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PUBPOL 559S.01; LAW 585

Philanthropy, Voluntarism and Not-For-Profit Law and Management

Sanford School of Public Policy and the School of Law
Duke University

Spring Semester, 2020
Wednesdays, 10:05 a.m.—12:35 p.m.
Sanford 003

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This syllabus will guide our proceedings, gently and flexibly. Although I may adjust it as we proceed, I do not anticipate major departures. I will advise you of significant changes, if any, at least a couple of weeks in advance.

BOOKS TO PURCHASE:

James Fishman and Stephen Schwarz, Nonprofit Organizations: Cases and Materials, 5th ed. Foundation Press, 2015
Jim Collins, Good to Great and the Social Sectors: A Monograph to Accompany Good to Great. Jim Collins, 2005.
Paul Brest and Hal Harvey, Money Well Spent: A Strategic Plan for Smart Philanthropy, 2nd ed. Stanford Business Books, 2018.
William F. Meehan III and Kim Starkey Jonker, Engine of Impact: Essentials of Strategic Leadership in the Nonprofit Sector (Palo Alto, CA.:Stanford University Press, 2018)
Adam Gopnick, A Thousand Small Sanities: The Moral Adventure of Liberalism. Basic Books, 2019.

Required readings other than those listed above will be available on the course Sakai site. The articles listed as “Recommended” and “For Further Reading” are NOT REQUIRED READINGS. We are providing them in order to guide you in exploring any subjects of particular interest to you, even if we do not focus on them in class. If you have trouble locating an article please let Mattie Calvert know, as we may have copies in the office. As new articles relevant to the course are published during the semester, they will appear on the Sakai site and/or be circulated in class; please check the Sakai site regularly for announcements regarding additions or changes to the reading assignments. We will also distribute additional clippings or readings every week, not intended to be assignments but to be illustrations that will inform class discussions. We encourage members of the class to communicate with one another and with us via e-mail in between class sessions so as to enrich class discussion and participation. Mattie Calvert, our teaching assistant for the class, will be available throughout the semester to answer questions about locating the course materials. Mattie can be reached at matthew.calvert@duke.edu. If you wish to make an appointment with us, please call Cassie Lewis, at 919-613-7376, or email cassie.lewis@duke.edu.

The Web is a rich source of information concerning philanthropy and nonprofits. In addition to the readings that will occasionally appear on the course Sakai site mentioned above, the site also has a collection of numerous links to websites important in the nonprofit and philanthropic sectors. Please take time to explore these websites throughout the semester.

The Chronicle of Philanthropy will be distributed as it is published throughout the semester for you to browse. During class, I will identify and discuss articles of primary importance, especially trends or major events occurring in the nonprofit and philanthropic worlds.

FOUNDATION IMPACT RESEARCH GROUP

Students are encouraged, but not required, to attend Foundation Impact Research Group (FIRG) seminars held almost every third Wednesday afternoon at 4:30 p.m. in the Rhodes Conference Room. The purpose of these seminars is to stimulate faculty and student research on strategic choice making of foundations and the measurement of foundation impact on society. The speakers at these seminars are usually the presidents of foundations or major nonprofits. The FIRG dates and speakers are listed throughout the syllabus and will be announced in class.

The schedule for Spring 2020:

- January 22: Jason Mark, CEO, The Energy Foundation
- February 12: Joanne Florino, Vice President, The Philanthropy Roundtable*
- February 26: Tom Tierney, Chairman & Co-founder, The Bridgespan Group*
- March 18: Julie Sandorf, President, The Revson Foundation*
- April 1: Steve Toben, President, The Flora Family Foundation*

Please visit our website for videos and blog recaps of our most recent FIRG seminars. <http://cspcs.sanford.duke.edu/>

* Following the FIRG seminar, Professor Fleishman will host a buffet dinner at his home to honor each guest speaker. All students will be invited, and should RSVP to Nicole Sweat (nicole.e.fleming@duke.edu) as to whether or not they plan to attend. Dinner begins at 6:30pm.

SANFORD PH.D. GRADUATE FELLOWSHIPS FOR STUDY OF PHILANTHROPY AND THE MEDIA

A limited number of graduate fellowships for Sanford Ph.D. candidates who plan to focus their research on the intersection of philanthropy and the media are available. Please consult Professor Kristin Goss, for information on eligibility.

COURSE OVERVIEW

The scope of this seminar is as broad as the idea of the voluntary sector itself, with particular attention to the American version thereof. The central question to be addressed is the extent to which, and how, a large number of people of varying ethnic, racial, religious, and cultural backgrounds, living together in a country, state, or city, governed by democratically elected officials, can, may or should rely on organized or unorganized voluntary action by citizens to fulfill both their own individual needs and the needs of their respective communities. In the wake of the September 11th challenges to American security and society, as well as the radical changes affecting social policy and the not-for-profit sector being instituted as a consequence of the election of Donald Trump as President of the United States in November 2016, the role of the not-for-profit sector in bringing Americans together across the lines that divide us has become all the more important.

To explore those questions, we will examine alternative allocations of responsibility for solving particular problems -- voluntary, not-for-profit, for-profit, joint public/private, publicly encouraged/subsidized, and publicly coerced -- along with examples, reasons, and theories for particular forms of organization. We will probe what it is that motivates donors and volunteers to give money and time, and to assess not only their effectiveness in solving or ameliorating problems but also the comparative praiseworthiness of their respective motives. Private, community and corporate foundations, as well as the tax-exempt organizations to which they and other donors contribute, are part of the inquiry, especially as to their goals, decision rules, governance, and public accountability. We will continuously examine the framework of public policy that embodies public judgments about the desirability of allocating some part of the burden of social problem-solving to voluntary organizations alone or in partnership with public organizations, as well as the tax policies that are crafted to facilitate and encourage such problem-solving policies. We will also examine the laws defining the boundaries between permissible and impermissible action by not-for-profits. Because of the growing demand for accountability of the not-for-profit sector in general, and of foundations in particular, we will focus throughout the course on the extent to which foundations are achieving social impact commensurate with the tax benefits they and their donors are receiving. We will also examine the social utility of perpetuity in foundations as opposed to limited lifetimes for foundations, the latter of which permit a more rapid distribution to society of foundation assets than the usual minimum annual payout by perpetual foundations of 5% of their asset value.

The class will be conducted as a discussion seminar, with so-called Socratic dialogue as the dominant practice. You will be expected to be familiar with the central ideas in the required readings and to be prepared to answer questions about them. Class attendance will be recorded and the quality of your participation in class discussion will be noted.

No open laptop computers will be permitted for use in class. Laptops are distracting and impede the quality of discussion in the seminar, which relies heavily on student attentiveness and discussion. **No looking at your cell phones or iPads permitted in class. They, too, are distracting not only for you but for other students and me!**

The principal reason this course is a seminar rather than a lecture stems from my hope to help enable you to learn better writing through careful analysis of good ideas about public policy. Six weekly papers, of not more than five pages double-spaced, are required, beginning with the second class. As your papers are intended to help you frame the required readings of the week, they must be submitted in time for my co-professor Damon Circosta and me to correct them and return them to you at the class in which the readings you write about are discussed. To meet that schedule, each week's **papers must be e-mailed to Damon and me** at joel.fleishman@duke.edu and damon@ajf.org by 4:00 p.m. on the Sunday before class. Papers are to be sent only as Word attachments. Both of us will correct all papers and return them to you, graded and commented upon by both of us, at class the following Wednesday, with detailed comments on grammar, syntax, style, and usage.

For all sessions except as otherwise specified in the syllabus section on each class, we will expect you to use the assigned paper both to synthesize and criticize the main ideas presented in the required readings. As this seminar offers you an opportunity to help you improve your writing, spelling and syntax by learning from the mistakes of others as well as your own, we will often spend the first part of the class sessions for which papers are required in discussing writing transgressions frequently committed, of course without identifying the individual grammatical miscreants.

In addition, a term paper of approximately 25 pages will take the place of a final examination. It must be e-mailed to Damon and me at joel.fleishman@duke.edu and damon@ajf.org **no later than 4:00 p.m on April 26.** It is our practice to keep clean copies of student papers, so you will be asked to resubmit a corrected version of your paper after Damon and I have returned it to you corrected and graded.

The Academic Resource Center (ARC) offers free services to all students during their undergraduate careers at Duke. Services include Learning Consultations, Peer Tutoring and Study Groups, ADHD/LD Coaching, Outreach Workshops, and more. Because learning is a process unique to every individual, we work with each student to discover and develop their own academic strategy for success at Duke. Contact the ARC to schedule an appointment. Undergraduates in any year, studying any discipline can benefit!

Your term paper should present a careful analysis of any significant issue affecting foundations or nonprofits that is of particular interest to you. As we have been working especially with foundations, we are focusing on possible subjects that relate to foundations, but the whole landscape of nonprofits and their programs are also open to you to write on. Your paper could deal with a particular significant achievement of a foundation or a group of foundations working together in bringing about, or trying unsuccessfully to bring about, a major change in public policy, or in pioneering what eventually became widespread practice in an area that affects the public interest. You may also focus on the strategy of a community foundation in dealing with a significant problem within the area of the foundation's geographical focus. If you choose a particular foundation initiative, your paper should also assess the strengths and weaknesses of the strategies attempted or implemented by that foundation or group of foundations for taking the achievement(s) to relevant scale. You should also feel free to write your paper on such issues as the investment policy of foundations, including whether it is beneficial to their purposes to use pro-social investing criteria, program-related investments, and/or mission-related investing. If you choose this topic, it's imperative that you gather empirical data on the different rates of return that foundations have achieved in comparison with investment policies that do not include social investing criteria. Your paper should also provide as much empirical data on impact as you can obtain with reasonable effort. We will be happy to introduce you to persons at the foundation, foundations or nonprofits about which you are writing who can give you access to such documents or data as you need. Your choice of paper topic is entirely up to you. But, as outlined below, you must obtain our permission before starting any research or writing on the topic.

To spark your thinking, you may find it useful to review the case studies which are online at The Center for Strategic Philanthropy and Civil Society's website (<http://cspcs.sanford.duke.edu/>) for brief analyses of past foundation initiatives. Those case studies also appear in Joel Fleishman, Scott Kohler and Steven Schindler, The Casebook for The Foundation, New York: Public Affairs Books, 2007.

Among the relatively recent themes and approaches you might consider are donor experimentation with for-profit entities to carry out their philanthropic endeavors fashioned as social entrepreneurship and alliances between foundations and governments, foundations and business, or foundations and public charities or other foundations to achieve shared objectives.

If you prefer to write your term paper on some other topic related to this course, feel free to discuss your proposal with Damon or me, but you must have our approval before proceeding. Other possibilities include analyzing ongoing proposals for reform in the nonprofit sector, proposing your own reforms that balance the interests of accountability and flexibility or effectiveness, or evaluating the various forecasts of tremendous upcoming intergenerational wealth transfers and the implications for the charitable sector.

IT IS ESSENTIAL THAT YOU THINK ABOUT POSSIBLE TOPICS AS SOON AS POSSIBLE AND CLEAR TOPICS WITH DAMON OR ME BEFORE BEGINNING RESEARCH. FOR YOUR OWN BENEFIT, WE WANT TO BE CERTAIN THAT YOU ARE NOT TAKING ON MORE THAN YOU CAN MANAGE AND ARE FRAMING YOUR TOPIC IN A WAY THAT MAKES SENSE IN THE CONTEXT OF THIS SEMINAR. Think about your term paper topic now and plan to start researching it before spring break. That means that you should clear your topic with us no later than March 5th, the last class before spring break.

Weekly Papers

The weekly papers will be graded on a scale of 1 to 12, with 10 generally equivalent to an A. The grades will be recorded, along with one's presence or absence in class and the quality of one's contribution to class discussion. The term paper will also be graded, but on a scale that is in accordance with the grading system of Trinity, the Graduate School, or the professional school in which you are enrolled. Grades on the weekly papers and class participation will together constitute 75 percent of the term grade, and the grade on the term paper will supply the other 25 percent. Please note that, in the past, students have sometimes received grades as high as 12 for exceptional performance on the weekly papers. In prior years, when some students consistently received 11's and 12's on their papers, students who received an average grade of 10 on the weekly papers have not necessarily received an A or its equivalent for the course because overall grades for the course are required to be curved.

SCHEDULE OF WEEKLY PAPER SUBMISSION

- Paper 1: January 19th
- Paper 2: January 26th
- Paper 3: February 2nd
- Paper 4: February 9th
- Paper 5: February 16th
- Paper 6: February 23rd

PLEASE SUBMIT YOUR WEEKLY PAPERS IN WORD FORMAT NO LATER THAN 4 P.M. ON THE DAYS ABOVE. PAPERS THAT ARE SUBMITTED LATE WILL BE MARKED DOWN.

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4:30-6:00 p.m. FIRG SEMINAR SPEAKER: Steve Toben – President, The Flora Family Foundation; Buffet Dinner Honor Guest Speaker at Professor Fleishman’s Home.....21

Colin Moran, Managing Partner—Abdiel Capital, to speak to class today.

XII. WEDNESDAY, APRIL 8, 2020 - ATTAINING WIDER IMPACT ON SOCIETY THROUGH LOBBYING, ADVOCACY AND EDUCATION BY TAX-EXEMPT ORGANIZATIONS.21

Rick Glazier, Executive Director of the North Carolina Justice Center, to speak to class today.

XIII. WEDNESDAY, APRIL 15, 2020 – RECENT IDEAS AND TRENDS AIMED AT GREATER IMPACT IN THE SOCIAL SECTOR: SOCIAL ENTREPRENEURSHIP, IMPACT INVESTING, AND “EFFECTIVE ALTRUISM”25

CHRONOLOGY

I. WEDNESDAY, JANUARY 15, 2020 – AN OVERVIEW OF THE COURSE

Study Questions (Topical Issues Recurring Throughout the Course):

1. Should not-for-profit organizations, including foundations, be made more accountable to the public than they are at present, and, if so, why and how? What are the arguments against too great an increase in accountability to government? From what source, if any, do foundations derive their legitimacy in general, as well as in efforts to effect change in public policy in particular?
2. Consider the pros and cons of the charge that foundations, which are substantially unaccountable to the public, disproportionately influence public policy. How does one measure “disproportionately”? “Disproportionately” with respect to what? To what extent should the public encourage or discourage initiatives in policy-related fields by foundations, given their lack of accountability to the public? What are the arguments for and against? Are foundations viewed as more or less legitimate than other kinds of non-for-profit organizations? In this age of increasing lobbying to influence public policies of a variety of kinds by for-profit corporations and individuals of great wealth, does the charge of unaccountability against foundations and nonprofits ring hollow? Does the charge of “disproportionate influence” have any quantifiable meaning in a nation governed by a Constitution that guarantees freedom of speech to every citizen and “the right of individuals peaceably to assemble and to petition the Government for a redress of grievances.”
3. How effectively and efficiently do not-for-profit organizations, including foundations, perform their responsibilities? How can they or we measure their impact? Can metrics of impact be developed, and, if so, how? Are there ways of increasing the effectiveness of foundations without adversely affecting their freedom to benefit society according to their own views of what constitutes the public interest?
4. Should the minimum private foundation five-percent annual payout requirement be increased, and, if so, to what level? What are the criteria by which one can reasonably calculate what that payout rate should be?
5. Should financial services companies be restricted in creating public charities that compete with community foundations? Why and why not?
6. What are the arguments for and against placing a ceiling on nonprofit endowments? Should universities, foundations, and other endowed entities be permitted to increase their endowments in perpetuity with no limitation on size?
7. What are the relevant standards of propriety for the amount of compensation to be given to not-for-profit executives? What are the appropriate comparison groups for the salaries of large foundation, hospital, and university presidents? When is it appropriate to use for-profit salaries as comparisons? When are such salaries excessive?
8. How is the Internet changing the ways in which charities raise, maintain and deploy money and volunteers? Does the Internet offer better means of improving the accountability to the public of foundations and other not-for-profits?
9. By what decision rule can America decide which social functions should be performed by which sectors—public, for-profit, not-for-profit—either separately or in some combination of two or three?
10. What do we know about the percentage of giving by income group? What might be done to increase giving by the wealthier?
11. What are the pros and cons for extending income tax charitable deductions for non-itemizers?
12. In humanitarian crises, as in Haiti, there have been repeated conflicts between humanitarian organizations and governments. How does one decide on the proper roles of non-governmental organizations in countries governed by reportedly corrupt, inefficient or disabled governments?

Main Questions To Be Discussed During The First Class Session:

1. Why are you interested in taking this course?
2. How does each of you perceive the role of the not-for-profit sector?
3. Why are you interested in learning more about the not-for-profit sector?
4. What kinds of experience have you had in working or volunteering for nonprofit organizations?
5. How the financial and organizations resources, often deployed through foundations and nonprofit organizations on the radical right have transformed the dynamics of American public policy, paving the way for the election of America’s first radical right-leaning President.

Required Readings (109 pages):

- Fishman/Schwarz, Fifth Edition 3-19 (17 pages)
- Brest, Second Edition, Chapters 1-6 (p.1-92)

II. WEDNESDAY, JANUARY 22, 2020 – GOVERNANCE STANDARDS, PERFORMANCE SHORTCOMINGS, AND SCANDALS IN THE NOT-FOR-PROFIT SECTOR—CHANGING PUBLIC ATTITUDES TOWARDS WEALTH, PHILANTHROPY, NON PROFITS, AND SUBSTANTIVE CRITICISM OF THE SECTOR

4:30-6:00 p.m. FIRG SEMINAR SPEAKER TODAY - RHODES CONFERENCE CENTER
Jason Mark—CEO, Energy Foundation

Paper #1 Due on Sunday, January 19th, 4:00 p.m.: Discuss your sense of the changing public attitudes towards wealth, philanthropy, nonprofits, and democracy, and discuss the validity of respective arguments regarding the performance of America’s nonprofit sector.

Study Questions:

1. Against the background of the aspirations of the not-for-profit sector, we also need to face the fact that the not-for-profit sector has significant recurrent performance shortcomings. How can we best understand the reasons for these shortcomings in order to formulate effective policies and penalties to diminish them?
2. Was it a scandal for the American Red Cross to decide to use for purposes other than victim relief some of the funds donated in the wake of 9/11 to the Liberty Fund?
3. Do recent scandals or abuses by not-for-profit organizations (e.g., Adelphi University, Bishops Estate, Minnesota Public Radio, The Common Fund, and New Era Philanthropy) reveal anything inherent in the nature or structure of the not-for-profit sector, or are such phenomena totally incidental to the nature of the sector?
4. Does the inherent nature or structure of not-for-profit organizations make abuses more or less likely?
5. Are the scandals the result of "human nature" (i.e., particular individual's inordinate desire for gain or personal power in any sector)? Are there organizational or governance aspects of the not-for-profit sector, which make that sector especially vulnerable to the schemes of such individuals?
6. Who is responsible for preventing scandals and abuses in the not-for-profit sector?
7. What are the relevant comparisons in determining whether compensation paid to executives of not-for-profit organizations is excessive? What reasonable limits, if any, should exist for such compensation?
8. Can regulatory or legislative frameworks prevent scandals and abuses without undermining the desirable autonomy of the not-for-profit sector? Would any such frameworks be desirable?
9. In the absence of heavy-handed regulation, how can not-for-profit organizations be kept accountable? To whom should they be accountable?
10. What have the courts held to be the differing standards of directors’ responsibility?
11. By what criteria should foundation expenditures be measured so as to ensure some reasonable accountability to the law and best principles of stewardship?
12. What legal safeguards, if any, should be enacted to protect the not-for-profit sector from being abused for terrorist or improper political purposes?
13. Is it a “scandal” for foundations, universities and art museums to allow their endowments to grow without limits?

* Use the Internet to find as many instances of not-for-profit improprieties as you can. Start with Lexis-Nexis.

Required Readings (164 pages):

- Darren Walker, “The coming of hope: A vision for philanthropy in the new year,” The Ford Foundation, 1/9/19 (4)
- Brest, Second Edition, chapters: 9, 12-14, and Afterword. (80)
- Anand Giridharadas, “Beware Rich People Who Say They Want to Change the World,” The New York Time, 8/24/18 (2)
- Drew Lindsay, “Calling Out Phony Philanthropists,” The Chronicle of Philanthropy, 8/28/2018 (4)
- Gallagher, Brian, “Larry David and the Game Theory of Anonymous Donations,” Nautilus 6/08/18 (5)
- Adam Davis, “Sound Not a Trumpet, Let your Light Shine: the Tension at the Heart of Medieval Attitudes Towards Anonymous Giving,” HistPhil, 7/20/18 (3)
- Connie and Steve Balmer, “Why We’re Investing \$59 Million to Make It Easier for Social-Service Groups to Do More Good,” The Chronicle of Philanthropy, 8/9/18 (5)
- Johns Hopkins University, “News Release: Nonprofit rate of job growth outpaces for-profit rate by over 3-1 over last decade,” Center for Civil Society and Studies (2)
- Francis Wilkinson, “New York’s Case Against Trump May Be Prophetic,” Bloomberg, 6/16/18 (5)
- Noah Feldman, “Temptation Lies Inside Trump Foundation’s ‘Empty Shell’,” Bloomberg, 6/17/18 (5)
- Drew Lindsay, “6 Signs of Trouble Ahead in Charitable Giving,” The Chronicle of Philanthropy, 7/6/18 (2)

- Michael Steinberger, “George Soros Bet Big on Liberal Democracy. Now He Fears He Is Losing.” The New York Times Magazine, 7/17/18 (20)
- Sarah Larimer, “George Mason President: Some donations ‘fall short’ of academic standards,” The Washington Post, 4/28/18 (3)
- Jake Sullivan, “What Donald Trump and Dick Cheney Got Wrong About America,” The Atlantic, 1/4/18 (15)
- Megan O’Neil, “Emmett Carson Steps Down as Silicone Valley Fund Admits Missteps,” The Chronicle of Philanthropy, 6/27/18 (3)
- Alex Daniels, “Family Feud Erupts Over Direction of \$1 Billion-Plus Grant Maker,” The Chronicle of Philanthropy, 1/9/19 (2)
- Julian Wylie, “Nonprofits Step In to Fill Gaps During Government Shutdown,” The Chronicle of Philanthropy, 1/8/19 (2)
- Laurence de Nervaux, “Notre-Dame fire ignites debates on philanthropy,” Alliance Magazine, September 2019, (3)
- Marc Benioff, “We Need a New Capitalism,” New York Times, 10/14/19 (2)

III. WEDNESDAY, JANUARY 29, 2020 – GOVERNANCE STANDARDS, PERFORMANCE SHORTCOMINGS, AND SCANDALS IN THE NOT-FOR-PROFIT SECTOR—PART TWO: WHAT SHOULD BE THE STANDARDS AND WHO SHOULD ENFORCE THEM?

Paper # 2 Due on Sunday, January 26th, by 4:00 p.m. Discuss the major cases included in the assigned casebook readings. Page numbers are to the Fifth Edition (Fitzgerald v. NRA [pp 115-119]; Pepperdine [pp. 123-127], Lynch v. John M. Redfield Foundation [pp.127--130], Stern v. Lucy Webb Hayes [pp.130-143 and 156-162], Nixon v. Lichtenstein [pp 149--156], Adelpi v. Diamandopoulos [pp. 162-172], and Northeast Harbor Golf Club, Inc. v. Nancy Harris [pp. 172-178], and criticize and synthesize their holdings.

For non-law students, this assignment may be your first encounter with law cases. If so, in reading the cases, focus your attention on: 1) what the plaintiff (the one who brings the suit that led to the case) wants; 2) what the defendant (the one against whom the suit is brought) claims in response to the plaintiff's demand; 3) what the court decides as between the plaintiff's and defendant's claims; and 4) what the court gives as the reason or reasons for deciding as it did. Focus on what the court holds—the actual disposition of the case and the remedy the court imposes—and not so much on what the court says almost parenthetically about what it has held. If you have any questions about this, please consult one of the law students in the class or Professors Circosta or Fleishman.

Required Readings (63 pages):

- Fishman/Schwartz (Fifth Edition) pp.115-178 (63)

IV. WEDNESDAY, FEBRUARY 5, 2020 – INDIVIDUAL GIVERS AND JOINERS: HUMAN AND SOCIAL IMPULSES TO CHARITY, PHILANTHROPY AND VOLUNTEERISM; WHAT DO “PHILANTHROPY,” “CHARITY,” “ALTRUISM,” “NONPROFIT SECTOR,” “VOLUNTEERING,” MEAN, AND WHY DO WE VALUE THEM?

Paper # 3 Due on Sunday, February 2nd, 4:00 p.m.: First, in a paragraph or two, try to formulate what you consider the strongest definition of, or rationale for altruism. Next, describe some kinds of activity that conform to that definition or rationale. Are there kinds of activity commonly thought of as altruistic or philanthropic that do not meet your standard? Where possible, compare and contrast your view with those of the assigned authors in America’s Voluntary Spirit. Finally, describe a philanthropic or charitable activity that you support, whether with time, money, or both. If you have not supported any such activity — perhaps for lack of time and money — describe something that you wish you could support and would support if resources and time permitted. In either case, please be precise about what kind of support you provided (or would wish to provide). Analyze your reasons and methods for choosing this cause. How well does it conform to the definition or rationale you described at the outset? How important to you are factors such as: the type of organization undertaking the activity, the tax benefits (if any) of supporting it, the way the organization is structured and managed, the places where it operates, and any religious or philosophical kinship you may feel with those carrying out the activity?

Study Questions:

1. What does "philanthropy" mean? Is it different from “charity” or “altruism,” and if so, how?
2. Do these meanings necessarily change over time, as social, economic, and political circumstances change? To what extent are the definitions dependent on context, and to what extent are they fixed?
3. Why do people give money or donate time? Why do they say that they give? Why should they give? What justifications do non-givers use, and how persuasive are they? What do religion, philosophy, and psychology have to say about these questions?
4. Are charity, altruism, and/or philanthropy necessarily selfless? Does it count as philanthropy or charity when people reap praise or fame or business advancement as a side-effect of their giving? How about “enlightened self-interest” — when a good deed, or gift, benefits all of society (including the giver), does that count as altruism?
5. Similarly, does a tax incentive compromise the genuineness of a charitable donation? Should governments provide financial incentives for charitable giving (thus reducing, by definition, the selflessness of the gift)?
6. Why do we become involved in the lives of others, in mutual help activities, in altruistic community undertakings?
7. How do giving and volunteering vary with respect to racial, religious, ethnic and socioeconomic status? How might you account for the differences?
8. Do the various types of nonprofit organizations and causes appeal to different kinds of philanthropic impulses? Is the fundamental wish to give to arts or educational institutions different from that behind giving to religion, to services for the needy, to scientific research, or to community improvements?
9. Are there fundamental differences in the meaning of philanthropy, charity, and/or altruism for those who give modest amounts of time and money (i.e., not enough to alter the recipient’s budget profoundly) as compared with those who give great fortunes and underwrite major undertakings?
10. What instinctive and learned motivations exist for giving? From where do these motivations come? To what extent, if any, can such activities reasonably be regarded as self-interested?
11. How much should someone give -- a minimum percentage of income or of accumulated wealth, or only as the spirit moves them?
12. Do you utilize social media in your philanthropic pursuits? If so, how and how successful have they been?

Required Readings (77 pages):

- Brian O’Connell, ed., America’s Voluntary Spirit. The Foundation Center, 1983. pp. 11-22, 35-58, 63-72. (46)
 - Cass and Manser, "Roots of Volunteerism" (12)
 - Bremner, "Doing Good in the New World" (10)
 - Mather, "Bonifacius" (4)
 - Emerson, "Man the Reformer" (4)
 - De Tocqueville "Of the Use Which the Americans Make of Public Associations in Civil Life" (6)
 - Washington, "Raising Money" (10)
- “Philanthropy’s Awareness Deficit,” PAI Digest on Harris Interactive survey findings, 4/22/08, (12).
- Peter Panepento, “Too Little Charity Goes to the Needy, Congress Told,” Chronicle of Philanthropy, 10/4/07, (2).
- “Is Giving to Harvard Charity?” The Wall Street Journal, 10/9/07 (1)
- “The Idea That the State Should Subsidize Giving to Good Causes is Resilient, but Not Easily Justified,” The Economist, 6/8/12 (8)
- Benjamin Soskis, “How U.S. Charity Could Be Transformed by Giving Cash Directly to the Needy,” Chronicle of Philanthropy, 12/5/2017 (8)

V. WEDNESDAY, FEBRUARY 12, 2020 – TAXATION I: RATIONALES FOR TAX EXEMPTION OF FOUNDATIONS AND VOLUNTARY ORGANIZATIONS; GOVERNMENT CONSTRAINTS IMPOSED IN EXCHANGE FOR TAX EXEMPTION

4:30-6:00 p.m. FIRG SEMINAR SPEAKER TODAY - RHODES CONFERENCE CENTER
Joanne Florino–Vice President of Philanthropic Services, The Philanthropy Roundtable

6:30 p.m. Buffet Dinner Honoring Guest Speaker, Joanne Florino, at Professor Fleishman’s home.
All members of the class will be invited. Please RSVP to cassie.lewis@duke.edu whether you plan to attend or not.

Paper # 4 Due on Sunday, February 9th, 4:00 p.m.: Analyze the required readings in Fishman/Schwarz. In particular, consider the several theories that justify tax exemption and assess their persuasiveness. Consider how those theories apply to the National Collegiate Athletic Association, Bob Jones University, and other organizations. In that connection, discuss IHC Health Plans, Inc. v. Commissioner (pp.305-312), Bob Jones University v. United States (pp.344-370) and Holy Spirit Association v. Tax Commission (p.388-393), Regan v. Taxation With Representation (pp 477-484), Branch Ministries v Rossotti (pp 484-494) cases. Should “charity” be construed more narrowly to aid the poor? Should charity be construed as broadly as it is to include gifts such as the maintenance of pets or other non-human benefiting purposes? And, if so, where would you draw the line between appropriate and inappropriate purposes of tax-exemption?

Study Questions:

1. What are the policy objectives of legislation establishing tax-exemption of organizations and the deductibility of gifts to them?
2. How persuasive are these policy objectives?
3. What burdens, if any, ought government to be reasonably able to impose by way of reporting requirements, taxes, financial pay-out requirements, restrictions on lobbying, or other burdens?
4. Should the tax exemption for religious activities extend to organizations which advocate discrimination on the basis of race, anti-Semitism, anti-Islam, or other widely disfavored positions? Where should society draw the line?
5. How do we decide what type of “religious” organizations are entitled to charitable deductions? Issues have been raised relating to voodoo, Wicca and other “non-traditional religions.” Is there any definition of what a “religion” is that has ‘bite’?
6. In thinking about what an appropriate charitable purpose is under law, how would you define the limits? Are the limits appropriate? Refer to the Leona Helmsley and Henry George articles.

Required Readings (141 pages):

- Fishman/Schwartz (5th Edition) pp 25-33, 274-289, 296-312, 344-370, 388-393, 477-494 (97)
- John Simon, et. al., “The Federal Tax Treatment of Charitable Organizations,” chapter in The Nonprofit Sector: A Research Handbook, 2d ed., Walter W. Powell and Richard Steinberg, eds., New Haven: Yale University Press, 2006, p.267-99. (authors have granted explicit permission to copy) (33)
- Harold Hancock, “Does the Tax Code Define Civil Society or Vice Versa?” Stanford Social Innovation Review, 7/10/18 (3)
- Larry Ottinger, “IRS Should take the Middle Road on Nonprofit Politicking”, Chronicle of Philanthropy 3/27/14 (5)
- Eric Lichtblau, “IRS Expected to Stand Aside as Nonprofits Increase Role in 2017 Race” NYTimes 07/05/15 (4)
- Monica Davey, “A Church of Cannabis Tests Limits of Religious Law in Indiana” NYTimes, 07/01/15 (3).
- Joe Nocera, “Scientology’s Chilling Effect” NYTimes 02/24/15 (3).
- Massimo Calabresi, “In Charities We Trust: The IRS takes nonprofits at their word.” Time 07/28/14 (1).

VI. WEDNESDAY, FEBRUARY 19, 2020 – TAXATION II: – THE NITTY GRITTY OF TAX EXEMPTIONS AND DEDUCTIBILITY OF CONTRIBUTIONS; EFFECTIVENESS OF TAX POLICY IN INCREASING/DECREASING DONATIONS.

Paper #5 Due on Sunday, February 16th, 4:00 p.m.: Analyze and synthesize the required readings in Fishman and Schwartz especially the major cases, but focus your paper on the Reich article especially his treatment of the tax deduction. Spell out what you think the problems moving from a uniform deduction based on the progressive income tax system to a tiered deduction based on the redistributive nature of the charitable organizations receiving donations. Should organizations aiding the poor enjoy more favorable tax treatment? Can you think of a PRACTICAL means of distinguishing them? Remember that most general nonprofit organizations allocate some portion of their revenues to redistributive purposes (e.g. universities providing scholarships to those who cannot afford full costs, and religious institutions that provide food for the hungry and homeless shelters). How could you neatly classify those?

Study Questions:

In general, analyze and synthesize the required readings in Fishman/Schwarz, especially the major cases -- Page numbers are to the Fifth Edition (Church of Scientology [pp 417-424], United Cancer Council [p.226-233; Sklar [pp. 783-793, Hernandez [pp.785-786, 788, 791-792], Blake [pp 802-806], and Winokur [p.815]).

1. How would you restructure tax preferences to provide incentives for greater charitable giving without unduly benefiting the wealthy at the expense of the less-well-off?
2. How should we view tax-reduction-motivated charitable schemes proposed by financial advisors and salesmen?
3. What role should the needs of prospective recipients play in allocating charitable resources, as opposed to the goals of the donors?
4. Absent tax preferences, would foundations exist? Would individuals donate? To what extent should Congress stipulate a maximum term of years for the life of a foundation? Are there reasons a foundation should be limited in life while all other charitable organizations are permitted to exist in perpetuity?
5. When and why did the United States, either in federal legislation or in laws enacted by state governments, institute tax deductibility for charitable gifts?
6. It has been argued that both tax-exemption and tax-deductibility are forms of public subsidy. Do you agree? What are the arguments for and against such tax incentives for socially beneficial activities? What are the arguments for and against offering citizens leverage over the resources of others as an incentive to them to give their own resources to those purposes that serve the public interest?
7. How valid is the argument that, absent such an offer of leverage, individuals would not contribute private money to the same extent and thereby make society poorer by augmenting expenditures of tax revenues for the same purposes? What empirical data are relevant?
8. Is the true effect of tax deductions for charitable gifts to force some Americans to pay slightly higher taxes in order to subsidize the charitable giving of others? Why let some individuals determine how to spend the money of other individuals?
9. Would America be better off if citizens could not take tax deductions for charitable giving, preventing Congress from spending the tax savings on whatever it regards as the most pressing ills? Which kinds of institutions would suffer most from such a change?
10. What are the policy purposes of the estate tax? Should it be permanently repealed, and if not, why?
11. In view of the growing consensus that the cumulative national debt needs to be substantially reduced, we may well be faced with a situation in which tax expenditures are significantly reduced. How big of a threat is this to America's non-profit sector?

Required Readings (98 pages):

- Rob Reich, "Philanthropy in the Service of Democracy," Stanford Social Science Review, Winter 2019 (17)
- Fishman/Schwarz pp 417-424, 226-233; 783-793, 802-806, 815 (29)
- David Gelles, "How Tech Billionaires Hack Their Taxes With a Philanthropic Loophole," New York Times, 8/3/18 (8)
- Elizabeth Kolbert, "Gospels of Giving for the New Gilded Age," The New Yorker, 8/24/18 (11)
- C. Eugene Steuerle, "Tax Reform and Charitable Contributions," Testimony Before the Committee on Ways and Means, U.S. House of Representatives Hearing on Tax Reform and Charitable Contributions, 02/14/2013 (9)
- Michael Theis, "Share of Taxpayers Claiming Charitable Deduction Plunges to 8.5 Percent, Study Shows," Chronicle of Philanthropy, 7/22/19 (2)
- Suzanne Garmet and Leslie Lenkowsky, "'Giving USA' Shows Tax Changes Didn't Matter Much to Donations (Opinion)," Chronicle of Philanthropy, 6/24/19 (3)
- Alex Daniels, "Role of Donor-Advised Funds Prompts Heated Debate" Chronicle of Philanthropy, 10/23/15 (4)

- Michael Theis, “Biggest Donor-Advised-Fund Sponsors Report Surge in Grants,” Chronicle of Philanthropy, 7/30/19 (8)
- Rebecca Koenig, “Biden Endorses Capping Income-Tax Deductions at 28%”, Chronicle of Philanthropy, 10/21/15 (2).
- Alex Daniels, “Charity Regulator Slams IRS Proposal on Donor Data”, Chronicle of Philanthropy, 12/01/15 (2)
<https://shar.es/1cLsmb>
- Esslemont, Tom, “Syrians suffer as anti-terror laws squeeze charities – survey”, Thompson Reuters Foundation, 2/24/16 (4)
- Eisenberg, Pablo, “Philanthropy Needs More Reporters Like Those in ‘Spotlight’”, Chronicle of Philanthropy, 2/26/16 (4)
- “Fidelity Charitable Grants Topped \$3 Billion in 2015”, Chronicle of Philanthropy from Boston Globe, January 29, 2017 (1)
<https://shar.es/1h8ua7>

VII. WEDNESDAY, FEBRUARY 26, 2020—DONOR MOTIVATION AND DONOR INTENT: THE GREAT PHILANTHROPISTS IN THEIR MAKING AND GIVING OF MONEY, AND THE AVERAGE AMERICAN

Billy Shore, President of Share Our Strength, to speak to class today.

**4:30-6:00 p.m. FIRG SEMINAR SPEAKER TODAY - RHODES CONFERENCE CENTER
Tom Tierney—Chairman and Co-founder, Bridgespan Group**

6:30 p.m. Buffet Dinner Honoring Guest Speaker, Tom Tierney, at Professor Fleishman's home.

All members of the class will be invited. Please RSVP to cassie.lewis@duke.edu whether you plan to attend or not.

Paper # 6 Due on Sunday, February 23rd, 4:00 p.m.: Analyze, criticize and assess the main points in Andrew Carnegie's "Gospel of Wealth," which is the first attempt by a major donor to articulate a philosophy of charitable giving. This essay continues to influence donors even today. Compare and contrast the views, motivations and practices of Carnegie with those of any one of the living philanthropists—such as Warren Buffett, George Soros, Richard Mellon Scaife, Eli Broad, Ted Turner, Bill Gates, Dustin Moskovits and Cari Tuna, and Mark Zuckerberg and Dr. Priscilla Chen—as described in the "further readings" **below**. You may browse http://www.businessweek.com/interactive_reports/philanthropy_individual.html for Bloomberg Business Week's annual survey of articles on the nation's biggest donors for an additional reference.

Study Questions:

1. Carnegie, Rockefeller, Duke, Mellon, Scaife, Turner, Gates, Soros, Buffett, Zuckerberg: Why did they give away such large amounts of money? What were their motivations for doing so? What ideas influenced them to do so? Who influenced them to do so? Their parents? What role, if any, did their education play in motivating them to do so? What role did their religion play? What did their critics say about their intentions?
2. What is your reaction to the Gates and Buffett Giving Pledge?
3. Do wealthy people give a larger percentage of their income to charity than poor people do? Do founders of foundations give from income or from capital? Do they usually get a tax benefit from doing so? What is the nature of that tax benefit, if any?
4. Do large donors seek to make money in order to give it away, or do they accumulate wealth because of greed or ambition as an end in itself? How does the motivation of the wealthy towards giving differ, if at all, from that of people of lesser means?
5. Do the motivations of donors for their giving make any difference to you so long as their deeds accomplish good for others? If so, what difference do the motivations make? If they are scoundrels or crooks in the making of their money, does that affect how you view their giving?
6. As a wealthy parent, how should you think about the question of whether and how much to give of your wealth to your children?
7. As the creator of a foundation, how would you think about the question of whether to establish your philanthropy in perpetuity as opposed to one with a limited time-span?
8. What are the arguments for and against anonymous giving?
9. As the president of a university which is offered a large gift by someone known to have been convicted of securities fraud, would you accept the gift even if you know it was motivated by the donor's wish to gain or regain respectability? How does the motivation of such a donor differ from that of other donors who give similar gifts?
10. Is the virtue of donors that arises from their giving mitigated by the fact that they receive a tax deduction for making donations?
11. Is the purpose of making available tax deductions in any way undermined by donors' decisions to make gifts consonant with their tastes, substantive interests and backgrounds, rather than with those social ills thought to be more pressing?
12. Consider the different styles of giving by different foundations and individuals. Some prefer to think of themselves as social venture capitalists who prefer to start new initiatives. Others prefer to assist efforts already under way. Some choose to support those with greatest material needs. Others concentrate on helping scholars and artists. Some foundations prefer to avoid both politics and criticism, while others see their role as activating political criticism. Some foundations prefer to cooperate on grants (indeed, seek to draw in partners), while others prefer to go it alone. Some donors seek to gain legitimacy for themselves by giving to institutions or organizations which already enjoy high public regard, while other donors are oblivious to such concerns, and still others seek to put their money and prestige behind thoroughly controversial recipients. Some donors prefer to give to many different objectives, while some choose to concentrate on one field of need. Some prefer to give only in their own community while others choose to reach out nationally.
13. To what extent are projects that greatly benefit a few individuals as worthy as other projects that benefit many more people but diffusely?

14. Are there any objective criteria of worthiness that donors can use to choose among the many competing potential recipients, or are such choices ultimately always subjective? How do individuals make these choices? How do foundations make these choices?
15. To what extent do donors' religious, philosophical, economic or political views determine how and what they give?
16. How do donors choose between giving to a rich, well-endowed university, and giving to a struggling community organization striving to help the indigent?
17. Venture philanthropy—the new philanthropy of the twenty-first century: what does it mean?
18. As the decision of whether to spend-down or give while living is, at bottom, a decision of the donor, we have put a collection of articles on that subject below under “recommended readings.” If you are especially interested in the subject of giving while living versus perpetual foundations, please look carefully at the list of articles below.

Required Readings (57 Reading pages):

- Andrew Carnegie, "The Gospel of Wealth," and Barry Karl, "Andrew Carnegie and His Gospel," in Dwight Burlingame, ed., *The Responsibilities of Wealth*. Indiana University Press, 1992, (25 double pages, actual 49)
- Rabbi Jonathan Sacks, “5. The Way of Tzedakah: Love as Justice” “Maimonides Ladder of Giving,” <http://www.rabbisacks.org/wp-content/uploads/2007/09/tendaystenways-final1.pdf> (5)
- Megan O’Neil, “\$45 Billion Zuckerberg-Chan Pledge Has Charities Excited — and Wary”, *Chronicle of Philanthropy*, 12/04/15 (3)

VIII. WEDNESDAY, MARCH 4, 2020 – “GIVING WHILE LIVING,” ESTABLISHING LIMITED LIVES FOR FOUNDATIONS RATHER THAN PRESUMABLY FOR PERPETUITY

Study Questions:

In general, summarize the arguments for and against spending assets at once in the short run as opposed to spending the income on assets over the long run. Discuss the problems which in your view lend themselves to being solved or mitigated by a concentrated blast of money over the short run as opposed to problems which can be more effectively dealt with by spending only the income on assets in smaller amounts over a long period of time.

- 1) Are the problems of today inherently more important, or more urgent, than the problems of tomorrow?
- 2) Do we have a moral duty to address the problems of our own time before dealing with those of the future?
- 3) Given that we know more about today's issues than about tomorrow's, would philanthropists be wiser to concentrate their wealth on more-immediate and more-familiar matters?
- 4) Or might it be considered more generous or more provident to devote resources to future generations -- people we don't know, problems we cannot foresee, and opportunities of the future that we cannot now imagine?"
- 5) Giving WHAT while living? Giving money to whom or to what kind of organization or organizations for what purposes? Feeding the hungry? Housing the ill-housed? Financing scholarships for indigent students?
- 6) Can you develop a strategy that includes different time frames for dealing with a) problems that lend themselves to short-term solutions, b) problems that can be ameliorated or solved only by sequential experiments of basic research in order to achieve progress in ameliorating or solving them and therefore will require patience and sequential sustained long-term funding by income from endowments; c) unanticipated emergencies such as natural calamities requiring humanitarian aid to refugees and other displaced persons, new housing, food, medical personnel and supplies.
- 7) Would you develop multiple vehicles for giving away your assets or income on assets, such as a charitable foundation, a donor advised fund or funds, or would you give your assets or income on assets to a university or universities, or to a community foundation to administer?
- 8) How would you develop an asset allocation strategy for spending your assets or the income on your assets, and what criteria can you think of for which designated allocations should take precedence over others?
- 9) What priority would you give to financing basic research or applied research?
- 10) In which fields would you focus your support—bio-medical research, improving the effectiveness of education, how to achieve world peace?
- 11) Would you support the humanities or the arts, and how would you rank your support to them as opposed to the support you give to scholarships for students?
- 12) Would you support fellowships for graduate students and with what priority?
- 13) How would you arrange for the causes you finance to continue to receive support after your money runs out?
- 14) Would you support research and advocacy to mitigate global warming?

REQUIRED READINGS (81 pages)

- Julius Rosenwald, “The Burden of Wealth,” Saturday Evening Post, January 5, 1929 (3)
- Tony Proscio, “Value, Time and Time Limited Philanthropy, A Theoretical Approach Applied to Three Real Examples” on web site for Center for Strategic Philanthropy and Civil Society (40 pages) available at <http://cspcs.sanford.duke.edu/>
- Michael Klausner, “When Time Isn’t Money,” Stanford Social Innovation Review, Spring 2003 (15 pages) https://ssir.org/articles/entry/when_time_isnt_money,
- Charles Feeney, Atlantic Insights “Giving While Living” only pages 38-50, <https://www.atlanticphilanthropies.org/insights/insights-books/giving-while-living>
- Atlantic Philanthropies “Giving While Living,” Turning Passion into Action: Giving While Living, <https://www.atlanticphilanthropies.org/research-reports/atlantic-reportgiving-while-living>
- David Gelles, “Giving Away Billions as Fast as They Can,” The New York Times, 10/20/17 (6)

WEDNESDAY, MARCH 12, 2020 SPRING VACATION -- NO CLASS TODAY

IX. WEDNESDAY, MARCH 18, 2020 – THE CHALLENGES OF GOVERNANCE AND LEADING NON-PROFITS

**4:30-6:00 p.m. FIRG SEMINAR SPEAKER TODAY - RHODES CONFERENCE CENTER
Julie Sandorf–President, Charles H. Revson Foundation**

6:30 p.m. Buffet Dinner Honoring Guest Speaker, Julie Sandorf, at Professor Fleishman’s home.

All members of the class will be invited. Please RSVP to cassie.lewis@duke.edu whether you plan to attend or not.

Study Questions:

We all have a good sense of the wide variety of missions that nonprofits have as well as of the laws that govern them, but the ability of nonprofits to fulfill their obligations to the public is also constrained by the politics—both governmental and bureaucratic—of the cultures in which particular nonprofits must function. This class session is intended to provide an opportunity to consider the practicalities of governing and leading nonprofit organizations, frequently in collaboration with one another.

1. What are the essential differences that distinguish the governance requirements of nonprofit organizations, foundations, for-profit enterprises, and government agencies? Do these differences require categorically different kinds of leaders for each kind of organization, or are they merely different frames of reference, which gifted people from any sector can adopt and apply?
2. When and how might a commitment to measurement and accountability lead a public-interest organization to count things that do not count, or to fail to count things that do count? Are there realms in the public interest that simply do not lend themselves to quantitative or objective measurements of success? And if so, how do organizations working in those realms account for the quality of their efforts?
3. Why do funders often refrain from basing their funding judgments primarily on objective measurement of success or failure? Is this a sign of lax stewardship of resources, or are the inherent limitations on such measurements so great that funders cannot rely on them in many instances?
4. Are some kinds of nonprofit boards inherently limited in their ability to formulate long-term strategy and to plan beyond the near term? Are there factors that can make nonprofit boards more strategic, more able to take intelligent risks, and more attuned to continuous improvement? Are there reasons why corporate boards may find it easier (or less forbidding) to take such risks and correct course when results are disappointing?

Required Readings (72 Pages):

- Meehan and Jonker, Chapter 3: Count What Counts (pp 77-100; Chapter 4: Insight and Courage (pp. 101-118; and Chapter 6: Money Matters: Funding as Essential Fuel (pp 144-166)

X. WEDNESDAY, MARCH 25, 2020—We Are All Liberals Today, but Liberalism Has Many Faces

Brandon Busteded, President—Kaplan University Partners, to speak to class today.

Study Questions:

- Is philanthropy as practiced in modern America “liberal”, according to Adam Gopnick’s definition of the term?
- What is “process liberalism”. Is it effective or not? Given what you know about philanthropy give an example of process liberalism in the nonprofit sector.
- Is liberalism’s disruption of order good or bad? Does philanthropy perpetuate the status quo or disrupt it?

Required Readings:

- A Thousand Small Sanities, Adam Gopnick
- Alex Daniels, “Tiny Grant Maker North Store Points the Way to Big Shake-Up in Philanthropy,” Chronicle of Philanthropy, 7/23/19 (5)
- Courtney Martin, After the Philanthropy Critique in ‘Winners Take All,’ What’s Next, Chronicle of Philanthropy, 09/04/19 (4)

Review:

- Anand Giridharadas, “Beware Rich People Who Say They Want to Change the World,” The New York Time, 8/24/18 (2)
- Rob Reich, “Philanthropy in the Service of Democracy,” Stanford Social Science Review, Winter 2019 (17)

XI. WEDNESDAY, APRIL 1, 2020 – STRATEGY AND IMPACT MEASUREMENT & NEW WAYS TO THINK ABOUT SOLVING AMERICA’S PUBLIC POLICY PROBLEMS, DRAWING ON THE EXPERIENCE OF INNOVATORS IN AMERICA AS WELL AS OTHER COUNTRIES`

Colin Moran, Managing Partner—Abdiel Capital, to speak to class today.

**4:30-6:00 p.m. FIRG SEMINAR SPEAKER TODAY - RHODES CONFERENCE CENTER
Steve Toben—President, The Flora Family Foundation**

6:30 p.m. Buffet Dinner Honoring Guest Speaker, Steve Toben, at Professor Fleishman’s home.

All members of the class will be invited. Please RSVP to cassie.lewis@duke.edu whether you plan to attend or not.

Study Questions:

Ever since President Roosevelt’s New Deal about 75 years ago, the conventional, one might even call it knee-jerk, approach by centrist and liberal scholars, activists and public officials has been to seek to mitigate or solve public policy problems by defaulting to government programs for doing so. In recent years, that conditioned response has been frequently challenged by reformers and visionaries who point out that there may well be other, more effective ways to deal with social policy problems than what we have inherited from the past. The purpose of this week’s class is to surface and discuss some of the initiatives that have been advanced and tried out, such as direct giving of money to poor people rather than by packaging support in government-designed and dictated programs with requirements to be satisfied before receiving support.

1. What are some of the arguments for a wider understanding of how foundations achieve beneficial impacts on society through their grant making strategies?
2. How can such an understanding of foundation effectiveness be achieved? What are some of the ways foundations can more effectively and more persuasively tell their stories?
3. Are there political implications for effectively measuring the impact of foundations and publicizing those impacts?
4. Does the measurement of foundation impact through grant making affect the relationships between foundations and grantees?
5. To what extent does a focus on measuring impact tend to give incentives to foundations to make grants only for those efforts that are easily measurable?
6. Consider the various strategies foundations can employ in achieving their decided-upon goals. Also consider the range of tactics they can use in pursuing their strategies.

Required Readings (231 pages)

- Jim Collins, *Good to Great and the Social Sectors: A Monograph to Accompany Good to Great*, 2005. 1-35 (35)
- William Foster, Gail Perreault, Alison Powell, & Chris Addy, “Making Big Bets for Social Change” *Stanford Social Innovation Review*, Winter 2017 (17)
- Fay Twersky, “Time for a Three-Legged Measurement Stool,” *Stanford Social Innovation Review*, Winter 2019 (5)
- Fay Twersky and Fred Reichheld, “Why Customer Feedback Tools Are Vital for Nonprofits,” *Harvard Business Review*, 02/04/19 (5)
- Suzanne Perry “Worst Charities Report Prompts Calls for Charities to Respond,” *Philanthropy.Com*, 06/26/13 (11)
- Drew Lindsay, “Inside 3 ‘Big Bets’ for Social Change“, *Chronicle of Philanthropy*, 11/19/15 (8)
- David Gelles, “Major Foundations, Eager for Big change, Aim High”, *NYTimes* 10/31/15 (6)
- J. Mccray, “Is Grantmaking Getting Smarter: A National Study of Philanthropic Practice,” *Grantmakers for Effective Organizations*, 2011, (15)
- Judith Rodin et al, “Shared Outcomes,” *Stanford Social Innovation Review*, Summer 2012, (9)
- Staff, “Four Essentials For Evaluation,” *Grantmakers For Effective Organizations*, 05/24/2012 (32)
- Fay Hanleybrown et al, “Channeling Change: Making Collective Impact Work,” *Stanford Social Innovation Review*, Spring 2012 (8)
- Maria Di Mento, “How Quiet Donors Became Champions for Black Giving,” *Chronicle of Philanthropy*, 8/6/19, (8)
- Paul Brest et. al., “Calculated Impact,” *Stanford Social Innovation Review*, Vol. 7, No. 1 (Winter 2009), (8)
- Cynthia Gibson and William Dietel, “What Donors Want,” *The Nonprofit Quarterly*, Fall 2010, (5)
- Paul Brest, “President’s Statement,” *William and Flora Hewlett Foundation*, 2004, (9)
- Judith Gueron, “On the Frontlines: Throwing Good Money After Bad,” *Stanford Social Innovation Review*, Vol. 3, No. 3 (Fall 2005), (4)
- William Foster, “Money to Grow On,” *Stanford Social Innovation Review*, Fall 2008, (5)

- Alex Cortex, William Foster, and Katie Smith Milway, “Mergers can be a Tool for Charities in Tough Times,” Chronicle of Philanthropy, 12/11/08 (2)
- Jeffrey Bradach, Thomas Tierney, and Nan Stone, “Delivering on the Promise of Nonprofits,” Harvard Business Review, 12/2008, (1)
- William P. Ryan & Barbara E. Taylor, “Assessing the Growth Capital Aggregation Pilot”; The Edna McConnell Clark Foundation, December 2012 (17).
- Marc Gunther, “Yale Scholar Releases First Four ‘Impact Audits’ in New Bid to Identify What Works”, Chronicle of Philanthropy, 12/11/15 (4)
- Alex Daniels, “The \$1.6 Billion Barr Foundation Expands Its Reach”, Chronicle of Philanthropy, 02/05/16, (5)
- Michael Theis, New Ratings Site Measures Charity Impact, 11/22/2019 (2)
- Paul Garner, David Bonbright, and Tris Lumley, “Who should measure the impact of non-profits,” Alliance Magazine
- Andrew Ross Sorkin, “A New Fund Seeks both Financial and Social Returns” NY Times, 12/19/16 (4)

XII. WEDNESDAY, APRIL 8, 2020 - ATTAINING WIDER IMPACT ON SOCIETY THROUGH LOBBYING, ADVOCACY AND EDUCATION BY TAX-EXEMPT ORGANIZATIONS.

Rick Glazier, Executive Director of the North Carolina Justice Center, to speak to class today.

Study Questions:

1. What is the rationale for limiting or barring lobbying and advocacy by tax-exempt organizations?
2. What are the similarities and differences between the treatment of lobbying expenses by organizations subject to taxes and that by tax-exempt organizations?
3. Is there a difference between advocacy by private foundations and public charities, between foundation and grant-receiving money, between donor institutions and recipient institutions?
4. What's the rationale for forbidding non-profit organizations from participating in elections involving candidates for public office?
5. In view of the Citizens United case, which allows corporations to fund and support individual candidates, is there a good reason to change the law that forbids non-profits and foundations from using their assets in a similar way? If not, why not?
6. We will focus the discussion on the rules of non-profit lobbying as well as the restrictions to engaging in political activity in view of what you have read in The Blueprint.

Required Readings (190 pages):

- Fishman/Schwarz Page references to 5th Edition pp. 445-506 (61)
- Matthew Nisbet and John Wihbey, "Funding the News: Foundations and Nonprofit Media", Harvard Kennedy School, 6/18/18 (33)
- Stanley Katz, "Beware Big Donors," The Chronicle Review, 03/25/12, (7)
- Eric Lichtblau, "Policy Group Caught in Rift Over Direction," 03/06/12, (3)
- Ruth Marcus, "The Super PACs in our future," Raleigh News & Observer, 03/28/12 (1)
- Mat Bai, "How Much as Citizens United Changed the Political Game," New York Times, 07/17/12, (6)
- Staff, "N.C. Republicans Claim Politicking by Liberal Nonprofits," The Chronicle of Philanthropy, 07/19/2012 (1)
- Brody Mullins et al, "IRS Probes Nonprofit Political Groups," Wall Street Journal, 06/27/2012, (3)
- "Joseph Tanfani et al, "After winning right to spend, political groups fight for secrecy," Los Angeles Times, 06/26/12, (2)
- Nick Corasaniti, "Ending Secret 'Dark Money' Political Donations in New Jersey," The New York Times, 6/11/19, (2)
- Suzanne Perry, "Fundraisers' Political-Action Group Seeks to Give Nonprofits a Lobbying Voice," The Chronicle of Philanthropy, 11/15/12 (2)
- Paul Sullivan, "As Politics Creep Into Philanthropy, Beneficiaries Come Under Fire," The New York Times, 8/16/19, (6)
- Staff, "Foundations and Public Policy; Illustrations of High Impact Grantmaking," Charity Lobbying in the Public Interest, 02/2003, (2)
- John Kowal, "Supporting Litigation and Legal Advocacy: The Lessons of Citizens United," Responsive Philanthropy, Winter 2012, (2)
- Staff, "Broad Foundation Stipulation for New Jersey Education Grant Raises Concerns," Philanthropy News Digest, 12/16/12, (1)
- Mike McIntire, "Charity Takes Gun Lobby Closer to Its Quarry," New York Times, 03/06/13 (5)
- Caroline Preston, "Philanthropy Must Do More to Influence Policy, Say Government Officials," Chronicle of Philanthropy, 02/13/13 (4)
- Charles Lewis, "Koch Brothers' Influence Spans Nonprofits, Government, and Business," Chronicle of Philanthropy, 07/14/13 (6)
- Matthew Barakat, "'Conservative' String Attached to \$50 Million College Gift," The Washington Post, 08/30/19 (2)
- Thomas Kaplan, "Nonprofits Are Balking at Law on Disclosing Political Donors," New York Times, 08/20/13 (4)
- Steve McConnell, "Big Money for Advocacy is Needed from Foundations" Chronicle of Philanthropy, 12/22/15 (4)
- "Changing Hearts and Minds: The untold story of how philanthropy and the Civil Marriage Collaborative helped America embrace marriage equality," Haas Jr. Foundation, 11/02/14 (24)
 - Video: http://www.haasjr.org/resources/changing-hearts-and-minds?gclid=Cj0KEQIA1dWYBRDqiJye6LjkhfIBEiQAaw06ITrBBIBKwN9tGQ_2YnAkCoc7PKMz6KF014ovOnkp2cs0aApu58P8HAQ
- Sylvia Yee, "Equal Effort: How intentionality and collaboration have helped gay rights progress," Stanford Social Innovation Review, 08/22/14 (4)
- Megan O'Neil, "For California Nonprofits, Advocacy Work on \$15 Minimum Wage Pays Off," Chronicle of Philanthropy, 03/31/17 (5)
- Matea Gold, "Congress' budget deal halts political disclosure efforts," Washington Post, 12/15/15 (7)

- Coral Davenport and Nick Wingfield, “ Bill Gates Takes on Climate Change with Nudges and a Powerful Rolodex”, NY Times, 12/8/15 (4)
- Phillip Henderson and Rip Rapson, “Grant Makers Need a New Approach to Reversing Inequities in America’s Cities,” Chronicle of Philanthropy, 04/07/16 (5)
- Tim Delaney, “Stop the Spread of State Laws that Trample on Charity Rights,” Chronicle of Philanthropy, 04/08/16 (4)
- Hal Harvey, “Why I regret Pushing Strategic Philanthropy,” Chronicle of Philanthropy, 04/04/16 (5)
- Alan Abramson, “5 Ways to Increase Nonprofit-Advocacy Clout,” Chronicle of Philanthropy, 01/19/16 (5)
- Jim Rendon, “Nonprofits Should Focus More on State Lawmakers, Speaker Says,” Chronicle of Philanthropy, 11/14/19 (3)

XIII. WEDNESDAY, APRIL 15, 2020 – RECENT IDEAS AND TRENDS AIMED AT GREATER IMPACT IN THE SOCIAL SECTOR: SOCIAL ENTREPRENEURSHIP, IMPACT INVESTING, AND “EFFECTIVE ALTRUISM”

Study Questions:

1. What are the critical factors that could raise the effectiveness of the social sector significantly? Is it right to believe that new approaches to philanthropy (as opposed to simply giving more money) can make a material difference in how much good nonprofits can achieve?
2. Specifically, can philanthropy do much to increase the quality of leadership and the extent of social entrepreneurship in the social sectors? Are there differences between outstanding leadership and social entrepreneurship? If so, in what ways are the two different and in what ways are they similar?
3. Should foundations view their investment portfolios as a principal means of pursuing the public good? Or would they do better simply to maximize returns on their investments so that they can give away as much as possible in grants?
4. Is it desirable to evaluate targets of charitable giving according to which ones produce the maximum social return on a donated dollar? Is this the greatest and best approach, merely one useful criterion among many, or a misguided way of thinking about charitable giving?
5. Are there elements other than leadership, capital, and measuring effectiveness that would improve philanthropy?
6. Is it right to consider some forms or methods of philanthropy superior to others, and if so, by what standard?

Required Readings (119 pages, plus a website):

New Forms of Philanthropy (29)

- Veronica Dagher, “How the Tax Bill Changes the Math on Donor Advised Funds,” *The Wall Street Journal*, 12/20/2017, (2)
- Alex Daniels and Rebecca Koenig, “How New Forms of Philanthropy Are Squeezing Traditional Charities,” *The Chronicle of Philanthropy*, 12/5/2017 (5)
- Simon Montlake, “A Billionaire Wages War on Poverty in Oklahoma,” *The Christian Science Monitor*, 11/20/2017, (15)
- V. Kasturi Rangan and Lisa A. Chase, “The Payoff of Pay-for-Success,” *Stanford Social Innovation Review*, Fall 2015, (7)

On Leadership and Social Entrepreneurship (37)

- Nick Lovegrove and Matthew Thomas, “Triple-Strength Leadership,” *Harvard Business Review*, September 2013, (16)
- Roger L. Martin and Sally Osberg, “Social Entrepreneurship: The Case for Definition,” *Stanford Social Innovation Review*, Spring 2007 (18)
- Sarah Murray, “Social Entrepreneurship: Dividing Lines Are Becoming Blurred,” *Financial Times*, 7/5/07, (3)

On Impact (or “Mission”) Investing (27)

- Clara Miller, “Building a Foundation for the 21st Century” (Parts 1 and 2), *Nonprofit Quarterly*, June 2016. Part 1: June 8, 2016 (5) Part 2: June 9, 2016 (4)
 - Mara Bolis and Chris West, “Marginalized Returns,” *Stanford Social Innovation Review*, Fall 2017 (5)
- Ben Gose, “Foundations are Cautious on Impact Investing”, *Chronicle of Philanthropy*, 12/01/15 (4)
- Dennis Price, “Ford Foundation Looking at Impact Investing For \$12 Billion Endowment”, *ImpactAlpha.com* 11/10/15 (2)
- Steven Godeke & William Burckart, “Impact Investing Can Help Foundations Avoid Obsolescence”, *Chronicle of Philanthropy*, 03/18/15 (5)
- “Generation SRL,” *The Economist*, 11/25/2017, (2)
- Jeff Shumway, Jake Segal, and Michael Etzel, “Pay for Systems Change: The real promise of pay-for-success lies in changing how government funds social services,” *Stanford Social Innovation Review*, 01/05/18 (3)
- Larry Kramer, “Down the Rabbit Hole? Impact Investing and Large Foundations,” *Stanford Social Innovation Review*, 06/12/17 (5)

On Effective Altruism (21, plus a website)

- Derek Thompson, “The Greatest Good,” *The Atlantic*, 06/15/15 (17)
- Ken Berger and Robert M. Penna, “The Elitist Philanthropy of So-Called Effective Altruism,” *Stanford Social Innovation Review*, 11/25/13 (4)
- Peruse the web site: <https://www.givewell.org>, particularly the “About” section, including FAQs

TERM PAPERS DUE NO LATER THAN SUNDAY, APRIL 26, 2020 AT 4:00 P.M. IN PROFESSOR FLEISHMAN’S AND MR. CIRCOSTA’S INBOXES BY WORD ATTACHMENT TO EMAIL. SEE PAGES FIVE AND SIX FOR TERM PAPER INSTRUCTIONS.

