REVIEWS

Dead Hands: A Social History of Wills, Trusts, and Inheritance Law.
By Lawrence M. Friedman. Stanford, California: Stanford Law Books, 2009.
An Imprint of Stanford University Press. 183 pages. $43.80 US (hardcover).

G. M. Curtis

This is a short book, "a quick look" as Friedman explains (178), about a very big story. It is an ambling commentary, appearing to have been cobbled from class notes for his course on trusts and estates, covering many topics lightly, cherry-picking a wide variety of state and federal judicial decisions, some with an eye for illustrating a legal doctrine or rule; some for the drama; and some for the author's political purpose. Readers of such a volume as this should not expect that it offers a thoughtful summary of a deeper scholarship preceding it. Friedman's hallmark is the advocacy of the instrumental view of the law, hence his emphasis on an isolated present. This man-centered view, often associated with Oliver Wendell Holmes, Jr., posits that the law follows social function and interest; so the viewpoint tends to yield commentaries which take little or no significant notice of higher law, constitutional or natural.

Assuming that his readers will know what social history is, Friedman asserts quite directly that the social history of the law is his justification for this book. At several different times in the book social history, however, seems to mean different things to Friedman, ranging from current legislative fashion, the majority opinion of vocal legal scholars who find like-minded judges, and the passing whims of political fashion. There has been another significant assumption in this instrumentalist view of the law, an accompaniment which is associated with what might generally be viewed a Marxian view of the relation of the individual to the state wherein progress results from the exercise of mythic state power to control, shape, and thus to change, perchance to perfect, human nature. The law figures in a central way in this construction as a handmaid of unencumbered power, the police power, one that carries within it an inherent assumption of justification. Over time this produces embarrassing anomalies such as slavery and American-Japanese relocation camps and eugenics, all made possible when expediency and current state interest, whether crown or legislature, trumps a higher morality. On the other hand, spontaneity in the law such as common-law marriage and peaceful private legal orders in the many companies on the North American overland trail, ironically, poses an obstacle, a puzzle for the instrumental view of the historical development of the law. Most important is Friedman's fusing instrumentalism with an uncritical acceptance of police power, that presumption which is the exact opposite of the 18th century American admonition to be forever "jealous" of the exercise of public power.

The first of the two major segments of the book treats individual wills, testamentary and intestate. Here the subject is as old as civilization, one that has at its heart the question of property. So the central question, one that Friedman skips around, has been the relation of the state to the individual, something that legal scholars from the time before Justinian recognized, developing as they did through the centuries a commentary that paved the way for modern concepts of liberty that viewed property as "the guardian of every other right." (Charles Lee, mentioned in James W. Ely, Jr., *The Guardian of Every Other Right: A Constitutional History of Property Rights*. New York. 1992, 26.) A cursory historical survey of classical and Christian legal orders will sustain this view of the central importance of property—its acquisition and its disposition. The history of philanthropy is tied inextricably to this history of property in all of its many manifestations. And it is tied to future interest as well. Of course, the history of law illustrates that the civil orders in western civilization have exhibited a public interest along with the assortment of private interests in taking note of the reach of "the dead hand." It is this distinction between the public and the private that is often mixed up in Friedman's case stories with the result that the spotlight appears to be absorbed in these stories rather than in their general significance for the history of law.

This recognition of the importance of property, however, is not Friedman's focus. Instead, he emphasizes the historical development of certain testamentary practices and the rules of intestacy, particularly those which treated the rights of women, a laudable subject, but one that obscures the general history of the law. Absent is an account of the statutory treatment of intestacy, probate, and future interest so as to show the development of the state's interest. Here, for example, an examination of section one of the Northwest Ordinance (1787) would have been illuminating as a window into the history of property. Also absent is any careful consideration of the state's interest in protecting the property rights of creditors as this found expression in the statutory history of the laws of descent.

The second of the two major segments of the book treats the public dimension of wills, the construction of charitable devises. The bridges Friedman provides for this transition are discussions of mortmain and a chapter given to "Will Substitutes." Mortmain introduced the subject of restrictions on gifts to charity, originally, according to Friedman, statutory restrictions in the American states of gifts to the Catholic Church, the corporate "dead body" so feared from centuries earlier in England. Friedman asserts that this doctrine expanded in the American nineteenth century to include all sects, a practice that withered during the twentieth century, leaving in its wake a powerful precedent for the state to order limits of time and capacity for testamentary wishes either through the rule against perpetuities or the tax power. The discussion of the cacophony of trusts begins with Friedman's discussion of will substitutes, the instruments suited for a people with more wealth; for people who sought to extend the life of their future interests so as, among other things, to negate the rule against perpetuities; for people to provide for causes and interests beyond their cares for family; and for people to bypass the formal structures of wills and probate. From here it was a short step to the legal construction of the profusion of foundations that became so prevalent during the second half of the twentieth century.

While Friedman stresses on several occasions that "charities are favorites of the law" (143), some may wonder. Given that this book has been published in 2009, it is acceptable to assume that Friedman is knowledgeable about people with special political interests who are actively seeking to enlist the power of the states and the federal government to rearrange the structural organization and the missions of many charities so as to conform more closely to their various political views. Friedman appears to accede as, disingenuously, he wonders why charitable foundations are exempt from taxation. Friedman views this legal status as one which "deprives the government of money that it otherwise would have collected" (143). The implication of his words suggests that the state has prior claim on all wealth thus making an interesting mockery of the idea of "tax-exempt." The camel's nose is fully in the tent.

The charitable foundation becomes a fief of sorts, existing at the pleasure of the state which deigns to permit the charity to keep some of what is its property, albeit conditional, a fundamental denial of a principal foundation of ordered liberty. Friedman embellishes this perspective in his discussion of cy pres, a traditional doctrine for the use of courts to fulfill the intention of donors if time and tide have made obsolete their original plans the design of which may have been too narrow. Another reason for courts to intervene is to redesign the trust if its original purpose has become illegal. Friedman, with a strong nod to the instrumental view of the law, emphasizing that "as society changes, the law of succession will change with it" (183), hints that this may become one area where courts can exercise an active role in effecting social policy. Friedman takes special notice of "a lot of legal scholars" who assert that in some instances where the terms of the devise permit, courts should be less cautious, arguing for the exercise of "more power" (160). Some might suggest that they whiff judicial ex post facto, but Friedman embraces the prospect that this would effect an expansion of the concept of cy pres. As these transformations take place, the original intent of the donor can be transmogrified into a judicial vision of an institution rather than as an instrument of individual intention. When combined with the police power of the legislative branch, this judicial discretion may effect a profound change in the direction of philanthropy's future unless the framer anticipates this judicial burden with great care. Overall, however, Friedman's predictions are chilling insofar as rights in property as expressed in future interest will tend to erode, and as they do, slowly and surely, the lights of liberty will dim even further.

Lawrence Friedman casts a very long shadow in the world of American legal history. The shadow that he casts with this "quick look" deserves careful scrutiny, more as a political prognostication than as an historical commentary on the American law of succession.

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The Future of Philanthropy: Economics, Ethics, & Management.
By Susan U. Raymond. Hoboken, NJ: Wiley, 2004. 308 pages. $77.00 US (hardcover).

Nicholas Capaldi

The main thrust of this lengthy series of short essays is (a) to provide some "empirical comparisons" between "philanthropy and indicators of economic and social change" (xii) as well as (b) to raise questions about "institutional accountability" (xii). In addition to sections on the economy, ethics and accountability, and management dilemmas, there are sections on specific issues such as healthcare, education, the international context, and corporate philanthropy.

The immediate problem faced by the author and reader is semantic, namely, what do we mean by philanthropy (as well as tax-exempt, nonprofit, charity, foundation, etc.). Both the author and reader struggle to resolve this issue. What is clear is that the largest genetic category is the tax-exempt organization as defined by the federal tax code in 26 U.S.C. § 501(c). Among tax-exempt organizations (as defined by the federal government) are nonprofit organizations, that is, organizations that do not distribute income to owners or shareholders. Nonprofit organizations may in all other respects be run like a business, that is, they pay wages and benefits to the staff and charge for the services they render. The presumption seems to be that the services are a public benefit that saves the government money in the long run. For example, there are both public and private universities. Private universities are tax exempt presumably because (a) no income generated by the private university is paid to shareholders and (b) the private university provides a valued public service, namely education, that saves the state and federal government the expense of providing that service in wholly publicly supported universities. To add to the semantic confusion, there are for-profit institutions of higher education (e.g., The University of Phoenix). The problem moves beyond semantics when questions are raised about the most effective method of providing a service (through markets or government). For pro-market advocates, there is the question of whether any organization should be tax-exempt (88). Raymond notes the extent to which "nonprofits as institutional investors" (89) can wield enormous power. Moreover, does the existence of tax-exempt status not give the government extraordinary power to favor some institutions and views over others?

Raymond does not resolve the semantic issue but she does call attention to the larger ideological issue. What she does do as well is address the practical economic problem of how to measure the size and impact of the philanthropy sector of the economy both because of the lack of adequate sources of information and the extent to which this is attributable to the lack of clear definitions of the kinds of institutions with which we are dealing. Who's doing the counting and exactly what are they counting (92-93)?

There are two places where she does come close to recognizing the potential conflicts and ideological problems. First, nonprofits like museums sell products in their gift shops that compete with for-profits; moreover, if you donate a used car to a nonprofit which in turn sells the car, the nonprofit is competing with for-profit car dealerships at a distinct tax advantage. Second, government has itself become a major source of funding for nonprofits (one of "the two most important sources of nonprofit income" is "government) (63) and in fact "the federal government has now begun to encourage private fundraising to pursue its agenda" (63). Raymond does call attention to the extent to which the "for-profit/not-for-profit distinction is losing its meaning" (73).

The second section on Ethics and Accountability is among the most helpful in the book. In fact, throughout the book Raymond identifies ethical issues in philanthropy. To begin with, "philanthropic cash is no longer a gift; it is a contract" (98). If it is a contract then there are expectations that need to be addressed and fulfilled, e.g., being true to donor-intent (98). Philanthropies, she argues, must now be run like responsible businesses with sound accounting practices. Philanthropies, in short, must be more accountable. The third section, Non-Profit Management Dilemmas, exemplifies the extent to which nonprofits run like responsible businesses face all of the contemporary issues in business ethics: benchmarking, budget cycle, compensation, diversity in the workforce, etc.

The section on Healthcare now seems largely out-of-date given the current healthcare debate. What is of interest is the claim that "nonprofit healthcare" performed "less-well than its for-profit counterparts" (85). The discussion of education in section five begins with the premise that college costs are going to rise but fails to discuss how the internet and on-line courses can dramatically affect costs. Nor is there any serious discussion of school privatization and homeschooling in K-12 education.

The sixth section on the International Context is more interesting. Raymond notes the huge growth in NGOs (nongovernment organizations). She specifically cites the CIA analysis "Global Trends 2015" as evidence that many NGOs are "not a reflection of a group voluntary response to larger societal needs, but, rather, to narrow group interests (or worse)" (231) such as "organizations committed to violence. The street riots and property destruction during the trade negotiations in Seattle and Genoa involved nonprofits. Ironically, it was (in part) nonprofits who engaged in violence that endangered the commons itself" (231-32).

Despite her best efforts, Raymond provides an unpersuasive case for the growth of philanthropy outside of the U.S. cultural context (one thinks here of Tocqueville). The best she can come up with are statistics about how Muslims contribute a large part of their income to charity, but she hastens to add this is a religious obligation. She clearly recognizes that historically speaking "European social policy was dominated by government support for social services" (245) but expects that to change as Europeans recognize the economic damage of promises that cannot be kept. On the contrary, the U.S. at present seems to be moving more in the European direction.

Raymond takes the view that "learning to be Charitable" is a girl thing (209-212) that (sadly) reflects educational practices—girls are routed into charitable work by the educational system. At the risk of inviting politically correct backlash, I would disagree and argue that the disproportionate number of women in philanthropic institutions is the result of their (misperceived) view that it provides a less stressful, more family-friendly career path than does commerce combined with an innate desire on the part of women in general to be caretakers.

While it may be true that volunteer work was one of the few avenues open to career-minded women in the 19th century, it's more likely that modern women at the start of their career-path believe that a career in philanthropy will enable them to make the world a better place while avoiding the rough-and-tumble politics of the workplace. They may also believe that it allows for more flexible working hours, so that it won't conflict with child-raising when and if that becomes a possibility.

Sadly, they are probably mistaken on both counts. Charities that give hand-outs to the disenfranchised, while helpful, probably don't help as much as businesses that train them to become productive citizens. Furthermore, the back-stage politicking in philanthropic institutions is at least as vicious as that in commerce. Finally, the working hours are unlikely to be any less demanding than are positions in commerce, so working for a charitable institution is unlikely to be any more family-friendly than any other full-time position.

A persistent set of related themes in Raymond's work is the blurring of distinctions between profit aspiring organizations and nonprofits as well as the need to rethink the relationship among government, commerce, and nonprofits. Although Raymond herself seems to have a positive and pro-market attitude toward this newly evolving relationship, she does not discuss the extent to which an anti-market bias pervades the nonprofit world and in fact is actively promoted by nonprofit organizations. The real threat and tendency, only dimly noticed in this book, is the extent to which the nonprofit world will evolve into an extension of and be wholly funded by the welfare state.

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We Make a Life by What We Give. By Richard B. Gunderman. Bloomington, Indiana: Indiana University Press, 2008. 216 pages. $24.95 US (hardcover).

Heather Wood Ion

Some books enlighten us, some books inspire us, and some books challenge us to expand our understanding of who we are and who we can become. Richard Gunderman's *We Make a Life by What We Give* does all three.

Dr. Gunderman addresses the issues of philanthropy and the roles of generosity in our lives with stunning clarity, and with a broad courage asks the wicked and necessary questions that many authors avoid. He begins by distinguishing between our various models of philanthropy: the charity model which often creates both dependency and resentment; the model of scientific giving which deepens the distinctions between givers and recipients; and the liberal model which enhances the flourishing of the giver as well as the recipient.

From the first chapter onward, the questions raised are critical to our understanding of what the volunteer sector does and can do in our society. These questions are elegant but challenging, "Are the things that are easiest to quantify also the ones we most need to know?" (4) and they should be points of discussion for everyone willing to examine what they do and how they do it.

The highest aim of philanthropy, says Gunderman, is to be transformational and inspirational (28). That in itself is a challenge to workers in the nonprofit sector, let alone professionals in philanthropy. In Chapter 6 "Egoism, Altruism and Service" a thoughtful exploration of motivation clarifies why Gunderman feels many people are bored with giving money, and why philanthropy must not be mere advocacy of special interest groups, but service to the future (52, 68).

There is a fascinating section in Chapter 11 "Materialist Philanthropy" which outlines the particularity of the gift and critiques the divisiveness of conspicuous giving (103). On page 135, Gunderman clearly challenges the entire sector by asking, "What is the bottom line of a philanthropic organization?" Is it dollars raised? Is it dollars disbursed? Is it outcomes achieved? The plethora of volunteer and nonprofit groups in this country needs to wrestle with these questions in order to rise to serving a purpose greater than survival.

A theme through this engaging book which warrants far more attention across all disciplines is the role of imagination in our generosity. Gunderman manages the impossible by showing us applications of curiosity, of hope, of love, and of suffering to more generous and purposeful living. Chapter 18 "Are we Hospitable?" grounds the theoretical discussion in a practical and pragmatic reflection on generosity within a hospital, and how caring and healing depend both on imagination and curiosity. This chapter alone can contribute a new worldview to our healthcare industry.

Richard Gunderman is erudite, but he wears his scholarship gracefully, elucidating Aristotle or Homer or the Bible with engaging simplicity. He is equally at home explaining a film, like *Black Hawk Down,* in terms of the themes of altruism, generosity and suffering. Not only does he himself see the world with a new vision, but he enables us to view ourselves and our particular worlds with that same vision, which for any author is a stunning achievement.

As I came to the end of the book I felt I had been served a banquet of wisdom, and shared that banquet with a most charming host, but I also felt a sad concern that this book will not reach the mass audience it deserves. This is a clarion call for better philanthropy, for wiser living, for more curious and imaginative engagement. The book should not be confined to its label—philanthropic and nonprofit studies—but read by all those seeking to lead a more meaningful life within communities and organizations which cultivate human flourishing. I would like to see the book in the hands of every teacher, every person who is employed by or volunteers within a social service entity, every faith-based organization seeking relevance to our common good.

Near the end of the book Gunderman writes, "our understanding of generosity reflects our understanding of the world we inhabit" (191). *We Make a Life by What We Give* reflects the compassion, wisdom and inspiration in which we will find the angels of our better nature. It simply surpasses all other books in the field, but more importantly, it expands our understanding of the field of philanthropy and of ourselves and our potential.

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Be the Solution: How Entrepreneurs and Conscious Capitalists Can Solve All the World's Problems. By Michael Strong and John Mackey. Hoboken, New Jersey: John Wiley & Sons, Inc., 2009. 374 pages. $24.95 US (hardcover).

Frederick Turner

Back in Shakespeare's day a remarkable group of people came together, more or less in secret, calling themselves "The School of Night." They ended up being responsible for starting a large percentage of the ideas and projects that made England great in the next four centuries. One of their number was the great mathematician/scientist Thomas Hariot, who created several of our algebraic signs, the fundamentals of modern atomic theory, some elements of calculus, the telescope (before Galileo), the first dictionary of the Algonquin language, and (with Ferdinand Vieta) the modern usage of the zero.

The School of Night included also the explorer/courtier/historian Walter Raleigh, the painter Nicholas Hilliard, the warrior/poet/diplomat Philip Sidney, the voyager Richard Hakluyt, the astronomer Giordano Bruno, Montaigne's translator John Florio, the dramatist Christopher Marlowe, and the poets Edmund Spenser and George Chapman, the translator of Homer. The School of Night loved darkness, mysteries, secrecy, and forbidden knowledge, and some were condemned to death for their views.

Such a group seems to exist today, calling itself FLOW, but we might consider them as "The School of Day," for they light explanations, transparency, and open knowledge; and though in certain regimes they would be (and some have been) targets for execution or assassination, they have so far dodged the bullets. Where they resemble the School of Night is in the flood of ideas they generate—in their case, ideas earnestly and often plausibly designed, as the book's subtitle declares, to solve all the world's problems.

They include John Mackey, the visionary CEO of Whole Foods Market; Muhammad Yunus, the Nobel Prizewinning founder of the Grameen microfinance bank; Candace Smith, the national award-winning educator in the Socratic method; Kartar Singh Khalsa, CEO of Golden Temple foods; Donna Callejon, COO of Global Giving; Hernando de Soto, the revolutionary third-world legal economist; Brian Johnson, CEO of Zaadz; Don Beck, the renowned psychologist; Jeff Klein, the author of *Working for Good: Making a Difference, While Making a Living*; and Strong himself, an educational activist with an extraordinary record for creating academically excellent schools in unpromising locations.

Most of the best ideas for real progress in the world today have come neither from the right nor the left but from a radical center that is pragmatic, idealistic, playful, unashamed of its devotion to uplift, happily prepared to use the instruments of filthy lucre to improve the world, and incomprehensible to haters, ideologues, conspiracy theorists, and authoritarians. This book is among other things a singularly useful compendium of many of those ideas from a wide range of fields, practices, disciplines, and parts of the world. Some of them are relatively new ideas, like prediction markets as a powerful discovery tool, the market-capture of environmental and social externalities, free enterprise zones, profitable stakeholder-based business management, lifestyle industries, for-profit philanthropic enterprises, education and medical vouchers, microfinance and facilitated legal property rights for the poor. Some are old ideas given radical new dimensions, like moral education, the virtues of freedom and free competition, the Invisible Hand, the Maslovian pyramid of human needs and aspirations, holistic health care, and evolutionary psychology.

But it is in the combination of all these ideas that the truly visionary quality of this book subsists. What would be a major flaw in its literary coherence—the very disparate voices and styles of its many contributors, ranging from academic economics through New Age mysticism, thoughtful cultural criticism, hard-hitting advocacy rhetoric, and self-help breezy muscular uplift, to Huxleyan science-fiction extrapolation—is actually an advantage in this case. The book illustrates in its very format the coming-together of radically different worldviews for the shared pragmatic purpose of making the world a better place. It's a big tent, including conservative, libertarian, and liberal perspectives, first- and third-world viewpoints (the socialist "second-world" having virtually disappeared), Enlightenment and Romantic modes of thought, techno-wonk enthusiasm and ancient wisdom.

And there are certain deeper themes that seem to run through all the varied and various pieces in the book. One of them is an implicit recognition of the profound contradictions in our existing set of established ideological positions. For instance, it looks very much as if conservatives and liberals both contradict themselves with respect to open (free) systems. Many conservatives who enthusiastically embrace the free market's self-organizing and evolutionary price discovery system, in which new technology, new desires, and new economics emerge as a result of competition and nonzero-sum collaboration, also reject the theory of evolution and its identical principles of competitive discovery, symbiosis, self-organization, autocatalysis and autopoesis. Likewise, liberals who ridicule fundamentalist conservatives for their belief that the divine economy of the universe is a *dirigiste* command economy, always being tweaked by a superior and transcendent Administrator (Who deceitfully works in secret), seem quite unaware that their own "intelligent design" notions of how government can run an economy appear to conservatives quite as naïve as the Scopes Trial prosecutors' views on human ancestry.

It almost seems as if being smart about biological self-organization tends to make people stupid about economic and social self-organization, and vice-versa. The people who wrote this book are smart about both; and I believe there is a profound theological reason for the difference. Both religious fundamentalists and "progressive" neo-socialists are, I believe, terrified of a God who really wants us, and the universe itself, to be free. The former makes Him control physical reality so as to compensate for the horrors of human moral freedom, the latter, rejecting human moral freedom as a superstition, seeks to replace a dead divine controller with a live governmental one. FLOW people really do believe in freedom, a belief much rarer than is commonly thought.

I do not mean to imply that the authors of this book are unaware of the problems of market idolatry. What is especially refreshing about their perspective is that it recognizes the need for the rule of law as a precondition for effective markets and as a way to charge social and environmental costs to their proper owners. Even more refreshing is their recognition that economic health, and the economic mechanisms that create it, are only a part of a larger economy that includes a wealth of free gifts and a hierarchy of higher-than-economic values. Good economics is an absolutely necessary but absolutely insufficient condition for the truly good life.

Self-organization—the capacity for nonlinear feedback systems to freely generate new ordered realities that subsume their pasts and revalue the rest of the universe—is not the sole prerogative of any level of reality. It is not the prerogative only of the fundamental forces of physics, or of the world of elementary particles or that of the Mendeleev Table of the chemical elements; nor is it only of the DNA molecule, or of the Selfish Gene, or of individual living organisms competing to survive and reproduce, nor of kin groups or social groups or parliaments or academic forums of science or legal traditions or democracies or markets. Maybe we first saw the Invisible Hand in markets (and I believe Darwin owes more to Adam Smith than is recognized), but there are Invisible Hands everywhere, and their actions can, by a combination of art and science and spiritual insight, be apprehended and partly understood if not predicted. If the Invisible Hand is both the unique work of freedom and the creator of more sensitive and inclusive forms of order, perhaps it implies a new sort of theology, as suggested by Robert Wright in his awkward but useful term "nonzerosumness" (in his book *Nonzero*) and as implied by many of the writers in *Be the Solution*.

Our present economic crisis in some ways stands revealed in the light of their book as a consequence of our leaders having ignored the new ideas for a new time. We are no longer living in a modernist age, and we are beginning to claw our way out of the debilitating miasma of postmodernism. Perhaps the economic crash is the punctuation mark—the true punctuation mark, as opposed to 9/11—that marks the end of one age and the beginning of another.

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Philanthropy Reconsidered. By George McCully. Bloomington, Indiana: AuthorHouse, 2008. 144 pages. $24.95 US (hardcover). $19.95 (paper).

Richard B. Gunderman

The time is ripe for a reconsideration of philanthropy. Tough economic times have driven some philanthropic organizations out of business, and forced others to carefully reexamine their mission and strategy. New technologies are changing the face of the field, particularly for smaller organizations whose size once constrained their ability to connect with important constituencies. State and federal governments are closely scrutinizing the activities of philanthropic organizations to ensure that they fulfill their responsibilities as bearers of the public trust (and in many cases, beneficiaries of tax-exempt status). Even the very meaning of the word philanthropy has been a subject of increasing contention.

George McCully, who left an academic career in the liberal arts to become a fundraiser, trustee, and most recently creator and president of the Massachusetts-based Catalogue for Philanthropy, has accepted this challenge in his book, *Philanthropy Reconsidered*. At a short 144 pages, the book's five chapters examine the classical origins of philanthropy, its role in the founding of the United States of America, more recent historical shifts in the field, the future of philanthropy, and the potential for a new philanthropic paradigm. It also includes two appendices, one a case study of the Massachusetts system and the other a proposed taxonomy of philanthropy.

Drawing on the work of scholar Marty Sulek, McCully explores the first extant use of the word philanthropy, in Aeschylus's *Prometheus Bound*. In it, the eponymous titan gives proto-human beings two gifts: fire, representing knowledge and the arts, and hope or optimism. Together the two gifts spawn mankind's aspiration to make the world a better place. Philanthropy literally means "love of humanity," and in bestowing these gifts Prometheus at once enabled human beings to become more humane and incurred the wrath of Zeus, who famously had Prometheus chained to a rock where each day an eagle ate his liver, regarded by the Greeks as the seat of desire.

What does the word philanthropy mean today? McCully considers a number of definitions, including John Gardner's "private initiative for the public good," Robert Payton's "voluntary action for the public good," Lester Salamon's "the private giving of time or valuables for public purposes," and Robert Bremner's "improvement of the quality of human life." Drawing on each of these, McCully defines philanthropy as "private initiatives for the public good, focusing on quality of life" (13). This definition is intended to distinguish philanthropy from government initiatives (which, by McCully's definition, cannot be philanthropic) and from commerce.

Of course, public good is not always easy to define. For example, the popular US eugenics movement in the early 20th century sought to improve the biological stock of humanity by preventing "defective" individuals from reproducing, a policy that made perfect sense to many leaders of the day but today seems anything but philanthropic. McCully hastens to add that the requirement that philanthropists work on behalf of the public good in no way implies that donors themselves may not benefit from philanthropic acts. Acting philanthropically can enhance the humanity of donors, by enabling them to clarify what matters most to them and develop the excellences of their own character.

McCully locates philanthropy's finest hour in the American Revolution. He finds Alexander Hamilton invoking philanthropy by name in the very first of the *Federalist Papers*, where Hamilton argues that considerations of the public good dictate the ratification of the new Constitution. The seeds for philanthropy's role in the founding were planted in the first centuries of the American colonies, when capital was scarce and the undertaking of any public project or mutual aid relied of necessity on a spirit of voluntary association. Tocqueville later highlighted this tendency to form voluntary associations as one of the distinctive features of the American character.

McCully locates the intellectual roots of the American spirit of philanthropy in writings of several figures. These include the Earl of Shaftesbury, who argued that good people strive to develop "an equal, just, and universal friendship" with humanity (29); Frances Hutcheson, whose moral intuitionism identified "delight in the good of others" as a wellspring of virtuous human action (30); and Benjamin Franklin, who in Philadelphia in 1727 formed his famous "Junto," a voluntary association of young men dedicated to "the love of mankind in general" (34). Franklin's practical bent also established the first subscription library, the first volunteer fire department, and the American Philosophical Society, which gave rise to the University of Pennsylvania.

So deep are the roots of philanthropy in the American founding, McCully argues, that the Declaration of Independence, the founding document of the new nation, represents "the first instance in history in which the creation of a national government was formally preceded by a statement of purpose addressed to all humanity, for the benefit of all humanity" (37). This philanthropic view of political philosophy stands in stark contrast to the egoism and fear that the first great modern political philosopher, Thomas Hobbes, saw behind the institution government, as well as more recent attempts—seen for example in the writings of Charles Beard—to ground US political history in economic self-interest.

Having highlighted the role of the philanthropic spirit in classical literature and the early political history of the US, McCully goes on to argue that the failure to fully understand philanthropy is at the root of recent disappointments in the American philanthropic sector. Invoking the concept of paradigm shifts, he argues that US philanthropy is in the midst of a paradigm shift with far-reaching implications for its future. He is particularly critical of 20th century efforts to define and measure philanthropy as a strictly non-profit phenomenon, especially reliance on the Internal Revenue Service and the US tax code as arbiters of what counts as philanthropy.

He also criticizes the trend towards professionalization in the field as having created a self-reinforcing system in which philanthropic legitimacy rests in the education, experience, and certification of staff members. Combined with a fixation on financial resources, this has led to an unwarranted bias toward large, well-endowed organizations with highly professionalized staffs. Compartmentalization and competition contributed to another regrettable trend. As charities became more compartmentalized and competitive with one another, grantmakers and fund-raisers tended to see one another as adversaries, and many service organizations felt that they were being treated patronizingly by grantmakers.

McCully sees a momentous paradigm shift underway, composed of multiple elements: information technology is underwriting a dramatic increase in the level of openness and communication in philanthropy; new and emerging donors are moving philanthropic organizations toward a more business-like model that operates entrepreneurially and seeks to maximize “return on investment”; donor education and philanthropic advocacy are receiving much more attention than in the past; and new philanthropic organizations are being formed that operate on a for-profit basis, enabling philanthropy to benefit from the discipline of the market.

As Socrates would have pointed out over 2,400 years ago, before we can excel as teachers and practitioners of any art, including philanthropy, we must first know what it is, and this is exactly where McCully’s argument takes us. *Philanthropy Reconsidered*’s greatest service lies less in advancing unassailable arguments concerning the historical roots or current practices of philanthropic associations than in drawing together in a slim and readable volume a variety of perspectives on philanthropy, and doing so in a way that challenges us to reexamine our assumptions. By so doing, he informs and enriches the philanthropy of the future.

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Money Well Spent: a Strategic Plan for Smart Philanthropy. By Paul Brest and Hal Harvey. New York: Bloomberg Press, 2008. 288 pages. $27.95 US (hardcover).

Martin Morse Wooster

Any donor setting up a foundation must ask himself or herself several questions. What do I want to do with my money? What are my goals? How long do I want to stay in business?

There are, of course, all sorts of books, manuals, and philanthropic advisors ready to offer their services to the donor who wants to learn more about how to be a good philanthropist. What makes *Money Well Spent* distinctive is that Brest, president of the Hewlett Foundation, and Harvey, president of the ClimateWorks Foundation, aren't trying to offer moral or spiritual advice, or a guide to how to comply with IRS regulations. Rather, their purpose is to encourage donors to think carefully about why they're giving and to nudge donors and program officers to do a better job with their grantmaking. The result is a book that is a sort of management guide for foundation executives. *Money Well Spent* is, for the most part, a book that any donor would find useful and interesting.

"Effective grantmaking," the authors write, "requires strategies based on clear goals, diligent care in selecting which organizations to fund, and provision for assessing the results—good or bad. Whether you are giving away $100,000 or $1 million a year, your funds are not unlimited, and a good strategy can multiply their impact many times over" (xiii).

Brest and Harvey are men of the left, the sort of people who like dividing the philanthropic community into foundations and "conservative foundations," which they regard as somewhat alien and distasteful. But they recognize that right-wing foundations have offered many valuable lessons for the entire philanthropic community, particularly in the importance of providing major grants strategically to a few organizations for a long period rather than the far more common (and ineffectual) practice of many small, short-term grants to a large number of organizations.

They note that the rise of the law and economics movement in law schools is due in part to the ability of program officers at the Olin and Scaife foundations to find a few scholars they trusted and then give them decades of support to ensure that law-and-economics became an established school of thought. They quote historian Stephen Teles, who notes that part of the reason why funding for law and economics became successful is because donors were interested in supporting serious scholarship rather than funding issue briefs with a very short shelf life. Patrons of law and economics professors, Teles writes, “were willing to accept fairly diffuse, hard-to-measure goals with long-term payoffs when they had faith in the new individuals behind the projects” (236).

Brest and Harvey also accept the insight of the great political philosopher Edmund Burke that society is hard to change and that “heroic efforts to improve matters can have disastrous, unanticipated consequences” (278).

“Strategic philanthropy,” they write, “is about improving the world, but it is not about heroic efforts” (278).

The authors also commendably avoid jargon as much as possible. You won’t find any discussion of “capacity-building” in this book. The authors prefer “organizational effectiveness.” “It is easy to lapse into jargon that obscures rather than clarifies or just seems mysterious or silly to outsiders,” they write (95). They also recommend the fine articles of Tony Proscio, who has done a great deal of good in getting philanthropists to abandon pseudo-scientific jargon.

Brest and Harvey’s method is to present donors with options without necessarily arguing for a particular side. Take, for example, the thorny issue of perpetuity. The issue of whether or not foundations should have term limits doesn’t split along traditional left-right axes; both the liberal National Committee for Responsive Philanthropy and the conservative Capital Research Center, for example, would be happy if foundations would substantially increase their annual payout rate beyond the current legal mandate of five percent of assets. The two organizations approach the issue from different angles—the NCRP would want foundations to give more money to nonprofits as a way of increasing those nonprofits’ resources and ability to foment social change, while the CRC would favor increased payouts as a way of diminishing the power of liberal foundations with perpetual charters. Even though both groups see the nonprofit world through very different lenses, they would nonetheless agree that the payout rate has to rise.

Rather than take up the substance of such philosophical arguments, Brest and Harvey seek to explore their pragmatic implications in the context of the donor’s own goals. They fairly present the arguments for and against perpetuity and provide examples of how these principles are actually applied. If you’re concerned about the environment, for example, you might agree with donor Richard Goldman, who is annually spending ten percent of the Richard and Rhoda Goldman Fund’s assets to fight climate change because “for the environment and other charitable causes, the 'rainy day' is upon us" (261). They also note the Whitaker Foundation, which supported biomechanical engineering and decided to spend down in fifteen years. By the time the foundation closed in 2006, the Whitaker Foundation had invested $800 million in medical schools and its wealth had helped fuel the growth of 80 biomechanical engineering programs in American universities.

On the other hand, you might think that not spending money now can ensure that your principles can be preserved into the future. Brest and Harvey suggest that donors think carefully about whether or not principles can be preserved in practice. They cite Randolph Foundation President Heather Higgins, who has observed that a foundation dedicated "to preserving the principles of the United States" could very well fulfill its mission by supporting immigration in one generation and opposing it in another (265).

Brest and Harvey are enthusiastic supporters of evaluating grants, and offer many cogent reasons why evaluation is a good idea. They note the research of criminologist Joan McCord, whose best-known achievement was to show that programs designed to help troubled boys avoid delinquency through summer camps, health programs, and mentoring programs actually ended up *increasing* the likelihood that teenagers would become criminals, alcoholics, and unemployed. (McCord hypothesized that this was because the teens thought they were in the special programs because they thought something was wrong with them, and ended up turning bad as a result.)

Evaluation, if done correctly, can also be a powerful tool in showing the success of worthy programs. For example, they summarize a 2004-05 study by SRI International of the KIPP charter schools in the San Francisco Bay Area. The SRI researchers proved that there was strong evidence that students in the KIPP schools—with long school days and principals fully in command of their schools—did better on state tests than did students in comparable public schools.

The authors persuasively show that, much of the time, evaluation is a good idea. But their case would have been stronger if they realized that an emphasis on evaluation often distorts results to what can be measured. Suppose you are running a Christian charity dedicated to winning souls for Christ, and that you do this by fighting poverty by providing food, shelter, and lessons about Jesus's teachings. An evaluator could count the number of bed-nights provided or meals served. But how could a technical evaluation determine how many poor people benefited from receiving loving care, or even accepted Jesus into their lives?

Again, evaluation is a very good tool, but not a perfect one—and Brest and Harvey's case would be stronger if they attended to the many worthy philanthropic goals that can't be formally evaluated.

Money Well Spent is a useful addition to the literature of philanthropy. Brest and Harvey do a good job in helping donors and program officers frame the questions they need to answer if they are to ensure that their grants will help fulfill their foundation's mission.

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Uncharitable: How Restraints on Nonprofits Undermine Their Potential
By Dan Pallotta. Medford, Massachusetts: Tufts University Press, 2008. 340 pages. $35.00 US (hardcover).

Laurie Morrow

Tom, a small businessman whose nonprofit was in startup, wanted to hire me to handle his organization's fundraising. His nonprofit focused on an area in which I had expertise, his offer was generous, and I needed the work—so Tom was surprised when I turned him down flat.

"I can't work for a percentage of what I raise," I explained. "Although that's a common practice in the for-profit world, in the nonprofit world it's considered unethical."

"That can't be true," Tom insisted. "It doesn't make sense. That would make it impossible for middle-class people like us to start a nonprofit. We can't pay you any other way. What's wrong with paying you a percentage of what you raise? As long as we disclose the amount of your salary on our IRS Form 990, why should it matter?"

I never convinced Tom that there could be grave consequences to running a nonprofit enterprise according to standard, for-profit business practices. Were we to have this conversation today, however, I might have better success, for I'd give Tom a copy of Dan Pallotta's *Uncharitable: How Restraints on Nonprofits Undermine Their Potential.* One of the most successful fundraisers in history, Pallotta raised hundreds of millions of dollars for AIDS and breast cancer charities in a handful of years. In 2002, his organization netted half the annual giving of the Rockefeller Foundation—and that same year, when Pallotta's capitalist approach toward fundraising was revealed, he was vilified, and his business destroyed.

In *Uncharitable,* Pallotta demonstrates how the nonprofit sector undermines its own efforts through pervasive but false and self-defeating anti-capitalist assumptions: that nonprofit executives should not be compensated competitively, but compelled to make personal financial sacrifices as proof of their personal integrity; that nonprofits should not advertise, as if potential donors could intuit their organization's existence and the needs of the population they serve; that nonprofits should stick to strategies with established, mediocre results rather than engage in managed risk; and that the ultimate test of a nonprofit's merit is not the amount of money it raises or good it does, but how low its overhead is. Financial independence is, ironically, a most improper goal for members of the Independent Sector.

It is unfair and counter-productive, Pallotta argues, to demand nonprofit executives accept salaries significantly lower than they would earn in the for-profit sector: these leaders command high salaries in the for-profit world because they deliver great return on the salaries invested in them. The effect of this artificial and needless sacrifice is not to make charities more "efficient," but, rather, to drive talent away from nonprofits into the for-profit world. "Want to make a million selling violent video games to kids?" Pallotta asks. "Go for it. Want to make a million fundraising the cure for childhood leukemia? You are a parasite" (9). Watchdog organizations evaluate nonprofit leaders not by how effectively they raise money or advance their organization's mission, but by how cheap their services come. Limiting compensation limits the pool of available talent, Pallotta argues, contributing to the burnout and turnover common in the nonprofit world and lessening organizational effectiveness in alleviating human misery.

Pallotta traces to Puritan thought the assumption that charitable activity must entail sacrifice. Unfortunately, his representation of Puritan views lacks nuance, and is more stereotypical than historical. Condemning the Puritan view of man as inherently sinful, he posits instead a secular-Romantic view of man as inherently virtuous. Whether one considers man essentially good or essentially evil is, ultimately, a matter of faith, and not demonstrable by proof. More significantly, such concerns are extraneous to Pallotta's main object, which is identifying those business practices that produce the best results for nonprofit enterprises.

Pallotta is at his best describing the absurdity of the nonprofit world's attitude towards advertising. Few nonprofits develop marketing plans, and most reject advertising as a wasteful expenditure of funds that should go directly to the needy. Pallotta, however, argues that money spent advertising a charity is not wasted if that investment increases visibility and, thereby, donations. Donors can't give to organizations they don't know exist, nor will they care about causes of which they've only vaguely heard. Decisions regarding advertising, he argues, should be made by nonprofits the same way they are made by for-profits: through a cost-benefit analysis. According to Pallotta, his firm's own advertising efforts produced an astounding 1137% ROI. Rational as Pallotta's position is, advertising expenditure is so rare a practice that, until recently, the IRS Form 990 did not include a line item for advertising expenses. As a result of eschewing mass-market print, broadcast, and online advertising, charities over-rely on existing donors, again limiting needlessly the amount of money they raise and thus the good they can accomplish.

Pallotta discusses at length other successful strategies of the free market that nonprofits fail to exploit, such as taking calculated risks, accumulating surplus capital, and developing investment vehicles, such as the futures market in charities Pallotta proposes. Pallotta also argues convincingly that the tools by which charities measure success are irrational; current measures tend to focus not on how well charities accomplish their mission, but on what Pallotta deems artificial and irrelevant "efficiency" measures that privilege low overhead over productivity, which in turn creates a perverse incentive toward a lack of transparency regarding costs. For example, according to the *Nonprofit Overhead Cost Project* conducted by the National Center for Charitable Statistics (2004), nearly half of 126,956 nonprofits studied reported $0 of fundraising expenses on their Form 990 filings, listing proposal-writing expenses, for example, in other categories (150). A successful suicide hotline decided against adding a new phone line to keep up with need, as doing so would increase their percentage of overhead above desirable industry standards.

Pallotta abandons his love affair with market competition when it comes to solving the problem of assessing nonprofits. He proposes a single, centralized bureaucracy funded by mandatory payments from all nonprofits. The agency's inspectors general would gather and circulate detailed information about charitable organizations. With no sense of irony, the man who argues against limitations on salaries for executives like himself sets the wage for such investigators at $65,000 a year.

Perhaps a better approach to evaluating nonprofits, one more consistent with Pallotta's own thinking, would be a decentralized solution. Rather than create a centralized monopoly with artificially constrained earnings possibilities for investigators, we might do better to encourage the growth of a new type of business—the charity assessment agency, whose investigators would compete for donor-clients. Geneva Global (http://genevaglobal.com), for example, is an example of a successful business that provides such a service. Such agencies could vie for business by offering different field specializations or different assessment methods, and the costs for their services would be borne by the donors who hire them. Through marketplace competition, the kinds of assessments donors found most consistently helpful would quickly emerge. As donor confidence increased, so too, would donations, and capitalism would thus, yet again, contribute to the creation of a more generous world.

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Begging for Change: The Dollars and Sense of Making Nonprofits Responsive, Efficient, and Rewarding for All. By Robert Egger. New York: Harper Collins Publishers, Inc., 2004. 240 pages. $24.95 US (hardcover).

Heather Wood Ion

When *Begging for Change* was first published, I hoped it would create a revolution of perspective in board members as well as service providers in nonprofit organizations. I distributed copy after copy with evangelical zeal, and insisted that everyone pay attention to "Robert's Rules for Nonprofits." When David Ellerman's book *Helping People Help Themselves* (Ann Arbor: University of Michigan, 2005) was published the following year, I thought that at last the independent sector had two wise and courageous mentors for the critical reinvention of its role.

In the prologue, Egger writes, "You should think of this book as two things: a guide to giving and a guide to doing. It's a weapon in your fight against stereotypes, complacency, and narrow thinking. It's a meditation on what we haven't achieved in the 100 years of nonprofiteering and what we must achieve—and ways to get there—both now and in the future" (xix). As a guide, this book is irreverent, audacious and exciting. It not only asks the necessary and hard questions about what nonprofits are doing, but points toward solutions and better ways of achieving real change.

From the first biographical chapter through to the richly useful appendices, *Begging for Change* spirals around the limited societal perceptions of what the nonprofit sector can accomplish. Egger challenges every kind of either/or thinking, as well as most of the assumptions regarding how nonprofits should be managed. He speaks about impact and the need to make our efforts relevant in our own lives and communities. Above all, he speaks to us of resourcefulness in addressing the ways we 'do good'.

Chapter Five asks the question, "Whom are you serving?" and does not shy away from the sad truth that many in the nonprofit sector are serving themselves, not the greater mission. With gritty candor, the book holds up a mirror to the self-promotion and chasing of money which so commonly limits nonprofit efforts. Egger is particularly clear about why we must shift our perspective from human needs to economic needs. In the competitive atmosphere of nonprofit work, maintaining the dependence of a client on your services is one of the perverse incentives related to addressing human needs (and keeping up the numbers as proof of impact for donors) rather than empowering the economic agency and independence of the client.

Because Robert Egger works to expose and address root causes, his comments on effectiveness and the ways we use measures are particularly important (98). He counsels nonprofits to 'go with the flow' and constantly adapt to their changing contexts and the changing needs of their constituents. Therein lies the rub of reality.

Many of our community service agencies compete with each other for a donor base of 'fatigued' givers, and duplicate uninspired habits by conforming to perceived donor priorities. The last thing they see as helping them survive is adaptation to the nitty-gritty of reality. How many disease support groups does it take for a community to feel sick? It is a very rare disease-based nonprofit that is willing to partner with a wellness center or fitness club. The sad lament is 'our people won't come back' if partners in the community serve needs that the struggling nonprofit cannot meet.

After reading *Begging for Change*, many nonprofit board members point out that leaders with the business energy of Egger are rare in general, and not attracted to the nonprofit world of service. To the second part of this lament, one can only ask, "What can be done about that?" The answer is clearly not what has been tried already in offering salaries commensurate with those in for-profit organizations. Over the last decade we have seen many highly regarded organizations, from the Red Cross to United Way to AIDS and Breast Cancer walks, profoundly damaged by self-indulgent leadership. What is damaged is trust, and as a result, the investment of great talent and energy in a sector viewed as tainted by abuse and untrustworthy in structure.

This is why "Robert's Rules for Nonprofits" is such a richly provocative section of the book. He takes the issues of trust, performance, purpose and profit and asks us to ask ourselves the hard and basic questions to shake up our preconceptions, rid ourselves of ignorance and foolishness, and eventually demand more of ourselves. He ends the section with a call out to each of us, "Believe in the impossible."

Egger inspires us to do better than we have done, and his book can inspire future nonprofit leaders to beg for better change. He has 'the gift of blunt' which is too rarely experienced in the nonprofit sector. Unlike other writers who advocate for changed regulations and management techniques in nonprofit organizations, Egger challenges us to examine all of the ways we express social responsibility, and all of our expectations of our own actions. Clearly, Egger not only believes in the impossible, he works to make the impossible dream our shared reality of common good.

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