations and the wealthy can get their tax benefits and engage in political activities subsidized by the rest of us.

What should be done to address these two egregious distortions of the 1969 Tax Reform Act? The first challenge, the stockpiling of charitable money in nontransparent funds, is the easiest one to tackle. DAFs should simply be treated the same as foundations, with the same tax benefits and the same distribution and reporting requirements. This can be done by simply getting rid of the much-abused DAF designation and forcing wealthy people to create foundations if they want to leave a charitable legacy.

The political distortions are more complicated. One simple step would be to no longer allow (c)(3)s, foundations, and DAFs to transfer resources to (c)(4) s. The justification for permitting these transfers has always been tenuous at best. The notion that charities need real engagement in electoral politics to pursue their legitimate ends may appeal to limousine liberals and their satraps. However, the intent of the 1969 law was definitely to push the charitable and political realms father apart. The authors of this legislation would be appalled to see how a few loopholes have been used to create a massive overlap between the charitable and the political.

What should be done about 501(c)(3) organizations that involve themselves in election-adjacent activities? There would seem to be two routes. One would be to legally redefine the types of work that can legitimately be done in this area by (c)(3) nonprofits. This might entail broadening the notion of what constitutes partisan activities to include targeting populations that are likely to support a given candidate by focusing registration and messaging campaigns on these groups. Alternatively, at a time of record voter registration and historic turnouts in all communities, it may be time to simply prohibit charities from engaging in registration, voter education, and GOTV projects. When these activities were originally allowed, there was a large discrepancy between the voting behavior of different racial and ethnic groups. That discrepancy has largely disappeared.

A second approach would be to increase enforcement of the current laws. Many commentators have noted that the existing system is broken and one of its biggest weaknesses is a lack of action by federal and state authorities when clear violations of the line dividing charity and politics are reported. Conservatives may not like the idea of an enlarged bureaucracy focused on addressing these abuses. However, given that the bulk of charitable money and charitable work focused on elections benefits liberal and progressive candidates, they should be able to tolerate stronger enforcement simply out of a sense of self-preservation.

The charitable sector is on the verge of losing its credibility. Americans should be very concerned by the current system and its flaws.

The charitable sector is on the verge of losing its credibility. Americans should be very concerned by the current system and its flaws. Giving tax benefits to the very wealthy to create DAFs and then allowing them to sit on the money should worry anyone who wants to see charitable resources deployed rather than warehoused. The blurring of lines between charity and politics strikes at the very core of the 1969 Tax Reform Act and some politicians, like J. D. Vance, seem interested in reopening this issue due to the abuses that are now so flagrant.

One hopes that liberals and conservatives can see the value of a charitable sector in which resources are used appropriately, and tax benefits are accrued for actually supporting legitimate charitable work in our communities. The sector strayed once before, and the result was a greatly expanded set of regulations and prohibitions. If we want to avoid a repeat of the 1960s, it would be wise for all of us, left and right, to exercise some self-control. Unfortunately, self-discipline is not fashionable today—so, alternatively, we should brace ourselves for a round of hearings and reports that reveal how a relatively few organizations have corrupted the current system.

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THE NONPROFIT THREAT

And what it may do to us, as well as the elites who created it.

JOEL KOTKIN

This article originally appeared in The Giving Review *on February 6, 2023.*

Throughout history, excess wealth has been used to salve society's problems, funding hospitals, food banks, and building libraries to develop minds and cathedrals to lift the spirits. But increasingly, the charitable urge has shifted away from such worthy causes and, increasingly, reflects a distinct progressive agenda that seeks, ultimately, to transform lives through the expansion of state power.

This reflects, in part, the shift in the nature of wealth in America. In the past, rich people tended to be employers of middle- and working-class people and frequently identified primarily with their local regions. But in an increasingly nationalized and globalized era, the charitable impulses are increasingly wide and diffused, less focused on personal improvement but in service to a distinct ideology, usually far to the left, but also on the libertarian right.

In the past, rich people tended to be employers of middle- and working-class people and frequently identified primarily with their local regions. But in an increasingly nationalized and globalized era, the charitable impulses are increasingly wide and diffused, less focused on personal improvement but in service to a distinct ideology, usually far to the left, but also on the libertarian right.

The predilections of the ultra-rich will likely loom over politics and policy debates for decades to come. In the U.S., nonprofits' assets have grown nine-fold since 1980. In 2020, nonprofits brought in $2.62 trillion in revenues, constituting more than 5.6% of the U.S. economy. And this process is just beginning, as the boomers begin to leave behind their riches. The consulting firm Accenture projects that the Silent Generation and baby boomers will gift their heirs up to $30 trillion by 2030, and up to $75 trillion by 2060.

Yet this bounty will be highly limited due to the rapid concentration of assets in ever fewer hands, with the top 1% in the U.S. increasing their share by roughly 50% since 2002. The class implications of this process are profound. The winners clearly will be the small pool of big inheritors, as we already see in Jeff Bezos' ex-wife, MacKenzie Scott; Bill Gates' now-discarded wife, Melinda French Gates; and Laurene Powell Jobs, the left-leaning publisher of *The Atlantic* and the widow of Apple's founder.

NEW AND OLD MONEY

The new money is strikingly different and much younger in contrast to more-conservative funders like Charles Koch, Oracle founder Larry Ellison, Rupert Murdoch, and the Irvine Company chairman Don Bren, all well into their 70s or 80s. They are increasingly outdone by the more-youthful "enlightened" rich, who have consistently outraised and outspent the political "right" in recent years by a margin of nearly 2 to 1.

The progressive elite are for the most part connected with firms with oligopolistic market control. Controlling 90% of markets like search engines (Google) and operating-system software (Microsoft), and dominating the cloud and online retail (Amazon) or 90% of phones (Google and Apple) does not turn executives into risk-takers, but acquirers. As well, three tech firms now account for two-thirds of all online-advertising revenues, which now represent the vast majority of all ad sales.

Finance, the other pillar of progressive philanthropy, has also become markedly more concentrated, with the number of banks down a full third since 2000 in the U.S., while Europe experienced a slower, but similar consolidation. The five largest banks control over 45% of all assets in the U.S., up from under 30% about 20 years ago. The five largest investment banks control roughly one third of investment funds; the top 10 control an absolute majority. These firms have tended to embrace progressive dogma as well, most notably in the adoption of ESG (Environmental, Social, and Governance) rules.

THE NEW PSYCHOLOGY OF MONEY

As Heather Mac Donald demonstrated in 1996, the big-money foundations in the U.S. have been bankrolling progressive and even far-left politics for several generations. But the rise of the tech oligarchy has accelerated this trend. Many of these billionaires are still in their 30s and 40s, but have accumulated more cash than anyone since the Gilded Age. In 2020, five of the top eight donors to Joe Biden came from tech firms.

This process was further speeded up by the rise of Donald Trump, a toxic presence who also threatened the left oligarch's quasi-monopolies. One effective example was the Chan Zuckerberg Initiative, which poured over $300 million into state and local election administration to stoke turnout. Conservatives claim, with some justification, that these efforts were concentrated in highly Democratic areas of swing states, and therefore may have tilted the outcome. This effort has been described by *Time*—owned by yet another progressive oligarch, Marc Benioff, co-founder of Salesforce.com—as "a conspiracy unfolding behind the scenes."

In coming decades, we can expect this trend to continue. Not only do we have to deal with the predictably left orientation of the oligarchs, but also from their forsaken wives, and their offspring. Bezos' former spouse MacKenzie Scott, worth an estimated $60 billion, has already given $130 million to a group pushing progressive education, as well as gender fluidity and other progressive causes. Melinda Gates, the former wife of the Microsoft founder, worth at least $6.4 billion, is also backing liberal causes like gender equity and the Clinton Foundation.

The ultra-rich have been particularly attracted to draconian climate positions. Leading billionaires like Tom Steyer—and powerful foundations like Rockefeller, Doris Duke, Walton, MacArthur, Hewlett, and George Soros' Open Society—have sent hundreds of millions to leading environmental groups. The Rockefellers, heirs to the Standard Oil fortune, have become some of the stiffest advocates of radical climate policies, centered around austerity, so damaging to the Western working class and those in the developing countries. They even favor punishing corporations that remotely follow the road to riches of their founders.

The coffers of environmental groups, including the Sierra Club, received huge donations, often as high as $100 million, from wealthy moguls like Ted Turner, Michael Bloomberg and Richard Branson. In comparison, the right-wing policy organizations are no match. The largest right-wing think tank, The Heritage Foundation, is small by comparison. Jeff Bezos in 2020 alone announced $10 billion in gifts, mostly to green non-profits. The oligarchs' philanthropy also provides a cushy home for climate bureaucrats, with the inheritor of the Jobs fortune now welcoming California's chief regulator to head up her climate-focused $3 billion Waverly Street Foundation. To control information, some of these nonprofits are now paying the salaries of a reporter at Associated Press and National Public Radio to mimic the party line.

ARE THE ELITES FINANCING THEIR OWN ULTIMATE DESTRUCTION?

The next generation of tech and finance heirs, such as the socialist offspring of the founders of Qualcomm, could prove even more radical. They have founded nonprofits that, notes *The New York Times*, financed by "rich kids who want to tear down capitalism." Born into the oligarchy, these young trust-funders do not have to worry if their activities bother customers or even undermine the business that created their fortunes.

To some extent, the tech oligarchs see themselves and are seen by some progressives as what progressive writer David Callahan describes as a kind of "benign plutocracy," in contrast to those who built their fortunes on resource extraction, manufacturing, and material consumption.(1) But the more-radical policies supported by the left-dominated nonprofits could ultimately also undermine even their own privileges. Like French aristocrats before the Revolution, they may be financing causes that threaten "their own rights and even their existence," as Tocqueville noted.(2)

The more-radical policies supported by the left-dominated nonprofits could ultimately also undermine even their own privileges. Like French aristocrats before the Revolution, they may be financing causes that threaten "their own rights and even their existence," as Tocqueville noted.

Even as the Democratic Party has benefited from the largesse of progressive donors and nonprofits, the party has moved in a distinctly socialist direction. Indeed, more Democrats support socialism than capitalism, particularly among the young. On the environmental front, oligarchic money finances apocalyptic scenarios and economy-crushing solutions that could backfire on the oligarchy.

In the future, it's likely that agitated young activists won't long tolerate billionaires who lament climate change, but fly their private jets to discuss the "crisis" in places like Davos. After all, if the world is on the verge of a global apocalypse, how can the luxurious lifestyles of so many of the world's most-public green advocates be acceptable? Ironically, much of this wealth was generated by a carbon-based economy that they are now trying to destroy as rapidly as possible.

Like their aristocratic forebears, our elites even have created their own set of convenient "indulgences," such as using offsets to make up for their often-large carbon footprint. These groups, notes one British journalist, tend to embrace a "pre-existing culture of misanthropic dread" that also enhances their power. Worried about the apocalypse, they want the next generation to cut back, while they fight the good fight in genteel style; as *The Guardian* noted, the oligarchs of Wall Street, Hollywood, and Silicon Valley travel to Davos in an estimated 1,500 GHG-spewing private jets.

This hypocrisy will eventually result in growing pressure against capitalism, which many of the progressive greens see as the major contributor to climate change. The red-green contingent generally agrees with the view of Barry Commoner, a founding father of modern environmentalism, that "Capitalism is the earth's number one enemy." Others favor "net-zero" and "de-growth" policies that would hurt working- and middle-class Americans, who would then need ever more support from the state. This money could only come from the ultra-rich.

Expropriation, at least in part, seems inevitable if the progressive dominance grows. Political leaders like Bernie Sanders, after all, do not distinguish between good billionaires and bad ones, but believe that billionaires should not exist at all. The Green New Deal proposed by the most-influential millennial politician, Alexandria Ocasio-Cortez, represents a direct assault on the boomer-elites'-funded environmentalism. Her plan, rather than enriching the oligarchs, would be financed in large part by expropriating their wealth.

Of course, the current oligarchy could find a secure place in a regime of state-oriented corporatism, much as some companies are able to do in China or even France. Monopolies like Google or Microsoft may still exist, but as quasi-government utilities that collect fees and squash innovative upstarts. Such a corporate state may please the inheritors, particularly if married to race, gender, and climate orthodoxy, but only by robbing capitalism of the dynamism that marked its ascendancy.

The current oligarchs may deserve opprobrium, but the ultimate danger posed by the nonprofit tsunami lies in their feckless embrace of a policy agenda that undermines the very essence of competitive capitalism. Like feudal lords, this new elite, emboldened by a common ideology, may continue to thrive in a world of frozen social relations, but only by destroying the very system that brought them their own good fortune—and that could someday threaten even their own privileged position.

Notes

1. David Callahan, *Fortunes of Change: The Rise of the Liberal Rich and the Remaking of America* (New York: Wiley, 2010), 67, 269.

2. Alexis de Tocqueville, *The Ancien Regime and the Revolution* (London: Penguin, 2008), 144.

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WHAT DO CONSERVATIVE DONORS WANT?

Conservative philanthropy is in crisis. It needs to be self-critically clear and honest about its position, as well as disciplined in pursuing its issues and aims.

JULIUS KREIN

This article originally appeared in The Giving Review *on February 9, 2023.*

Conservative philanthropy is in crisis, and it has been for a long time. For decades, right-of-center donors and foundations have presided over the intellectual stagnation of the conservative movement. During the last two election cycles, the Republican Party has failed to even offer a policy platform, with predictable results. Legacy institutions have seen executive compensation, property costs, and fundraising expenses balloon, while their policy influence and intellectual contributions have noticeably declined. These institutions have largely failed to engage with new ideas and a rising generation of thinkers, and their priorities remain conspicuously out of step with the desires of conservative voters and the needs of the country as a whole.

If conservative philanthropy is on the defensive, then, it is not simply because of smaller foundation endowments or various structural and procedural disadvantages, though these may well exist. Conservative philanthropy in general is poorly managed and badly executed. Compared to the left, philanthropy on the right is less organized, less proactive, less engaged, and less intelligent, yet often more rigid and dogmatic. Conservative donors often seem unable to straightforwardly articulate their goals, particularly the relationship between their own material interests and public purposes. As a result, the means chosen to pursue them are often profoundly inadequate or counterproductive.

Conservative philanthropy in general is poorly managed and badly executed. Compared to the left, philanthropy on the right is less organized, less proactive, less engaged, and less intelligent, yet often more rigid and dogmatic.

FUNDING A MOVEMENT WITHOUT AN AGENDA

The shock of Donald Trump's victory in 2016 should have provoked deeper reflection in the conservative philanthropic community. None of the core policy themes of Trump's campaign—a border wall, tariffs, opposition to wars in Iraq and Afghanistan, a commitment to preserve Social Security—was a priority of leading conservative think tanks and donors in the years leading up to 2016. On the contrary, these policies were direct repudiations of the George W. Bush administration's agenda and all the donor-supported policy work that went into it.

In 2016, however, the conservative "establishment" lacked both the credibility to defeat Trump and the intellectual capacity to develop his campaign's impulses into an effective agenda. Instead, it simply maintained its Bush-era course while reconciling itself, to varying degrees, to Trump's more-controversial rhetorical style and behavior. Instead of trying to sell the country on the failed Bush platform, the same groups would now sneak it in behind Trump's populist branding.

Given Trump's personal lack of interest in policy and the general chaos of his administration, this approach initially yielded significant returns. Aside from Robert Lighthizer's trade policies, and perhaps a few other exceptions, Trump's presidency followed a conventional conservative playbook. A large tax cut was passed, an attempt to repeal Obamacare failed, and major judicial appointments were made, along with some deregulatory efforts. On foreign policy, Bush's democracy-promotion agenda was shelved and David Petraeus's lectures on "counterinsurgency" disappeared from think tanks, but the Iran nuclear agreement was scrapped, the U.S. embassy moved to Jerusalem, and an Iranian general was assassinated. Despite a lot of noise, Trump never completed a withdrawal from Afghanistan or made any revisions to NATO or the U.S. military footprint. In short, despite Trump's unorthodox first campaign, his administration followed a fairly typical Republican approach.

The price of this compromise, however, was that the problems with conservative policy—and philanthropy—that erupted in 2016 were never addressed. Legacy conservative organizations and their donors never directly confronted Republican voters' repudiation of the Bush-era agenda. Mistakes were not acknowledged, discredited personnel were not retired, and new ideas were not developed. As a result, something like the worst of both Trumpian populism and establishment conservatism emerged by 2020. On the one hand, whatever substantive content right-wing populism might have had was exenterated as it became a vehicle for the Paul Ryan agenda. Yet, at the same time, the "respectable" elements of conservatism either blended into Trump's personality cult or had to renounce the President and the actually existing GOP, *à la* Liz Cheney, surrendering any influence in the process. Even the American Enterprise Institute (AEI), a stalwart of the center-right intellectual and philanthropic ecosystem, recently had to hold an all-hands meeting to discuss whether it was still a conservative institution.

Indeed, despite the considerable funding devoted to "conservatism studies," conservatism has become a purely negative vehicle of grievance politics. In 2020—and again in 2022—the Republicans could offer no policy platform outside of allegiance to Trump or reflexive opposition to Joe Biden. Efforts to develop new policy ideas were mostly denied donor and establishment support. On the other hand, more-overt efforts to return to Bushism—such as Rick Scott's "Plan to Rescue America," which would sunset Social Security—were rejected by party leadership because of their extreme unpopularity. It might be possible to pretend that the Scott plan was merely an amateur effort, but seemingly respectable—and certainly well-endowed—organizations like AEI offered more or less the same thing. They have continued to bang the drum for cutting or privatizing Social Security and enthusiastically promoted former prime minister Liz Truss's plan for unfunded tax cuts in the UK, which destroyed her popularity and led to her swift resignation. Figures like Glenn Hubbard, chairman of the Council of Economic Advisers during the Bush administration, are still writing simple-minded paeans to neoliberal globalization under the rubric of "Econ 101." With policy ideas like these, it's no wonder congressional Republicans preferred to run with no agenda at all.

Meanwhile, social-conservative philanthropy's greatest triumph—overturning *Roe v. Wade*—has turned into an electoral embarrassment. In the 2022 midterms, every ballot measure to restrict abortion failed. This follows other losses in deep red states, including a referendum in Kansas and a legislative defeat in Nebraska. It is clear that, despite the vast resources spent on the legal effort to overturn *Roe* during the last five decades, very little success has been achieved in influencing the broader culture, and very little work was done to prepare an electoral strategy or policy framework for a post-*Roe* environment. Nor does there appear to be much appetite among donors to do so. Proposals to strengthen support for families, including a bill sponsored by Sen. Mitt Romney, have received little attention or support from legacy institutions. Leonard Leo, a longtime leader of the Federalist Society and a key adviser on Republican judicial appointments, recently raised more than a billion dollars for a new conservative organization. But so far it has only made news for its campaign against Iowa's attorney general and attacks on consumer-protection regulations.

Since social conservatives yoked themselves to Republican "fusionism" and became more overtly political in the 1970s and '80s, the dominance of cultural liberalism, by many measures, seems only to have grown more pronounced across American society.

Moreover, overturning *Roe* is one of very few bright spots for social conservatives over the last several decades. Not only did they lose the legal and cultural battle over gay marriage, but recently the Senate passed a bill to establish same-sex marriage in federal law, with significant Republican support. In 2020, the Supreme Court ruled that the Civil Rights Act of 1964 covers discrimination against transgender individuals in an opinion written by Neil Gorsuch, a Republican-appointed "originalist" justice. Leaving aside debates over their substantive merits, both of these outcomes would have seemed unthinkable 20, or perhaps even 10, years ago. For social conservatives, it should be clear that the vast resources they have thrown at "defending marriage"—the para-academic organizations, the guest speakers, the seminars on new natural-law theory, the op-eds, and YouTube videos—were a total waste. Indeed, it is possible to argue that all of this philanthropy has been counterproductive. Since social conservatives yoked themselves to Republican "fusionism" and became more overtly political in the 1970s and '80s, the dominance of cultural liberalism, by many measures, seems only to have grown more pronounced across American society.

Indeed, in 2022, the conservative agenda of past decades looks completely hopeless. Bush-era economic policy is so unpopular even Mitch McConnell does not want to run on it. Gay marriage—assumed to be a vote-getter for conservatives in the 2000s and early 2010s—now polls at 60% to 70% approval. Abortion, though somewhat more complicated, hardly seems like a winner at the ballot box. Conservatism probably would have been completely routed as a viable political movement were it not for the left's own overreach and miscalculations, particularly its embrace of so-called wokeness.

Whether caused by the financial crisis, media hype around the "coalition of the ascendant" that elected Barack Obama, the rise of social media, or genuine cases of police brutality, a jargon-laden form of leftist identitarianism became central to American liberalism in the 2010s and exploded in the first year or two of the 2020s. The intellectual deficiencies and deep unpopularity of woke politics—particularly of certain policy outgrowths like the "defund-the-police" movement—need not be rehearsed here. But it is significant insofar as opposition to wokeness has allowed conservatism to avoid complete political irrelevance. It has given Republicans perhaps their only popular cause to run on, and by many accounts contributed to Glenn Youngkin's victory in the 2021 Virginia governor's race. Even San Francisco has recalled school-board members and its district attorney over woke excesses.

Wokeness is clearly unpopular, but it is less clear whether it can provide the cohesion that anti-communism offered the Reagan coalition, or how long it will maintain its hold on Democratic politics and liberal philanthropy. Already, Democratic politicians seem to have shifted away from the most-egregiously unpopular posturing. Behind the scenes, conferences among liberals are being held to find alternative policy approaches. Even more worrisome for conservatives is that the new directions liberal philanthropy is exploring penetrate deeply into the right's historical terrain. While "supply-side" issues were once the exclusive province of Reagan Republicans, "supply-side progressivism" continues to gain momentum. Democrats, rather shockingly, are also leading the way on nuclear energy and environmental-permitting reform. If these trends continue, it will be hard to provide a policy rationale for the Republican Party at all. And if liberals abandon wokeness in favor of a return to economic universalism and cultural pluralism, undergirded by a basic sense of national unity, then conservatives may be consigned to permanent minority status. Even if conservative candidates can always find donors, election-season campaign ads cannot make up for a discredited—or nonexistent—policy agenda.

YOU GET WHAT YOU PAY FOR

In explaining the dreary state of conservatism and conservative philanthropy, specific organizational and operational factors should not be overlooked. A cursory review of the grants of leading foundations like Scaife and Bradley reveals troublingly stagnant rosters of grantees, as well as institutional personnel, despite the extraordinary volatility of recent politics. This is especially true for social-conservative causes, where funding from foundations and elsewhere is concentrated among a narrow set of individuals and organizations, seemingly regardless of performance.

A number of other funding decisions at these foundations should also raise more questions than they typically do. Is it really a good use of resources, for instance, to give low-six-figure grants to an organization like AEI, which has an annual budget of $50 million, assets of $300 million, and its own established fundraising network? Surely, AEI can fund its own programming on "Education Policy Studies." On the other hand, grants of that size could make a significant difference for newer, smaller organizations. And is AEI's $300 million endowment a productive use of capital in the first place? Conservatives have rightfully questioned the capital-hoarding at university endowments in recent years; such asset accumulation seems even more dubious at a policy think tank.

A different set of questions arises with respect to grants like the Bradley Foundation's $300,000 gift "to support the Jones Act Repeal project." This essay is not the place to debate the Jones Act, and one can certainly find plausible reasons for repeal, but is a project targeting a single, specific piece of legislation an appropriate target for a nonprofit foundation? For both functional and probably legal reasons, efforts around specific legislation should be the work of industry lobbies and advocacy groups.

Furthermore, when it comes to collaboration with these other policy actors, the contrast with center-left foundations could not be more striking. Foundations like Ford are able to organize massive projects that bring together the corporate sector, U.S. and other governments, academia, media, policy institutions, and activists—adeptly funding and coordinating the roles of each. (To take a recent, minor, and relatively uncontroversial example, see the Missing Layers Initiative; more controversially, see Black Lives Matter.) Conservative philanthropic foundations, on the other hand, seem totally incapable of organizing anything at this scale or quality; rarely, if ever, does one see them coordinating with the private sector or other policy actors. Next to these efforts, conservatives' six-figure grants to sponsor political-theory seminars are just amateurish. In my admittedly limited experience, staff at left-of-center institutions are also more motivated, more engaged, and more knowledgeable than their right-wing counterparts—and actually less interested in ideological litmus tests.

DOING GOOD BY DOING WELL

More fundamentally, however, conservative philanthropy is in crisis because conservative donors seem incapable—perhaps even ashamed—of articulating their true goals. The principal, underlying goal of most conservative donors is something everyone knows, but few are willing to state openly: preserving their own wealth. (Some of them care about other things too, such as ending abortion, but essentially no conservative movement has ever called for, say, higher taxes in support of another policy objective.) This point is often raised as a criticism of conservative donors, and avoiding the

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shared sacrifices necessary to a healthy society is hardly commendable. But I mention it here only to argue that private wealth preservation is a perfectly reasonable and morally justifiable commitment. Thinkers ranging from Aristotle to Machiavelli, in addition to classical liberals and neoliberals, have recognized the political value of private wealth and the social costs of over-taxation.

Thus, where conservative donors have erred is not so much in their ends, but in their means. In order to defend private wealth, conservatives have funded the creation and promotion of an elaborate myth of "the market." This myth essentially imagines "the market" as a perfect system that always delivers the best outcomes for everyone unless some alien force—"the government"—interferes with it. This summary is a caricature, but unfortunately the caricature is not too far removed from the actual arguments put forward by conservative institutions today.

The benefit of this approach is that—unlike more-concrete justifications of private enterprise based on economic performance—the market myth can justify virtually anything, including bad performance. It also allows for a certain moral obfuscation, avoiding specific material interests in favor of abstract defenses of an immaculate system.

The problem, however, is that this fairy tale is absurd. To highlight just a few obvious issues: unregulated markets often end in disaster, as evidenced by the recent crypto carnage; the lines between public and private sectors are often blurry; governments have played important roles in catalyzing the development of new technologies, industries, and markets; and economic issues are often bound up with geopolitical concerns. These glaring limitations of the market myth make it fundamentally uncompelling, with little purchase among serious policymakers, scholars, or businesspeople, as well as voters. Even if one agrees with it in theory, it is rather worthless if it is a perennial election loser. It is also debilitating from a policy perspective, collapsing economic thought into an endless demand for more tax cuts, while excluding more-practical questions—such as whether a financial-transaction tax might be preferable to an income tax, or how to improve government-procurement mechanisms—since government intervention in general is presumed to be illegitimate.

Donors mainly concerned about private-wealth preservation would likely be better off ditching the market myth and more honestly focusing on their actual interests. This would allow a conceptual shift away from the secularized 18th Century deism of market equilibrium and toward an emphasis on development and growth. The connection between private investment and technological advance and productivity improvement is typically demonstrable in concrete and obvious terms, without recourse to blind faith in any spontaneous order. In cases where it is not, there probably is a real problem that needs to be addressed. As Irving Kristol, among others from previous generations of conservatives, recognized: acknowledging the limitations of market mechanisms enables an improved policy discourse and a stronger case on larger political questions. At any rate, more honest assessments would certainly be more effective than funding another Adam Smith seminar and a virtual pin factory.

THE ONLY WAY OUT IS THROUGH

Countless polemics from across the partisan spectrum have blamed donors—particularly conservative donors—for every political problem imaginable. I would argue, however, that many problems arise because donors—particularly conservative donors—are not sufficiently engaged. They have instead delegated important policy work to a cast of incompetent ideologues and bureaucrats. Everyone would be better served if these donors exercised more responsibility and control over their philanthropy. Conservatives typically like the idea of "running government like a business," but a good first step would be for conservative donors to run their philanthropy more like a business: replacing ineffective managers, cutting failed divisions, and developing new products. Donors should remember that the policy proposals that eventually became Reaganism were once new ideas, too. Enterprises that cannot innovate eventually die.

Again, however, this requires more honesty about the mission. Citadel mogul and Republican megadonor Ken Griffin recently gave a revealing interview to *Politico* that offers a solid starting point. Griffin said that "abortion rights, battles over sex education and LGBTQ rights—don't define his interests. He wants to improve the diversity of the GOP and blunt the vein of populism that has complicated the party's relationship with the corporate world …." He also criticized Florida Gov. Ron DeSantis's immigration policies, "Don't Say Gay" law, and dissolution of Disney's special tax district. In other words, Griffin essentially rejected the entirety of social conservatism and all of DeSantis's most-notable political actions, in service of "corporate-friendly" policies.

Those nostalgic for fusionist conservatism will be aghast at Griffin's suggestions, but this sort of clarity is critical in the present circumstances. If, in fact, the largest Republican donors essentially want to remake the existing Republican Party, then they should be straightforward about what that entails and systematically pursue it. That means dropping any remaining conservative baggage and forming a more-avowedly neoliberal enterprise, presumably with a new set of policy institutions—and a more-serious agenda that politicians can at least run on—appropriate to the task. (Alternatively, they might find more success simply by becoming pro-business Democrats; today's Democratic Party is hardly averse to wealth, and its moderate wing has proved highly effective in thwarting progressives in Congress.)

On the other hand, if social conservative donors are sincere, then they need to embrace the daunting work of building a more-viable political movement from a severely marginalized position. This means going well beyond judicial activism or symbolic culture warring and revisiting fundamental questions of political economy and other issues to align policy with their commitment to traditional values. It requires building new coalitions and new institutions, and certainly rethinking their alliance with neoliberals, who are, not without reason, increasingly dismissive of unpopular social-conservative commitments.

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Nevertheless, Griffin's statement notwithstanding, it seems more likely that inertia will prevail and conservatives will persist in attempting to repair their 20^{th} Century coalition. For now, the useful fiction of fusionist conservatism, though it hardly offers a stable basis for a governing majority, can still allow Republicans to win enough seats to obstruct the Democrats, for better and for worse. Until conservative donors decide what they actually want, however, conservative philanthropy—and the right in general—will remain incoherent and ineffective.

Editors' note: AEI says no meeting occurred "to discuss whether it was still a conservative institution," nor could any such meeting happen.

Julius Krein *is the founding editor of* American Affairs.

WHY THERE IS NO ECONOMIC CONSERVATISM IN AMERICA

Follow the money.

MICHAEL LIND

This article originally appeared in The Giving Review *on February 13, 2023.*

Why is there no economic conservatism in America? So-called conservative philanthropy should be assigned much of the blame, for crowding out genuine conservative economic thought and replacing it with radical libertarian ideology.

In most western democracies since 1945, conservatives like British One Nation Tories and French Gaullists have rejected free-market libertarianism in favor of a limited, but powerful non-leftist national government. In Germany, the conservative Christian Democrats and the libertarian Free Democrats have been separate parties. But in the United States, even as they have disagreed with libertarians on abortion, drugs, and foreign policy, conservative Republicans have adopted more or less the entire economic platform of the Libertarian Party.

The Libertarian Party is extremely unpopular with American voters, winning at best a few percentage points of votes cast in some elections. Why have the establishment conservative movement and the Republican Party embraced the platform of an unpopular fringe party as its own? Why do conservatives seek guidance in economic policy from thinkers like Ayn Rand, Milton Friedman, Ludwig von Mises, and Friedrich Hayek, all of whom contemptuously rejected the label "conservative" for themselves and insisted they were "liberals" or "classical liberals"?

The usual answer of libertarian conservatives is that the United States was born liberal, and therefore conservatism in America must conserve the economic liberalism of the Founding. But neither the Founders nor any significant American leaders of either party before the late 20th Century held anything like modern libertarian economic views. In the 19th Century, the "American School of National Economy" associated with Alexander Hamilton and Henry Clay rejected "English" free trade in favor of infant-industry tariff protectionism. Ironically, it was the Confederates—who rejected the liberal idea of human equality enshrined in the Declaration of Independence—who favored free trade and small, weak, ineffective government, to serve the short-term interests of their parasitic oligarchy.

In his essay "Libertarians: the Chirping Sectaries" in the Fall 1981 issue of *Modern Age*, Russell Kirk wrote:

> So in the nature of things conservatives and libertarians can conclude no friendly pact. Conservatives have no intention of compromising with socialists; but even such an alliance, ridiculous though it would be, is more nearly conceivable than the coalition of conservatives and libertarians. …
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> …
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> It is of high importance, indeed, that American conservatives dissociate themselves altogether from the little sour remnant called libertarians.

The substitution of simple-minded libertarian dogmatism for sophisticated conservative economic thought on the modern American right is not the result of tradition, then. The solution to the mystery is right-wing philanthropy.

The substitution of simple-minded libertarian dogmatism for sophisticated conservative economic thought on the modern American right is not the result of tradition, then. The solution to the mystery is right-wing philanthropy. Most of the major individual donors to the Republican Party and mainstream conservative institutions are not conservatives themselves. They are libertarians, who combine free-market libertarianism in economic views with social liberalism, like the Koch brothers and Paul Singer. The views of market fundamentalists are reflected not only in their own direct giving but also in the philanthropies they endow.

Since the 1950s and 1960s, when the libertarians of the Mont Pelerin Society succeeded in ostracizing other economic schools on the right, rich libertarians have discovered that instead of wasting money on Libertarian Party campaigns, they can pursue their goals by funding conservative think tanks and magazines and media, in addition to funding Republican candidates for office. As a result, there is no economic conservatism in the U.S., only two versions of libertarianism—the honest libertarianism of the Libertarian Party and the Cato Institute and *Reason* magazine, and the stealth libertarianism of the GOP and most so-called conservative think tanks and magazines. The great Peter Viereck was purged by the libertarian gatekeepers from the conservative movement for his conservative defense of trade unions and social insurance, and in the 1980s, Kevin Phillips was driven out of the mainstream right by pseudo-conservative libertarians for advocating a national industrial policy in response to East Asian mercantilism. In contrast, former Cato Institute fellows and program officers are always welcome in "conservative" think tanks and magazines.

The result is a politics of "bait-and-switch," in which conservative voters repeatedly vote for communitarian, populist, and nationalist policies, while elected Republicans give their libertarian donors the tax cuts that they want. Fifty-six percent of Republicans support a public health-insurance option, according to a Morning Consult poll in 2021. In 2020, a Kaiser Family Foundation poll found that the chief concern of Republican voters was excessive health-care costs (24%), dwarfing opposition to single-payer (19%) and opposition to Obamacare (3%). Indeed, according to the same poll, 25% of all Republicans, and one-third of young Republicans, favored a single government-run health-care system, while only 12% wanted to eliminate Medicare and Medicaid in favor of private alternatives. Ignoring the preferences of their own constituents, and reflecting the radical anti-statism of their libertarian donors, Republican politicians have no consensus plan to help Republican voters struggling with health-care costs, and no health-care agenda at all ever since the Republican Congress under Trump failed to repeal the Affordable Care Act (Obamacare).

The gap between Republican voter preferences and libertarian Republican policies is just as wide when it comes to views of organized labor. In 2020, union members who were Republicans or leaned Republican (43%) were almost as numerous as Democrats and Democratic leaners (49%), while union members who called themselves "strong Republicans" (31%) outnumbered "strong Democrats" (29%). According to the same poll, union members are more likely to have positive views of capitalism than the general public. Nevertheless, most Republican elected officials treat even private organized labor as an enemy within to be completely annihilated. Even the fake populist Donald Trump stacked the National Labor Relations board with anti-union corporate lobbyists.

"Three-Quarters of Republicans Oppose Raising Minimum Wage: Poll" was a headline in the conservative magazine *Newsweek* in 2021. The headline was false and deceptive; according to the story itself, 56% of Republican respondents favored raising the minimum wage from its present level of $7.25 an hour to $11 an hour, though not to $15 an hour. Although Senators Mitt Romney and Tom Cotton have proposed a $10 minimum wage, most Republicans oppose any increase. Why? Because according to radical libertarian ideology, all minimum wages are illegitimate, and "freedom" requires allowing employers to pay workers 25 cents an hour if the workers are desperate enough.

Nowhere is the gap between what Republican voters want and what pseudo-conservative libertarian Republican politicians deliver than in the case of Social Security. In a 1954 letter to his brother, Republican President Dwight Eisenhower warned that

> Should any political party attempt to abolish social security, unemployment insurance, and eliminate labor laws and farm programs, you would not hear of that party again in our political history. There is a tiny splinter group, of course, that believes you can do these things. Among them are H. L. Hunt (you possibly know his background), a few other Texas oil millionaires, and an occasional politician or business man from other areas. Their number is negligible and they are stupid.

Despite their negligible numbers and their stupidity, libertarian zealots, bankrolled by rich donors and right-wing foundations, have spent the seven decades since Eisenhower wrote that letter trying to abolish Social Security and replace it with tax-favored private savings accounts. Since the 1970s, right-wing donors have showered money on think-tank programs with advocates of total or partial Social Security privatization like Peter Ferrara, Stuart Butler, and Andrew Biggs.

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The campaign against Social Security reflects libertarian ideology, not merely the selfish interest of Wall Street mutual funds in skimming fees from hundreds of millions of possible new mutual-fund accounts. Only sincere libertarian dogmatism can explain why George W. Bush made partial privatization of Social Security part of his second-term agenda, triggering a backlash from Republican voters themselves. Only authentic free-market radicalism can explain Senator Rick Scott's recent proposal to terminate Social Security and Medicaid every year and force Congress to renew them annually.

In June 2022, Republican Senate candidate Blake Masters declared: "Maybe we should privatize Social Security, right? Private retirement accounts, get the government out of it, past a certain point, because the government, it is just too big." Masters went down to a humiliating defeat, which contributed to the recapture of the U.S. Senate by the Democrats in a mid-term election in which the Republican Party should have done well.

In the last few years, institutions like American Compass and *American Affairs* have provided voice to conservatives and Republicans who reject the death-grip of libertarian economics on the conservative movement and the Republican Party. But it seems likely that those dissident voices will continue to be drowned out by the well-funded zombie libertarianism of the economic programs at legacy conservative think tanks and media like The Heritage Foundation and the American Enterprise Institute and *National Review*. Unfortunately, there appear to be no genuine conservative philanthropists with vast personal fortunes, only rich devotees of Milton Friedman and Ayn Rand. And at this point, there appear to be no major conservative foundations willing to fund challenges to the free-market right.

Perhaps someday, wealthy communitarian conservative philanthropists who do not seek to repeal the New Deal, crush organized labor, eliminate the minimum wage and Social Security and Medicare, and create a free-market, open-borders global economy may appear. Until then, genuine conservatives in the U.S. should minimize their reliance on conservative, or rather libertarian, philanthropy. The Republican Party should create its own in-house legislative and executive policy shops, paid for as part of government, that formulate policies reflecting the interests and values of Republican voters instead of Republican donors. Meanwhile, genuine conservative think tanks and journals should reject libertarian money and find other methods like small donations and subscriptions to fund their operations. Otherwise, Americans who vote for conservatism will continue to be served warmed-over libertarianism instead.

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