

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

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

Spring Semester, 2024
Tuesdays, 10:20 a.m.—12:50 p.m
Sanford Room 225

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

Class Materials

1. *Nonprofit Organizations: Cases and Materials, 5th ed.* James Fishman and Stephen Schwarz, Foundation Press, 2015
Registered students can access the Nonprofit Organizations: Cases and Materials, 5th ed at the Duke Law library.

Foundation Impact Research Group

Students are encouraged, but not required, to attend Foundation Impact Research Group (FIRG) seminars. 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 will be announced in class.

Absence Policy

In-person participation is vital to this class. However, we understand that absences may occur due to illness and extenuating circumstances. If a student is unable to attend class due to an illness or emergency, the student should notify the instructors and the TA as soon as possible, preferably before class. Students should communicate with the TA and instructor if they are unable to complete weekly assignments due to their absence from class. The instructor and TA will work with students to ensure the required work is completed.

COURSE OVERVIEW

The central question to be addressed in this seminar is the extent to which, and how, a large number of people of varying backgrounds, living together in a country 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. To explore those questions, we will examine alternative allocations of responsibility for solving problems -- voluntary, not-for-profit, for-profit, joint public/private, publicly encouraged/subsidized, and publicly coerced. 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. 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 and nonprofit organizations 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 class will be conducted as a discussion seminar. 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 a significant component of your final grade.

While computers are indispensable to everyday life, we will prohibit use of laptops and cell phones during class discussions. Notes (if a student desires to take them) will need to be created using non-electronic means. Such a draconian and retro approach to classroom decorum might be a bit jarring at first but will help all of us stay intimately engaged with the subject at hand.

Weekly Papers

Five weekly papers, each of approximately 1,250 words, are required. Each week's **papers must be e-mailed to me at damon.circosta@duke.edu and Kayleigh at kayleigh.rubin@duke.edu. Papers are to be sent only as Word attachments.** We will correct all papers and return them to you, graded and commented upon, at class the following Wednesday.

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. Grades on the weekly papers and class participation will together constitute 100 percent of the term grade.

DUE DATES FOR PAPER SUBMISSIONS:

January 21: Philosophy of Philanthropy

January 28: Rationales for Tax Exemption

February 4: Changing Attitudes Towards Donors and Nonprofits

February 18: Directors' Duties

February 25: Donor Motivation and Intent

1. January 16: AN OVERVIEW OF THE COURSE

Defining non-profit, public charity, private foundation, endowments, and donor-advised funds. Overview of the nonprofit sector and philanthropic giving, requirements for exemption, operations, and impact.

Guiding Questions (questions to consider as you complete your readings and weekly papers):

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. Do foundations improve social justice or perpetuate injustice? Explain your reasoning.
3. How is technology changing the ways in which charities raise, maintain and deploy money and volunteers? Does technology offer better means of improving the accountability to the public of foundations and other not-for-profits?

Required Readings:

- Susan M. Chambre, "Has Volunteering Changed in the United States? Trends, Styles, and Motivations in Historical Perspective," HistPhil (09/28/20).
- Phil Buchanan & Hilary Pennington, "Foundation CEOs Need to Send the Message That Unrestricted Giving Is the New Normal," The Chronicle of Philanthropy (09/26/20).
- Jim Rendon, "The Philanthropy Roundtable's CEO Opposes 'Woke Philanthropy,' Prompting Some Grant Makers to Flee and Others to Give More," The Chronicle of Philanthropy, (8/9/21).
- Phil Buchanan, "Givers & and the Government Step Up to Support Nonprofits," The Hill, (6/20/21).
- Elijah Goldberg, "Most Nonprofits Are Highly Effective, Check the Data." The Chronicle of Philanthropy, (8/19/21).
(10/7/21).
- Philip Rojc, "Financial Sector Oversight is Crucial to Tackling Inequality. So Where is Philanthropy?" Inside Philanthropy, (10/1/21).
- Drew Lindsay, "Should Philanthropy Fund Government? A \$400 Million Gift Settles That Question in Kalamazoo Mich., For Years to Come," The Chronicle of Philanthropy, (7/29/21).

2. January 23: PHILOSOPHY OF PHILANTHROPY

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 #1 Due on January 21st, 2:00 p.m.: First, in a paragraph or two, try to formulate what you consider the strongest definitions of, or rationale for, altruism, charity, and philanthropy. Next, describe some kinds of activity that conform to those definitions. Are there kinds of activities commonly thought of as altruistic or philanthropic that do not meet your standard? Where possible, compare 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 to you (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. Why do we become involved in the lives of others, in mutual help activities, in altruistic community undertakings?
3. How much should someone give -- a minimum percentage of income or of accumulated wealth, or only as the spirit moves them?

Required Readings:

- Brian O'Connell, ed., America’s Voluntary Spirit. The Foundation Center, 1983. p. 11-22, 35-58, 63-72.
- De Tocqueville "On the Use Which the Americans Make of Public Associations in Civil Life"
- Jason Saul, “Why We Need Better Ways to Help Donors Understand the Cost of Solving Big Problems,” The Chronicle of Philanthropy (09/29/20)
- Alex Daniels, “In Times of Rancor, Nonprofits Help Americans Find Common Ground,” The Chronicle of Philanthropy (10/06/20)

2. January 30: RATIONALES FOR TAX EXEMPTION

Rationales for tax exemption of foundations and voluntary organizations, government constraints imposed in exchange for tax exemption (public policy exemption).

Paper #2 Due on Sunday, January 28th, by 2:00 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. Page numbers are to the Fifth Edition. 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?

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 Professor Circosta.

Study Questions:

1. What are the policy objectives of legislation establishing tax-exemption of organizations and the deductibility of gifts to them?
2. 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?
3. 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 real ‘bite’?

Required Readings:

- Fishman/Schwartz (5th edition) pages indicated below,
 - “An Overview of the Federal Tax Treatment of Charitable Organizations,” (p. 40-45).
 - Cases: *IHC Health Plans, Inc. v. Commissioner* (p. 324-339), *Bob Jones University v. United States* (p. 367-395), *Holy Spirit Association v. Tax Commission* (p. 417-422), *Regan v. Taxation With Representation* (p. 518-526), *Branch Ministries v. Rossotti* (526-536).
- Lloyd Hitoshi Mayer, “The Limits of the Bob Jones Decision: Why We Shouldn’t Rely on the IRS to police uncivil civil society,” *HistPhil*, (5/6/21)
- Philip Rojc, “The Super Rich Skate Around Paying Income Tax. Is Philanthropy Complicit?” *Inside Philanthropy*, (6/16/21)
- Dan Parks & Eden Stiffman, “Value of Charitable Deductions for All Americans Still Unclear,” *The Chronicle of Philanthropy*, (6/27/21)

3. February 6: CHANGING ATTITUDES TOWARD DONORS AND NONPROFITS

Changing public attitudes towards wealth, philanthropy, nonprofits, and substantive criticism of the sector.

Paper #3 Due on Sunday, February 4th, 2:00 p.m.: With a recent global pandemic, nationwide protests for racial equity, and fundamental American institutions such as free and fair elections on the brink, there is a myriad of pressing issues facing the U.S. In this paper, reflect on current events and choose one issue you think is most important to society and explain why. Then, discuss how philanthropy could play a role in tackling, solving, easing (or exacerbating) this issue.

Study Questions:

1. Are recent criticisms of philanthropy, particularly philanthropy's role in perpetuating inequality, justifiable? Why or why not?
2. What type of 'access' should the public have when it comes to the decision-making of private philanthropy? Does the average taxpayer, by virtue of the tax-subsidized nature of charitable donation, have an expectation to be able to inspect or even participate in the philanthropic decisions of others?
3. Is the increased public skepticism of donor motivation warranted? If so, why? If not, what should philanthropic organizations do to diminish public skepticism?

Required Readings:

- Marc Benioff, "We Need a New Capitalism," New York Times, (10/14/19)
- Paul Valley, "How philanthropy benefits the super-rich," The Guardian (09/08/20)
- Ellen Friedman, Glenn Galaich, and Pia Infante, "There is No Better time Than Now for Philanthropy to Spend Itself Out of Existence," The Chronicle of Philanthropy (07/28/20)
- Alan M. Cantor, "Fidelity Charitable: Using Grants to Win Friends, Influence People, and Silence Critics," The Chronicle of Philanthropy (10/21/20)
- Philip Rojc, "The Sackler Toxic Donor Saga Continues with a Ban on "Reputation Laundering" Naming Rights"(7/20/21)
- Editorial Board, "OPINION: Sharing the Wealth," The New York Times, (7/16/21)
- Editorial Board, "OPINION: The Smartest Way to Make the Rich Pay is Not a Wealth Tax," The New York Times (7/21/21)
- Editorial Board, "OPINION: "How to Close the Wealth Gap from the Bottom Up," The New York Times, (7/26/21),

4. February 13: GUEST SPEAKER, JOEL FLEISHMAN

Speaker Bio:

Professor Fleishman is a native of Fayetteville, North Carolina. He began his career in 1960 as assistant to the director of the Walter E. Meyer Research Institute of Law at Yale. From 1961 to 1965, he served as legal assistant to the governor of North Carolina. He then returned to Yale, first as director of the Yale Summer High School, and then as associate provost for Urban Studies and Programs. In 1969, he became associate chairman of the Center for the Study of the City and Its Environment and associate director of the Institute of Social Science at Yale. In 1971, he came to Duke as a member of the law faculty and as director of the Institute of Policy Sciences and Public Affairs, now the Sanford School of Public Policy, in which position he served until 1983. He is now Professor of Law and Public Policy, and Director of the Heyman Center on Ethics, Public Policy and the Professions. He also directs the Duke Foundation Research Program. His principal writings deal with legal regulation and financing of political activities as well as the regulation of not-for-profit organizations. His book, *The Foundation: A Great American Secret — How Private Money is Changing the World*, was published in January, 2007 by Public Affairs Books. He is now serving as co-chair of Independent Sector's Committee on the Self-Regulation of Nonprofit Organizations.

Required Readings:

To be determined

5. February 20: NON-PROFIT GOVERNANCE: LEGAL DUTIES OF DIRECTORS

Governance standards, performance shortcomings, and scandal in the nonprofit sector. Fiduciary duties, including the duty of care and duty of loyalty, and application to nonprofit trusts and corporations.

Paper #4 Due on Sunday, February 18th, 2:00 p.m.: Discuss the major cases included in the assigned casebook readings. Page numbers are to the Fifth Edition (Fitzgerald v. NRA [p. 115-119]; Pepperdine [p. 123-127], Lynch v. John M. Redfield Foundation [p. 127-130], Stern v. Lucy Webb Hayes [p.130-143 and 156-162], Nixon v. Lichtenstein [p. 149-156], Adelphi v. Diamandopoulos [p. 162-172], and Northeast Harbor Golf Club, Inc. v. Nancy Harris [p. 172-178], and criticize and synthesize their holdings. Strive to understand how their respective holdings fit together based on the different fact situations each case presents. Be sure to discuss all seven cases. Each case is there for a reason.

Study Questions

1. Does the inherent nature, structure, or governance of not-for-profit organizations make abuse more or less likely? What is it about nonprofits that make them vulnerable to abuse?
2. Someone needs to be responsible for preventing scandals and abuses in the not-for-profit sector. Who should that be?
3. What are the relevant standards of propriety for 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?

Required Readings:

- Fishman/Schwartz (5th Edition), pages listed below,
 - Cases: Fitzgerald v. NRA (pp. 129-134), Pepperdine (138-142), Lynch v. John M. Redfield Foundation (143-145), Stern v. Lucy Webb Hayes (146-160), Nixon v. Lichtenstein (170-177), Adelphi v. Diamandopoulos (177-187), Northeast Harbor Golf Club, Inc. v. Nancy Harris (188-196).
- Alex Daniels, "Report Paints Grim Picture of Fiscal Health of Nonprofits," The Chronicle of Philanthropy (10/09/20)
- Lisa Rangelhelli, "Low Pay and Poor Working Conditions Forced a Vital Nonprofit to Shut Down, I Was Complicit in Its Demise." The Chronicle of Philanthropy, (5/11/21)

6. February 27: DONOR MOTIVATION AND INTENT

Motivation and intent of the great philanthropists in their making and giving of money, and the average American.

Paper #5 Due on Sunday, February 25th, 2:00 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, Melinda French, Dustin Moskovits and Cari Tuna, Mark Zuckerberg and Dr. Priscilla Chen, and McKenzie Scott.

Additional information on these donors can be found in the "further readings" document on Sakai and can be supplemented through your own research.

Study Questions:

1. Why did major donors say they were giving 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? Their peers? 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. Do large donors seek to make money to give it away, or do they accumulate wealth because of greed or ambition as an end in itself, and make charitable gifts as an after-thought? How does the motivation of the wealthy towards giving differ, if at all, from that of people of lesser means?
3. 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?
4. What are the arguments for and against anonymous giving?
5. 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?

Required Readings:

- 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.
- 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>
- Andrew Serazin, "Donor Intent is Critical to Strategic Philanthropy," *Stanford Social Innovation Review* (Summer 2021).

7. MARCH 5: TAXATION II: EXEMPTIONS, DEDUCTIBILITY, AND EFFICIENCY

The nitty gritty of tax exemptions and deductibility of contributions; effectiveness of tax policy in increasing/decreasing donations.

Study Questions:

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. What role should the needs of prospective recipients play in allocating charitable resources, as opposed to the goals of the donors?
3. 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?

Required Readings:

- Fishman/Schwarz (5th edition), pages indicated below.
 - Cases: Church of Scientology of California v. Commissioner (p. 450-457), Hernandez, Sklar v. Commissioner (p. 869-880), Blake v. Commissioner (p. 891-896), Winokur (p. 905).
- Rob Reich, "Philanthropy in the Service of Democracy," Stanford Social Science Review, Winter 2019.
- Anand Giridharadas, "Beware Rich People Who Say They Want to Change the World," The New York Times, 8/24/18.

8. March 19: GUEST SPEAKER, ROBERT BURNS

Speaker Bio:

Robert Burns is director of the Home Region Program at the Walton Family Foundation. In this role, he leads the foundation's work advancing economic and cultural vibrancy, opportunity and inclusion in Northwest Arkansas and the Arkansas-Mississippi Delta.

Robert has more than 25 years of experience in workforce housing, philanthropy, community development and governmental affairs. Most recently, he led efforts to promote financial inclusion and economic empowerment as senior vice president of Citi. In previous roles, Robert partnered with nonprofit and public agencies to build more inclusive cities; managed a Community Development Financial Institution; directed nonprofit solutions for an affordable housing organization; and served in local government in four states.

Robert has a master's in public administration from the University of Kansas and a bachelor's in political science from Appalachian State University.

Required Readings:

To be determined

9. MARCH 26: GUEST SPEAKER, LORI O'KEEFE

Speaker Bio:

Lori O'Keefe has served as president and CEO of Triangle Community Foundation since 2012. In addition to leading the operations and strategic vision of the Foundation, she works to ensure that the Foundation's donors are engaged and connected to the causes they care about and oversees programs to support the Triangle's entire nonprofit community for the benefit of our region. Under her leadership, the Foundation has grown from \$144M in assets with grants of \$13M to over \$300M with grants averaging over 10% of assets annually.

A lifelong singer who is passionate about the arts, Lori has devoted her career to the nonprofit sector. Before joining Triangle Community Foundation in 2005 as a member of the Donor Engagement team, Lori worked as a fundraiser and arts administrator at performing arts institutions in California and New York City. At the Foundation, she often presents on the subject of philanthropy and the nonprofit sector. This year, she served on the review committee for National Standards, the accreditation program for community foundations. She recently served as Board Chair of the North Carolina Network of Grantmakers and is active on other boards and committees in the Triangle. She is a Goodmon Fellow through Leadership Triangle and a regular contributor for Triangle Business Journal's A Better World column.

Lori is a native of Ohio and received her B.A. and MBA degree with a specialization in arts administration from the State University of New York system. She lives in Wake Forest with her husband and their two daughters and enjoys spending time in all four counties the Foundation represents.

Required Readings:

To be determined

10. APRIL 2: OTHER ORGANIZATIONS DOING GOOD: B-CORPS, 501C4, AND OTHERS

In this class we will examine the merits and challenges to other organizations seeking to 'do good'. Alternative initiatives to philanthropy have been tried, 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. Alternatives to the 5

01c3 model of tax deduction in exchange for private spending on public goods are also being created. The private sector is a channel for advancing social impact and includes critical partners for addressing social and environmental challenges. Strategic philanthropy can influence the private sector by incentivizing collaboration, advancing policy and de-risking innovation. In addition, the emergence of ESG standards represents an influence tool for advancing social impact. This class will explore effective strategies to balance profit and purpose, the role of corporations in advancing social change and how philanthropy can influence these actors.

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. Do Environmental, Social, Governance (ESG) criteria paint an accurate picture of company or organization's impact? How should companies and philanthropists navigate the increased politicization of ESG and how various stakeholders can use these trends to advance their agendas?
3. What role can philanthropy play in advancing more market-based solutions? 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?
4. Is it right to consider some forms or methods of philanthropy superior to others, and if so, by what standard?

Required Readings:

On Leadership and Social Entrepreneurship

- Nick Lovegrove and Matthew Thomas, "Triple-Strength Leadership," Harvard Business Review, September 2013.
- Roger L. Martin and Sally Osberg, "Social Entrepreneurship: The Case for Definition," Stanford Social Innovation Review, Spring 2007.

On Impact (or "Mission") Investing

- Amy Cortese, "Investor protests fail to stop Trump administration rule squelching ESG investing," Impact Alpha, November 2, 2020. <https://impactalpha.com/investor-protests-fail-to-stop-trump-administration-rule-squelching-esg-investing/>
- U.S. Department of Labor, "U.S. Department of Labor Proposes New Investment Duties Rule," U.S. Department of Labor, June 23, 2020. <https://www.dol.gov/newsroom/releases/ebsa/ebsa20200623>

B-Corps and Stakeholder Capitalism

- Christopher Marquis "The B Corps Movement Goes Big," Stanford Social Innovation Review (Fall 2020).
- Peter S. Goodman, "Stakeholder Capitalism Gets a Report Card. It's Not Good.," The New York Times (09/22/20),

11. April 9: UNDERSTANDING THE STRATEGIC REQUIREMENTS OF GENERAL-PURPOSE FOUNDATIONS

In this class, we will explore the historical origins, theoretical underpinnings, and strategic requirements of general-purpose foundations. We will delve into the unique role that philanthropy plays in liberal democracies, particularly focusing on its legal status, historical context, and impact on collective imagination. Through evaluating a paper by a working philanthropist (and friend) we will try and “put it all together”

Study Questions:

- **Historical Context and Legal Foundations:**
 - How did the Second Industrial Revolution contribute to the emergence of general-purpose foundations, and what legal rights did the captains of industry secure to disburse their wealth for the general social good?
- **Theoretical Conception and Democratic Values:**
 - In what ways does the reading argue that the accidental nature of general-purpose foundations can be aligned with a non-accidental theoretical conception, specifically considering its impact on democratic values?
- **Challenges of General-Purpose Foundations:**
 - What challenges arise from legally inscribing private intentions and wealth into the social regime, and how do general-purpose foundations navigate the tension between private interests and the public interest?
- **The Role of Theory in Philanthropy:**
 - According to the reading, how does theory contribute to assessing the moral quality of the ideals and intuitions behind general-purpose foundations, and how does it enable more intentional future actions?
- **Strategic Doctrine for General-Purpose Foundations:**
 - What is the strategic doctrine proposed for general-purpose foundations in the reading, and how does it differ from or extend existing theories, particularly Rob Reich’s assessment of philanthropy’s democratic legitimacy?

Through these questions, we aim to gain a comprehensive understanding of the complexities, challenges, and strategic considerations inherent in the functioning of general-purpose foundations within liberal democracies.

12. April 16: DIVERSITY, EQUITY, AND INCLUSION IN PHILANTHROPY

Many foundations fail to hire leaders that reflect the communities in which they make grants or fail to make grants to minority communities in some reasonable proportion to population sizes. Today's class will focus on the challenges of diversity and inclusion in philanthropy, why these challenges exist, and what organizations are doing improve.

Study Questions:

1. Why is diversity and inclusion important for nonprofits and foundations, especially in terms of organization and board leadership?
2. What can organizations do to improve diversity and inclusion internally? In what ways might such improvements affect organizations' performance outwardly?
3. What challenges or opportunities do you foresee in grantmaking to grassroots organizations that may not have resources to measure impact? How should leaders consider the trade-offs between autonomy to grantees and foundation oversight?
4. What unique role can community foundations, given the proximity to grantees and program recipients, play in supporting more inclusive grantmaking?

Required Readings:

Leadership

- Joshua Eferighe, "How to Confront Racism in Philanthropy," A Modern Media Company (08/24/20).
- Alex Daniels, "Foundations Show Little Progress in Making Their Staff More Diverse," The Chronicle of Philanthropy (10/13/20).
- Debi Gahte, "Diversity Mandates from Foundations Make it Harder for Nonprofits to Do Their Jobs Well," The Chronicle of Philanthropy, (12/2/20).
- Maria DiMento, "How Women Will Shape Philanthropy in the Decade Ahead," The Chronicle of Philanthropy, (8/16/21).

Funding

- Marc Gunther, "Fund Us Like You Want Us to Win," The Chronicle of Philanthropy (08/25/20).
- Renee Karibi-Whyte, "Foundations Should Examine Practices That Prevent Them from Giving Grantees More Power," The Chronicle of Philanthropy (10/13/20).
- Olivera Perkins, "Fund for Black-Led Grassroots Groups Is Upending Traditional Grantmaking," The Chronicle of Philanthropy, (06/23/21).

Private Sector

- Alex Daniels, "Companies Lead Philanthropic Response to Calls for Racial Justice, but Will It Last?" The Chronicle of Philanthropy (08/24/20).