Philanthropy: Charting the Moral Terrain

by

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Abstract

PHILANTHROPY: CHARTING THE MORAL TERRAIN

by

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I begin with three simple questions. Should a wealthy person give to philanthropy? How much should they give? And, where should donations be made? I turn to Peter Singer's life-saving pond example to make an argument that philanthropy to aid agencies, which I call life-saving philanthropy, is in some cases obligatory and not merely supererogatory. Given a reasonable, or "modest" interpretation of Singer's argument, and the obligations that follow, I argue that for the very wealthy giving all (or nearly all) their wealth at death turns out to be the type of minimal sacrifice that is morally required.

I also argue that the modest principle does not preclude a suitable provision for heirs. I discuss what is "suitable," and what constitutes excessive consumption. Since you do not survive your own death, making donations at death represents the type of minimal sacrifice called for by Singer's argument. I follow Parfit and Cowen in arguing that lives in the future are of equal value to lives in the present, and so donations can be postponed until death.

When considering the potential recipients of philanthropy, I argue that life-saving philanthropy should constitute a meaningful percentage of philanthropic donations, but this does not preclude other types of philanthropy. In an appendix I take up the question of whether there are ethical reasons to restrict corporate philanthropy.

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Chapter I – Introduction

I begin by discussing some basic concepts and terms that I will use throughout this dissertation, the first being how I will use the word “philanthropy.” I want to focus on philanthropic actions and say that philanthropy takes place whenever a philanthropic action takes place. Later, I will look at the importance of motives, intentions, outcomes and so on. A philanthropic action takes place when,

> **A person or entity gives money, goods, or services towards the public good.**

I will consider some of the differences between a person and an entity in a later chapter. Types of entities that engage in philanthropic action include business corporations and families. Entities that engage in philanthropy are themselves made up of individuals, and I will also consider the ethical implications of this.

“Gives” is used because it connotes an act where something is given without anything being received in exchange. The term “donate” is often used for philanthropic giving. A two-way transaction takes place when I give the barista at Starbucks three dollars and I receive a cup of coffee. A donation is usually a one-way transaction, but as I will discuss, not always. What makes a philanthropic action unique is the recipients of the donation. I will spend an entire chapter discussing who these recipients should be, but as a starting point “the public good” will suffice.

The literature on philanthropy tends to view the topic a bit more broadly then I have defined it. Robert Payton says, “Philanthropy is voluntary action for the public good.”[1] So, he would include volunteering time and other non-financial resources as

1. Robert L. Payton and Michael P. Moody, *Understanding Philanthropy: Its Meaning and Mission* (Bloomington: Indiana University Press, 2008), 27.

part of philanthropy. A case where money is given is easier to analyze than situations where goods or services are provided, and I will mostly restrict my discussion to monetary contributions. Since real estate and art make up a large percentage of donations, I will look at these in section III.6.1.

*

I view this as a work in Applied Ethics. Many topics in Applied Ethics focus on a particular kind of practitioner. The practitioners considered in Business Ethics are primarily corporate managers and directors, and Medical Ethics often looks at doctors, hospital administrators, patients, and so on. In this section, I briefly consider who the practitioners are in the world of philanthropy, and which practitioners will form the subject matter of this dissertation.

In a very simple philanthropic transaction, there are two parties. On one side there is the donor, and in the simplest case this donor is an individual. On the other side is the recipient. In a simple case, the recipient is an organization which helps the needy, such as Oxfam. The people who run an organization such as Oxfam are also practitioners in the field of philanthropy, and certain job activities and responsibilities present ethical questions unique to philanthropy.

Broadening out from the simple transaction context, there are some unique entities that participate in philanthropy, and the reader should be made familiar with these. In some cases, an individual donor makes their donation to a trust or foundation that the individual may control. One reason for doing this is that it allows some donors to see their assets provide a stream of income over a longer period of time. One example of this is the Carnegie Corporation. Andrew Carnegie funded the organization

with approximately one-hundred-and-thirty-five million dollars in 1911. Since that time, it has made grants totaling one-hundred-and-thirty-five billion dollars (2008 annual report). Carnegie's goal was to do good "in perpetuity." Andrew Carnegie is long gone, but those who administer the funds that he donated are important practitioners in the world of philanthropy. Some of the issues that apply to such foundation directors and managers will be discussed in the chapter dealing with where philanthropic funds should be allocated.

Large philanthropic trusts and foundations, like the Carnegie Corporation, typically focus on giving grants to other organizations. They are not "front line" providers of services; instead they fund front line organizations. Front line organizations range from those that feed the hungry to those that produce operas, and range from local to international. The people who staff and manage these front line organizations are the final group of practitioners in the field.

In this dissertation I focus on the donors and potential donors. I discuss individuals as donors, and, in an appendix, turn to corporate philanthropy, which takes place when public, for-profit corporations make donations. As noted above, sometimes an individual or corporation makes a donation in a two-step process. Many corporations establish not-for-profit foundations, and the foundation makes grants to front line organizations. For the most part, the corporation and the corporate foundation can be considered one entity for my purposes. As a practical matter, there are some interesting benefits to this two-step process. A company gets to take its tax deduction for the donation in the year it transfers the funds to the foundation, even if the foundation takes years to actually distribute the money to front line organizations. Also,

this can maximize the reputational benefits. Companies can trumpet their beneficence when they make the donation to the foundation, and do so again when the foundation makes its grants.

When individuals make a donation of stock to a foundation, they can get additional benefits. They can give away the economic value of stock, yet retain the voting control. This is the vehicle that Bill Gates has used to retain significant voting control over Microsoft Corporation while already having given away the bulk of his fortune to the Bill and Melinda Gates Foundation. One interesting aspect of Gates's donation is that the trust must spend out all its assets within fifty years of his or his wife's death. The timing of donations will be one of the topics in Chapter III.

Above, I said that my focus is on philanthropists and potential philanthropists. Let me be more clear about who these people are. My analysis is not directed towards the average citizen, but towards those who have levels of wealth and income that are significantly above average. These people form a unique group when it comes to making donations because they can make substantial donations and still retain significant funds to live at an above-average level. As I will argue later, I believe this group of people has a unique obligation to be philanthropic. Also, these individuals have a significant impact on the practice of philanthropy. This is because in the United States over 30% of the wealth is held by the top 1% of the population.[2] The extent to which this segment of the population engages in philanthropy will constitute a significant portion of all donations.

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2. Arthur Kennickell, "A Rolling Tide: Changes in the Distribution of Wealth in the U.S., 1989-2001,". Washington: *Federal Reserve Board (2003*).

For the purpose of analysis, I will divide a philanthropic decision into three parts. I do not want to delve into any metaphysical distinctions between decision and action – I assume that any philanthropic action is preceded by a philanthropic intention, and I am interested only in those intentions that go on to cause actions. Smith decides to give a million dollars to Oxfam, and then she gives it.

But, that decision to give a million dollars to Oxfam can be divided into three separate decisions. First, there is the decision to make a contribution. Then, there is the decision that the recipient of the contribution should be Oxfam. Last, there is a decision regarding the size of the gift, one million dollars. These three decisions could happen as one, or they could be very separate and distinct. Also, the decisions about how much to give and where to give do not necessarily take place in the order I have listed.

An entrepreneur might sell her company and find herself with millions of dollars at her disposal. One can imagine a scenario where this woman has for all her life wanted to support the opera, and since she started her company she has planned to give half of her profits to the local opera house. In another scenario, she has never considered philanthropy, but after selling her company begins to consider an obligation to contribute to the public good. In the first case, all the aspects of the decision are made as one. In the second scenario, she first might decide to give, then after that she might decide to give half of what she has earned, and only after these two decisions are made does she determine where the funds will be directed. Obviously, the order of the second and third decisions could be reversed.

I distinguish these three aspects of a philanthropic decision because I believe that there are interesting and different ethical considerations that might inform each of these. I will begin to do that in the next chapter by considering the decision of whether or not to give.

*

Before moving to the discussion of whether or not to give, however, I think it is worthwhile to consider what other uses there are for the funds that could be donated. If a potential philanthropist decides not to donate a certain dollar, then he or she will do something else with it. What are the other possible uses for that dollar? The uses of such money can be broken broadly into consumption (spending), saving (investment), or bequeathing.

Consumption. I am construing consumption very broadly to include any use of money that intentionally reduces the spender's net worth. Obvious cases of consumption include a latte at Starbucks or a dinner, whether at an expensive restaurant or McDonald's. For my purposes, what is important about consumption is that you spend the money, and you no longer have the money. Instead, you have (or had) the goods or services for which you exchanged the money. In this way, consumption has the same impact on one's finances as making donations. Whether a potential philanthropist spends ten million dollars to take ride on a space ship or gives it to a charity, afterwards her net worth is ten million dollars less.

However, consumption is often mixed with investment. Examples of this include buying an expensive house to live in, or purchasing art that hangs on its walls. After spending ten million dollars on a house or painting, a potential philanthropist now has

ten million dollars less in their bank account, but their total assets have not been reduced. Instead, they have exchanged cash for a less-liquid asset.

Passive or Active Investments Passive investments include bank accounts, stocks, bonds, and other securities. An example of an active investment is an ownership interest in a closely-held business. The reason I need to mention this distinction between passive and active investments is the effect of converting such an investment into a donation. A passive investment can be easily sold. In contrast, it may be difficult or impossible to convert an active investment into cash to be donated. If someone owns and runs a company, then the only way for them to get cash for donations may be to sell the entire company, and there may be very good reasons for such a person not to do this.

Bequeathing. In addition to spending or saving money for oneself, a potential philanthropist could bequeath the money to children, grandchildren, or others. Money can be given to descendants during one's lifetime, but a particularly important time when such a decision is made is upon death. Upon death, consuming and investing (for future personal use) are no longer options. The only possible uses for funds upon death are either donation or bequest. A potential philanthropist must recognize that all of their assets that are not used on consumption during their lifetime will have to be either given to their descendants or donated to charity. This brings up an interesting aspect of the issue "how much to give."

Suppose two people each receive a ten-million-dollar inheritance after the death of an uncle. One of the recipients is twenty-five years old, is in good health, and expects to live for many years. The other recipient is ninety-five years old, has been

diagnosed with a terminal disease, and has only weeks to live. The options for what the twenty-five-year-old will do with the money are more complex than they are for the ninety-five-year-old. The ninety-five-year-old will not have time to put the money towards consumption, and investment is also not an interesting option. This person has only the options of either bequeathing the money to his family, or donating it. So, the way the ninety-five-year-old and the twenty-five-year-old approach the question of how much to give could, quite rightly, be very different, as we will see in Chapter III.

*

When analyzing a specific instance of philanthropy, should we evaluate the intention, or the outcome? My answer is that while the intention and the outcome may differ, the most useful way to analyze philanthropy is to assume they will be the same. This is not an unfounded assumption. When a competent philanthropist funds an activity with a particular intention or goal in mind, they will monitor the activity to determine whether the outcome matches the intention and take corrective action if it does not. There is a feedback loop between the initial intention and the outcome to make sure they are consistent. Given this feedback loop that keeps intention and outcome congruent, one can assume that instances where they differ are the exception, and that inconsistencies between intention and outcome will be corrected. In the case when an unexpected benefit results from a philanthropic action, this benefit will become part of the expectation and intention for similar future gifts. That is not to say that this feedback loop works perfectly – that is actually far from the case, as I discuss in Chapter IV.

Chapter II – Whether or Not to Donate

In the previous chapter, I introduced a three-stage decision process that a potential philanthropist could go through – making a decision to donate, deciding how much to donate, and deciding who will receive the donation. In this chapter, I consider the first question, the question of whether or not to give. As noted in Chapter I, my analysis is focused on an individual who has significant financial resources at his disposal. Should he keep all of his money for himself and his family, or should he donate some portion of it? There are many reasons why a person might choose to make donations, and I will discuss a number of them.

First, I briefly consider how the choice would be addressed, on a cursory basis, by the primary ethical theories. Then, I look at two general arguments against philanthropy. As the reader will see, my case for philanthropy relies upon Peter Singer's well-known case of a child drowning in a shallow pond. The remaining sections in this chapter lay out Singer's argument, objections to it, and how it impacts my question.

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In approaching the question of whether or not to make donations, a utilitarian would have to ask if making the donation would promote overall utility, the greatest happiness for the greatest number. In this case, the individual making the donation has significant financial assets. It is a characteristic of their financial position that they can make substantial donations without reducing their own standard of living below what would still be considered above-average in the general society. What this means is that for such potential philanthropists, they have the ability to give without significantly

reducing their own happiness. In making this claim, I do not want it to appear that I am equating having money with happiness; I do not believe this to be the case. I am simply staying consistent with the standard vocabulary here – the reader can substitute any preferred term (utility, benefit, etc.). That said, potential philanthropists are in a position to make a significant donation and still leave a sizable estate to their heirs.

I can also assume that the donation will create greater happiness for others – I have described philanthropic gifts as being directed toward the public good. I have more to say about the recipients of the gifts in later sections, but "public good" is in many respects, for a utilitarian, equivalent to (or at least included in) "the greatest happiness for the greatest number." It is possible that a donation which does not serve its intended purpose would not create greater happiness. A donation that is intended to feed hungry children might wind up providing guns for a warlord. In Chapter I, I addressed the concern of a donation that does not serve its intended purpose. For now, I will set aside such occurrences as outliers that should self-correct over time, and so need not be considered when trying to make ethical decisions. And anyway, we can always raise issues like this for any intentional action, and within any moral theory that specifies a certain sort of intention-type as right – I may intend to do X (respect you as an end, and not merely as a means) but the world may make it so that, despite my intention, I produce not-X instead. This is hardly a distinctive issue for philanthropy, or for utilitarianism, and can be set aside for the purposes of this part of the argument.

A philanthropic donation can result in no reduction of happiness for anyone, and increased happiness for one or more people. So, from within a utilitarian perspective, a philanthropic donation would be right, or justified – perhaps even required.

In addressing the question of whether or not to donate from the perspective of virtue theory, philanthropic actions may be said to express two of the virtues listed by Aristotle – liberality and magnificence. As with any virtues, there are a deficiencies (illiberality and meanness) and excesses (prodigality and vulgarity) to which these virtues are the appropriate mean. So, it is clear that virtue theory would supply an affirmative answer to the question of whether or not to give¸ at least under some circumstances (i.e., for the right object and in the right way and at the right time, whatever these things might amount to). Of course, virtue theory would not want to stop with a general affirmation – just as important as giving, is giving an amount that represents the golden mean for this virtue, as well as giving to the right object, giving at the right time, and so on. These subjects are better taken up when I consider the questions of how much to give and where to give, and I will defer them until that time.

For a deontological evaluation of the question, one need look no further than Kant's discussion of the importance of duty. He states that philanthropic actions are a duty that must be performed regardless of whether one has a 'natural' inclination to be philanthropic. "To be beneficent where one can is a duty"[3]. While beneficence includes much more than philanthropy, it certainly includes philanthropy. So, in answer to the question of whether or not to donate, Kant's answer is emphatically affirmative.

II.1 Two Arguments against Philanthropy

I have briefly surveyed how philanthropic action would be evaluated under these three ethical theories to demonstrate what I take to be a fairly non-controversial claim: if

3. Immanuel Kant, "Groundwork of the Metaphysics of Morals," in *Ethics: History, Theory, and Contemporary Issues 3rd ed*, ed. Steven M. Cahn and Peter J. Markie (New York: Oxford University Press, 2006), 275.

a potential philanthropist were to look to any of these theories for an answer to the question of whether or not to engage in philanthropy, the response would be that he ought to do so. Given such a strong endorsement, one might expect that no one would argue against donating. There are however several published arguments against philanthropy, and I will take up two of them. The first comes from Norman Levy, and the second from Fredrich Hayek.

Levy's article is entitled "Against Philanthropy Private and Corporate." He begins by dividing philanthropic donations into three categories based on the recipients:

1. Delivery of essential services to needy fellow-citizens
2. Delivery of services for fellow citizens that are not essential, and/or support for political change
3. Delivery of aid overseas (to those who are not fellow citizens).[4]

Levy introduces these categories because he believes that each has distinctive characteristics that bear upon the justification, if any, for the philanthropy in question. I look at categories of philanthropy in Chapter IV, so I will not say much about his choice of categories here. I believe these differentiations are used largely because they track his concern about whether a government has special responsibility towards its own citizens. Here, I note that his argument against philanthropy is directed only at the FIRST category, donations given to provide essential services for needy fellow citizens. Despite the rather provocative title of his article, Levy is not against ALL philanthropy; he is against only the limited sub-set of philanthropy in his first category. Levy argues that these essential services should be provided by the government, and not by private

4. Neil Levy, "Against Philanthropy, Individual and Corporate," *Business & Professional Ethics Journal* 21, no. 3/4 (2002): 98-99.

philanthropy, and that “we would be better off if philanthropy did not exist” [5](98). This is a bit surprising because, at least from one perspective, it would seem that this might be the category of philanthropy that is easiest to defend – what could be more important than the essential needs of fellow citizens?

A bit of framing is necessary to understand Levy’s argument. His discussion takes place against the presumption that the goal of any state should be that the essential needs of all its citizens are met. He is addressing those who agree with him that essential services should be provided, but disagree with him on how to achieve this. The essence of his argument goes something like this:

1. All citizens of a country should have their essential needs met.
2. Government should meet these needs for those who are unable to do so.
3. Individual philanthropic donations for essential services DETRACT from government providing these services.
4. Therefore, individuals should not make philanthropic donations of these types to these recipients.

His argument is directed at those living in a state where some citizens do not have their essential needs met, and government is not currently providing these services – a fairly typical state of affairs in many countries, certainly in the United States of America. If one lived in a state where all citizens were able meet their OWN essential needs without assistance, then this would be a moot discussion. The same might be true if one lived in a state where the government was providing ALL necessary services to those who need them. I will say more about these contextual differences shortly.

5 Ibid., 98.

I am certainly willing to grant Levy's first premise, and share his goal of living in a state where no citizen lacks essential services. His second premise is questionable, however, and is quite likely untrue.

Obviously, the second premise must be seen as a long-term goal, because it does not reflect the current situation in the U.S. or Australia (Levy's home country). To the extent that it exists in America today, the safety net to meet basic needs for citizens is a mixture of private philanthropy and government action. Levy makes two claims in defense of his assertion, in the second premise, that we would be better off shifting to a model where this safety net is completely provided by the government.

First, Levy asserts that government provision is more stable than philanthropy, which is "fluctuating."[6] Levy is correct that private philanthropy does fluctuate, but so does government provision. Government provision of benefits can become inadequate because of legislation (e.g. the restructuring of welfare under Clinton in 1996) or economic conditions (the inadequacies of government resources to help during the current economic crisis). So, there is no reason to assume that government provision is any less fluctuating then private sources. Since both private philanthropy and public sources of funding can fluctuate, fluctuation cannot be a legitimate reason to exclude philanthropy as a way to meet basic needs.

Another reason that Levy offers for the government providing all essential services for fellow citizens is that the way in which assistance is given can have a profound impact on the well-being of the recipient. Levy notes that receiving such aid

6. Ibid., 101.

from a charity can be “deeply humiliating.”[7] However, he also recognizes that the opposite position can also be defended, that recipients of private aid may well “appreciate the generosity of the people who dispense it, and welcome the warmth of human contact. Aid so received… will be better used.”[8] However, Levy admits that there is no clear reason for asserting his view over the other, and so undermines the certainty of his own premise. Levy wants to claim that the lesson to be learned here is that government provision of essential services is, in the long run, better than private aid, but he cannot substantiate that claim. What should be obvious is this: whether aid is coming from the public or private sector, it is important that the methods by which the aid is distributed to recipients be regularly evaluated and updated to ensure that the methods are consistent with the goals of the aid, and, so far as possible, with the well-being of the recipient under either regime. Too often this is not the case.

In support of his third premise, Levy writes that “encouraging philanthropy will tend to reduce government provision.”[9] Levy doesn’t provide any data to back up this assertion. He seems to think it is self-evident. However, upon close examination this premise is quite uncertain. In the United States, and in many other Western democracies today, essential services are provided by a mixture of government and private philanthropy. In the U.S., we have food stamps and the Salvation Army. Homeless shelters are operated and funded both publicly and privately. It is hardly clear that the government would do more if private agencies did less.

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7. Ibid., 102.

8. Ibid.

9. Ibid., 101.

Levy's third premise is based on an assumption that private philanthropy takes the "pressure" off of government to provide essential services. He thinks that private philanthropy should stop trying to fill a void so Government will be forced to fill it. This is another assertion that is no more than speculation. He presumes that there is some type of direct correlation between the amount that private philanthropy gives to essential services and the amount government gives. This presumption can countered in a number of ways. First, if private support fluctuates as Levy claims, then when private support is reduced through fluctuation his goal of government being pressured to provide the services would be advanced. Putting together this concern about pressuring government with his earlier claim that private philanthropy fluctuates creates a bit of tension. On the one hand, Levy wants philanthropy reduced in order to pressure government. On the other hand, he says the problem with philanthropy is that it fluctuates, so is inevitably reduced as a matter of course. Do we see, in these reduced periods, more government aid? Hardly.

The history of philanthropy does not support the claim that reduction of philanthropic provision of essential services creates a pressure on government that then results in greater government provision of these services. Prior to the 20th century, the U.S. government was minimally involved in the provision of essential services. The practice of private philanthropy grew, in large part, in response to what was seen as an unmet need. During the depression of the 1930s, it was obvious that the need for essential services was so great that it could not possibly be met exclusively by private donations, and government-funded safety nets were put in place. The next major expansion of government provision of essential services was in the 1960s under the

Johnson administration. In neither case do we see reduction of philanthropy having a causal connection to increased government provision of essential services. Further, these safety nets have never been entirely adequate, and private philanthropy remained important. So, at least in the case of the United States, history does not bear out Levy's assertion that reduced philanthropy is what puts meaningful pressure on government to increase services.

Levy fails to make a case that private philanthropy reduces government aid in any significant way. I suppose it is possible that a day may come in the United Sates when government would provide all essential services. Yet, even if a philanthropist lived in a country where no citizens had unmet essential needs, it is easy to see private philanthropy concentrating on Levy's other two categories. As things stand today, in the United States, essential services are <u>not</u> being provided to all residents. The goal should not be for private philanthropy to stop, but for both public AND private aid to grow until such time as no one in our country lacks essential services that they are unable to afford.

Later, I look more closely at what constitutes an "essential service." Here, it is worth pointing out that, even if we agreed abstractly that government should provide "essential services," we might well have principled disagreement as to what this concept amounts to, especially when we consider certain borderline or contestable cases. Our idea of "essential" rightly reflects one political ideal or another, and as a result we can expect to have reasonable differences about it. Consider job training for the unemployed, adult literacy, preventive health care, perhaps even non-preventive health care, and so on. If we can reasonably expect political debate as to which of these

services are indeed essential, than we can expect that there will be those who disagree with whatever the government policy happens to be. For those who hold a more robust version of the essential than the government adopts at any given time, philanthropy would of course provide a natural, albeit private, mechanism to correct what they see as an unsatisfactory view of it. Thus, even if we agree that this is what government should do, and even if we assume the government is always enacting some reasonable conception of the essential, philanthropy would still have a rightful role for those who reasonably believe that the conception of the essential on which the government is currently acting is unsatisfactory.

In summary, despite his rather broad and provocative title, Levy suggests a negative answer only when considering the limited subset of philanthropy that provides for the essential needs of fellow citizens. Furthermore, even his argument against this subset of philanthropy is based on questionable assumptions. In the final analysis, I do not see anything in Levy's argument which should dissuade a potential philanthropist.

II.2 Hayek's Argument against Philanthropy

Levy advocates a state where, when necessary, the government levies taxes to provide essential needs to citizens. In other words, income is re-distributed from higher income individuals to lower-income individuals through taxation that funds government benefit programs.[10] On the other end of the spectrum from Levy are those, like Hayek, who advocate an arrangement with little or no taxation to fund essential services.

10. The term "re-distribution" has become almost a pejorative in current political dialogue. I do not intend that it be taken in that way – to me it is merely an economic term. I think some re-distribution is essential in order to promote a fair society, but that is not the subject of this dissertation.

Hayek holds a politically-libertarian position, or what I will call simply the libertarian position.[11] I need to say something about how I interpret this libertarian position. Nozick provides an excellent defense of a libertarian position based on absolute rights, pre-social and indifferent to outcome. Nozick does not believe that it is morally justified for property that one has obtained through what he classifies as legitimate means to be taken by taxation and redistributed to others. So, he makes a strong rights claim, which is deontological in character. His argument does not rely on a better outcome either in terms of total economic activity (GDP), minimum or mean per-capita GDP, or any other factor. It is simply right or just that such property not be intruded upon, much as it is simply right that no one take my kidney without my permission. There are other libertarians who instead emphasize outcome to support their position.[12] They believe that a state where the government only minimally taxes and regulates produces the best outcome for everyone. That is, they believe that in the long run even the least advantaged will be better off if we live in a state with minimal government taxation or regulation. I read Hayek as being primarily this latter type of libertarian, one who believes that "the rising tide" brought about by free markets with minimal government intervention "lifts all boats" by making life better for all, even the most disadvantaged.[13]

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11. This should not to be confused with the term "libertarian" as it applies to philosophical discussion of free will.

12. For example, see Ron Paul, *The Revolution: A Manifesto* (New York: Grand Central Publishing, 2008), 76.

13. This distinction between rights-based libertarianism and outcome-based libertarianism is certainly well outside the focus of this dissertation. I have found that as I follow the recent public discourse regarding the size and place of government, supporters of minimal government sometimes switch justifications mid-argument – one moment they are spouting "rights" arguments that Nozick could

Libertarians are typically all for private philanthropy. Since they have an aversion to government provision of essential services, they see private philanthropy as the proper alternative avenue. In many cases, the fact that private philanthropy could provide a service is, for libertarians, the reason that government should not provide such services. It is beyond the scope of this dissertation, and not necessary to refute Levy, to go into the fallacy of the notion that private donations can fully fund such services.[14] However, clearly those who hold this position would voice no objection to a potential philanthropist making donations.

However, there is an even more extreme libertarian position regarding philanthropy that is voiced by the well-known economist Friedrich Hayek. I examine Hayek's argument by looking at his "New Studies in Philosophy, Political Economics and the History of Ideas." The interpretation of Hayek that I follow is found in "Philanthropy, Markets, and Commercial Society: Beyond the Hayekian Impasse" by Robert F. Garnett Jr.[15]

Hayek is enamored by something that I believe any serious student of economics should find remarkable. The subject here goes back to "the invisible hand" of Adam Smith, who showed that when individuals pursue their own self-interest in a market system the result is a benefit to all in that market. A simple example of this is that competing shoe makers each strive to increase the sales of their products. In order to

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have written, but when trying to defend these positions they sometimes switch to being Millsian-rule utilitarians.

14. Here is one brief illustration. Government appropriations for relief in the first year after Hurricane Katrina were over eighty billion dollars. But, total aid provided for Hurricane Katrina by private philanthropy was only three-and-one-half billion – a drop in the bucket compared to government aid. (Center for Philanthropy at Indiana University, CRS Report for Congress, August 22, 2006.)

15. Robert F. Garnett Jr., "Philanthropy, Markets, and Commercial Society: Beyond the Hayekian Impasse," *Journal of Markets & Morality* 11, no. 2 (Fall 2008): 205-19.

accomplish this, one strategy is a lower price. Individual shoe makers lower their prices, not because they wish to benefit their fellow citizens who are customers, but because they want to sell more shoes. However, the result of this self-interested behavior is that consumers pay a lower price for shoes, have more styles of shoes to choose from, and so on. This kind of public benefit from the individual pursuit of self-interest in a competitive market is non-controversial in economics.

Hayek's argument takes the efficiency of markets in providing for the public good to an extreme – he treats it, one might say, as a god. He makes the case that the potential philanthropist will do more public good by putting her money into markets than she would do by donating it.

Hayek holds that the best mechanism for improving the lot of society is financial markets. He claims that for a potential philanthropist to divert funds out of the capital markets and donate those funds will reduce the good created. Following his line of thought, he would advise the potential philanthropist to invest money in capital markets instead of making donations, because in the long run this would make everyone better off, even the least advantaged. At the heart of his claim, Hayek is using a utilitarian calculus, having on the one side of the equation the good created for the small group of people who receive the donation, and on the other side the good created to all those affected by the markets. He thinks the second value is larger. He demonstrates this with the following example:

> When the early Neolithic traders took boatloads of flint axes from Britain across the Channel to barter them against amber and probably also, even then, jars of wine, their aim was no longer to serve the needs of known people but to make the largest gain. Precisely because they were interested only in who would offer the best price for their products, they reached persons wholly unknown to them, whose standard of life they thereby enhanced much more than they could have

> that of their neighbors by handing the axes to those who no doubt could also have made use of them.[16]

The argument here, of course, bears directly upon philanthropy. Let's rehearse what's going on in this case. Some Neolithic traders have a load of flint axes. They could give the axes to neighbors who need them but are not be able to pay for them. This would then be an act of philanthropy. Alternatively, they could take the axes somewhere else where they could obtain "the largest gain" – selling or trading them for other goods. Hayek is claiming that a better outcome for all is obtained by this second alternative.

I respond to Hayek by challenging his utilitarian calculus. First, I grant that there might be some situations in which he is correct. Perhaps his example of axes is such a case, though it seems far from certain. In a more modern and directly philanthropic example, I can envision an entrepreneur who recently sold a company and has a large sum of funds. Hayek's logic says she will do more good by putting these funds into capital markets than by donating the funds to charity. She follows Hayek's logic and invests the funds in an alternative energy company, and the firm she backs invents a technology that replaces fossil fuels with clean, cheap energy. The enormous benefit to everyone of such a technology cannot be understated. One could argue that, all other things being equal, the world is much better off because she invested the money instead of donating it.

However, being able to imagine one example where the utilitarian calculus supports his position hardly makes Hayek's case. Such obvious examples are a rarity. In most cases, the good created will be very diffuse – in fact, so diffuse as to be irrelevant. In the example above, a woman invested in the capital markets and was

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16. Friedrich A. von Hayek, *New Studies in Philosophy, Politics, Economics, and the History of Ideas* (London: Routledge and K. Paul, 1978), 60.

wildly successful. Most investments do not fare so well. Based on his economic principles, Hayek believes that the funds put back into the market create a greater good that could ultimately be measured in something like higher GDP. I am not sure I agree with this claim, but grant it for the sake of argument. However, an increase of GDP that is spread out over the entire population would be practically meaningless, especially when compared to a philanthropic donation that achieves its intended outcome.

Consider an example where we are given the choice in disbursing one million dollars to needy people. It seems inarguable that, even if it were logistically possible, it would not create much benefit to give one penny to each of one hundred million people. It would be much better to give one thousand dollars to each of one thousand people, or some other division that provides a meaningful sum to anyone who receives it. The benefit that Hayek claims for putting funds into capital markets over donating them is too diffuse to be relevant. By contrast, a philanthropic gift can make a significant difference for the recipient. However, I acknowledge that it is difficult to compare investment to philanthropy, and I take on the comparison only because it is raised by Hayek.

I believe Hayek misses an important feature of philanthropy. To put it in Hayek's terms, philanthropy provides individuals an opportunity to correct market outcomes that they believe in some cases to have generated less-than-optimal outcomes. A philanthropist in the United States may look at the economic status of his fellow citizens, which is the result of mostly free markets, and not like what he sees. Many who trade only their labor remain impoverished. This may prompt philanthropic action to rectify the situation. Another philanthropist may believe that the existence of the arts, and

specifically opera, are important for society. This philanthropist subsidizes an opera company because it is not able to exist solely on normal revenue sources such as ticket sales. In both cases, the philanthropist is helping to correct what he sees as an undesirable outcome of a market economy. Far from being replaceable by more market activity, philanthropy sees itself, and rightly, to be a remedy for markets.

Ultimately, I believe that Hayek's position is a case of fealty to dogma (in this case, the dogma of markets) over common sense. Yes, markets are incredibly efficient, but they do not always result in perfect outcomes or necessarily the best outcomes.[17] Philanthropy can be one source of improvement.

Levy from the left and Hayek from the right have both proposed arguments that would advise a potential philanthropist not to donate. However, both arguments have failed to make their case.

II.3 Two Contextual Factors

In making a decision about whether to donate, there are important contextual factors that might come into play. I consider two, both of which were alluded to by Levy. First, there is the question of the nature of the state in which one lives. Consider a state where, by imposing high taxes, the government is able to provide essential services to needy citizens (i.e., those citizens who would not be able to obtain the services on their own). Perhaps the country of Sweden is as close to this as we see in the world today, and one can certainly envision an idealized nation where Rawl's difference principle is

17. Unskilled labor may trade its good as best it can and still, in certain economies, remain without essential services. This also leaves the children of such workers without essential services. How could this be justified, even though it is very efficient for me to pay that unskilled worker below a living wage to do my gardening?

fully implemented and no citizen in the state lacks essential services. One can imagine a potential philanthropist in such as country claiming, “I have already contributed to the public good of my fellow citizens through the high taxes I pay.” In this case, the wealthy person is not claiming that he has no obligation to help fellow citizens in need. In fact he may admit an obligation to help the needy and gladly pay high taxes to do so. It is not that he does not wish to give, but rather he claims that he has already given all that is required through his taxes. In this case, there is no need to donate to the basic needs of fellow citizens.

Contrast this with a country where the government provides little or no essential services for the needy. In such a country, a potential philanthropist would have to make a decision about whether or not to donate to provide essential services for fellow citizens; the decision would not be precluded by action already being taken through taxation and redistribution. So, the answer to the question of whether or not to make donations could be rightly influenced by the governmental policies of one’s home country.

I talk more about this contextual issue in Chapter IV. For now, as this is a work of applied ethics, I think it would be helpful for me to stipulate the background institutions that I take for granted to exist. The practitioners to whom my work is directed are potential philanthropists in present-day America. I view the United States as a country where some, but not all, of the essential needs of citizens are being met. As such, I assume that a potential philanthropist cannot assume that all the essential needs of fellow citizens, or citizens of other countries, are being met by the government.

An obvious question about this first contextual issue leads to the second contextual issue. My discussion about the nature of the state in which one lives assumes some priority to fellow citizens. Levy introduced this distinction for an important reason. He was trying to make a case that private philanthropy within one's own state must not be directed towards services that should be a governmental responsibility. Even if this were the case, it says nothing regarding donations outside one's own country. In Chapter IV, I look at whether citizens of one's own country or ethnic group rightly make a greater claim upon the would-be philanthropist, or whether all claims of all persons should weighted equally.

For now, I merely want to point out the context, and again direct my discussion to an American philanthropist making decisions in the world as we find it. What is the situation in our world? A brief look at the news means can we easily stipulate that a philanthropist's donations can save lives.[18]

II.4 An Obligation to Give – Introduction to the Singer Principle

Those who study philanthropy regard Andrew Carnegie's essay "The Gospel of Wealth" as a classic. Carnegie ultimately concludes that the rare people who have amassed great wealth should give away their fortunes during their lifetimes. "The man that dies thus rich dies disgraced" sums up his position.[19] In a later section, I consider whether this part of his argument can be defended, and I think it can. What I wish to

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18. I take up the issue of the effectiveness of aid in Section IV.1.3.

19. Andrew Carnegie, *The Gospel of Wealth* (London: F. C. Hagen & Co., 1889), 24.

concentrate on here is Carnegie's assertion that those who have substantial assets have some obligation to make donations towards the public good.

The question that I wish to consider then is whether the statement "A potential philanthropist is morally obligated to make donations" can be defended as true.[20] If the statement is true, then there must be some reason that the obligation exists. To set the stage for this inquiry, I use a perspective on obligations laid out by James Fishkin in his book *The Limits of Moral Obligation*. Fishkin notes that morally-permissible actions may be divided into three categories. These are as follows:

a. Morally indifferent : Actions that "fall within the sphere of permissibly free personal choice… They are neither right nor wrong, good nor bad."[21]
b. Morally Required: "We would be wrong or blameworthy not to do" the action.[22]
c. Supererogatory: Doing the action "would be admirable… but no one could reasonably blame us if we did not."[23]

So, according to Fishkin, moral obligations would be actions that are morally required. If philanthropy is a moral obligation for some people, then they are "wrong or blameworthy" if they are not philanthropic.

There is a fairly large body of applied ethics literature under the broad heading of "beneficence." Beneficence encompasses many activities, one of which is philanthropy. One of the key questions in the field is whether beneficent actions, specifically

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20. "A potential philanthropist" was defined in Chapter I.

21. James S. Fishkin, *The Limits of Obligation* (New Haven, CT: Yale University Press, 1982), 10.

22. Ibid.

23. Ibid., 11.

philanthropic acts, are ever obligatory. I explore aspects of this literature, but the author whose work most directly bears upon the question of an obligation to be philanthropic is Peter Singer. In his 1972 paper "Famine, Affluence, and Morality," Singer argues that we are obliged to give, at least small amounts, if doing so will save a life. A good portion of this dissertation looks at the arguments from that article. The goal of my research has been to answer particular questions in applied ethics regarding obligations to philanthropy. I find that Singer's is the most compelling argument regarding an obligation to philanthropy, and that there is an overlooked aspect of Singer's work when applied to the very wealthy.

Singer's requirement is illustrated by the famous example of a child drowning in a nearby shallow pond:

> If I am walking past a shallow pond and see a child drowning in it, I ought to wade in and pull that child out. This would mean getting my clothes muddy, but this is insignificant, while the death of the child would presumably be a bad thing.[24]

The force of the pond illustration is that (almost) everyone would agree that in this case you would be doing something morally wrong by not assisting the child. We may, I think, go further and say it appears you would be disregarding a moral obligation were you not to attempt a rescue. Singer uses the illustration to support his more general principle, which is put forward in both a "moderate" and "strong" version. I follow Schmidtz and refer to these as the strong Singer principle and moderate Singer principle.[25] Singer writes,

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24. Peter Singer, "Famine, Affluence, and Morality," in *Ethics: History, Theory, and Contemporary Issues 3rd ed*, ed. Steven M. Cahn and Peter J. Markie (New York: Oxford University Press, 1972), 790.

25. David Schmidtz, "Separateness, Suffering and Moral Theory," in *Peter Singer under Fire: The Moral Iconoclast Faces His Critics*, ed. Jeffrey A. Schaler (2009), 430.

> The strong principle is: "If it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it.[26]

> The moderate principle is: "If it is in our power to prevent something very bad from happening, without thereby sacrificing anything morally significant, we ought, morally to do it.[27] [emphasis mine]

As we shall see, one criticism of Singer is that the term "morally significant" is under-defined and unclear. It is easy to tell a story so that almost anything has SOME moral implications, and so it is difficult to determine what sacrifices are morally significant. As it happens, I think the basic principle can be stated without using the term "moral significance" in the articulation of it at all, and it is made clearer by doing so. I offer the following restatement, which will be my version of the modest Singer principle.[28]

> Modest Singer Principle: If it is in our power to stop something very bad from happening, and the sacrifice is minimal, we ought, morally, to do it.

In both versions of the principles in Singer's article, he analyzes the sacrifice based on its "moral importance." Instead of using that somewhat-muddy expression, this version of the modest principle asks only if the sacrifice is minimal. Obviously, what constitutes a minimal financial sacrifice will vary from person to person based on an individual's income and assets. I will need to define what I mean by "minimal" in more detail, and do so as I proceed. As the reader will see, it is only this modest principle and the minimal sacrifice it calls for that I must defend in order to support my central thesis.

II.4.1 Discussion of the Singer Principle

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26. Singer, "Famine, Affluence, and Morality," 795.

27. Ibid.

28. I think it is appropriate to keep Singer's name because this modest principal is derived from his pond analogy.

Now, before I begin my analysis of Singer, I briefly describe how I proceed, and some of the conclusions I reach. I begin with a couple of preliminary comments on the Singer principle, then turn to the question of whether or not there is an obligation to give to aid. If any version of the Singer principle is endorsed, then some obligation to give to aid exists. I look at two arguments that would reject the Singer principle. The first argument I take up comes from Jan Narveson, which I conclude is a misconstrual of ethical contract theory, and poorly-disguised ethical egoism. The other comes from Garret Cullity, and while it is more philosophically-nuanced and interesting, I argue that it must also be rejected. I consider these two arguments first because I consider them to pose threshold objections to any version of the Singer principle.

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The first thing I want to point out about the Singer principle is the emphasis on the prevention of harm and suffering. His background assumption is that situations exist where it is "in our power to prevent something bad from happening." Singer has captured something that I believe is essential in philanthropic evaluation – <u>situations where donations can prevent significant harm</u>. Singer is saying that a child drowning in a pond and a child dying of starvation in Africa are similar because in both cases something very bad and preventable is happening to someone. By "something bad," I do not mean something marginally bad or slightly unpleasant, like finding that one's favorite TV show has been cancelled, but something horrible and irrevocable such as suffering and dying from starvation. There is an oft-cited distinction between situations in which we can do good to someone and make their life somehow better, and situations in which we can prevent harm – a distinction that the potential philanthropist

will have to reckon with. What is obvious here is that the Singer principle applies to a very specific subset of philanthropy – philanthropy that has as its goal the prevention of “suffering and death from lack of food, shelter, and medical care,”[29] which I sometimes call “life-saving philanthropy.”[30]

What is different in all these versions of the Singer principle is the nature of the sacrifice one is required to make. This can be seen as a spectrum. At the one end are sacrifices that are very extreme, such as giving everything you own. On the other end are minor sacrifices, like getting your clothes wet in a pond or making a small cash donation – say twenty dollars for a middle-class professional. Singer acknowledges that if someone followed the strong principle the sacrifice would indeed be great. They would almost impoverish themselves by giving until “the level of marginal utility – that is the level at which, by giving more, I would cause as much suffering to myself or my dependents as I would relieve by my gift.”[31] The obligation under the strong version of the Singer principle can be seen as a maximal sacrifice, while the modest version of the Singer principle calls for only a minimal sacrifice, whatever that turns out to be.

Two obvious ways to resist the Singer principles arise. First, one can deny that any type of obligation exists regardless of the level of sacrifice. This is what Narveson argues. It is also, more or less, the claim of Liam Murphy, but via a very different argument. Second, one can admit the existence of the obligation, but resist the claim that the obligation trumps all other considerations, for well-grounded other reasons.

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29. Singer, "Famine, Affluence, and Morality," 795.

30. For a more detailed discussion of what does and does not constitute life-saving philanthropy, see Section IV.1.

31. Singer, "Famine, Affluence, and Morality," 795.

This is, more or less what, Garret Cullity tries to do, as does John Arthur. But, as I show below, in both cases I find that their reasons are not well founded.

Most of Singer's critics agree that there is some obligation to prevent the harm being suffered by famine and starvation. Much of the controversy over Singer is not related to the existence of the obligation, but rather to the extent of the obligation. I should note that this alone is a distinctive accomplishment that may be one reason Singer's article still attracts discussion four decades after it was published. Singer takes an obviously-utilitarian approach, the utility of a life saved as opposed to the minimal dis-utility of getting one's clothing wet, and from that is able to generate a seemingly undeniable obligation to aid.

II.5 Jan Narveson's Argument against Aid

Narveson is an author whose argument firmly opposes Singer's conception of obligation. His article has the provocative title "We Don't Owe Them a Thing: A Tough-Minded But Soft-Hearted View of Aid to the Faraway Needy."

Narveson argues that we have no obligation to help those starving in far-away places. He thinks philanthropy to help them is praise-worthy, as a supererogatory action, but is not morally required. I believe Narveson comes to this incorrect conclusion because of a very mistaken presumption about when actions are obligatory. He writes,

> When is something a duty? In general terms, it is so when there is good reason interpersonally considered to require the person in question to do or refrain from the act in question. The interpersonal consideration in question has the structure of a social contract. Is it in the rationally considered interest of each to accept the requirement in question? The only thing that can generate the relevant

interpersonal status is mutual agreement.[32]

His emphasis on "mutual agreement" is key, and from this, it is easy to see how he denies an obligation to people with whom we will never have any interaction. He goes on to claim that duties and obligations only legitimately arise as part of a social contract where participation affords some benefit. In other words, obligations only arise in situations where all involved "stand to make a net gain by the arrangement."[33]

Narveson concedes that the connection may be indirect. But, since "we are all vulnerable to accident, disease, and what-have-you, there's a fair chance that we will need somebody's help."[34] Since we may someday need help, it is to our advantage to foster an environment where charity is given to those in need. Even if one accepted this argument of Narveson's – which, as I will explain, I certainly do not – it seems that it would not apply to the potential philanthropist. Of all people, someone who is wealthy and is a potential philanthropist is least likely to ever require the un-compensated help of others. Narveson would not place any obligation to help others on such self-sufficient individuals.

It is unfortunate, but perhaps not surprising, that Narveson's article completely ignores Singer's pond illustration and its implications. Narveson published in 2003, so it seems impossible that he would be unaware of Singer's position. However, if one takes Narveson's approach to obligation and applies it, the result would be something like this. While visiting a faraway land where he never plans to return, a wealthy

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32. Jan Narveson, "We Don't Owe Them a Thing! A Tough-Minded but Soft-Hearted View of Aid to the Faraway Needy," *Monist: An International Quarterly Journal of General Philosophical Inquiry* 86, no. 3 (2003): 4.

33. Ibid., 5.

34. Ibid.

person on the way to his private jet goes by a child drowning in a shallow pond. No one will find out if he simply passes by. He recognizes that he has no ongoing interaction with this child or anyone connected to the child. Furthermore, if he ever needs someone's help he will be able to pay them handsomely for it, so he will never be in need of beneficence. Narveson would have to conclude that this person has no obligation to save the drowning child. It would be morally praiseworthy, but he would not be violating a moral obligation were he to fail to do so.

I expect that if pressed, Narveson would have to admit that there is some type of obligation to help the drowning child, and perhaps this is why he has to ignore Singer's pond analogy. Applying Narveson's approach, there would be no obligation to rescue a child, and such a result disqualifies it as a serious candidate for characterizing the conditions under which obligations arise. Ultimately, it seems that what really underlies Narveson is ethical egoism.[35] He tries to dress up ethical egoism with notions of obligation, but all he can really say is you are obligated to help others if, in the long run, it benefits you to do so. The notion of obligation that he arrives at is so thin that even the case of promising might not produce an obligation.

When Narveson claims that mutual agreement is required to generate an obligation, he is merely begging a question: would we all agree to a definition of obligation that we all agree upon? Of course! Singer's view is that there are other considerations (certain fact patterns and utilities) that legitimately trigger obligations. For Narveson to show that the <u>only</u> thing that can trigger obligation is mutual agreement, he would have to show that other considerations (such as the fact pattern in Singer's pond illustration) do <u>not</u> trigger such an obligation, and this he never tries to

35. I will not take the time to argue against ethical egoism as a basis for moral reasoning.

do – and it is unlikely that such an argument could be found.

Narveson appealed to the social contract to understand obligation because "the interpersonal consideration in question (in the philanthropy/charity context) has the “structure of a social contract."[36] This is his entire justification for relying on a contractual approach, and such a similarity in structure, even if granted, is not yet a justification at all. At most, we so far have merely a surface similarity. Narveson’s failure to sufficiently describe why a contractarian approach should be adopted and how a contractarian approach would play out undermines his entire argument. Similarities in structure notwithstanding, the best account lies elsewhere. Regardless of structural similarity, Narveson would need to show that utilitarianism is just not appropriate or in any way satisfactory when taking up this issue.

Finally, even if we did agree with Narveson that the "best" framework for this fact pattern is in fact a social contract theory, his use of the notion of contract is ill-founded, and far from that of Rawls in “A Theory of Justice,” or of T. M. Scanlon in "Contractualism and Utilitarianism." Certainly, any contract derived under a Rawlsian veil of ignorance would not come to the same conclusion as one derived under Narveson about obligations to those we have never met. If we assume, like Rawls or Scanlon, that we do not know our relative positions, and so do not know if we are the object or the possible giver of aid in a situation where a minimal sacrifice on the part of the donor saves the life of the recipient, then it seems obvious that we would endorse something like the modest Singer principle. So, Narveson both fails to show that the social contract framework is the only plausible framework appropriate TO this situation, and fails to show that the contract framework would in fact not support exactly the

36. Narveson, "We Don't Owe Them a Thing!," 3.

principle Singer endorses.

Narveson's project can be contrasted with Scanlon's, which is to formulate a contractual basis for morality. Instead of doing it in one unsubstantiated sentence, Scanlon accomplishes it in a thoughtful and compelling forty-page paper. He addresses the question of who should be included in such a contract, and proposes that "morality applies to a being if the notion of justification to a being of that kind makes sense."[37] Scanlon lists three necessary conditions for such a being:

- "[T]hat there be a clear sense in which things can be said to go better or worse for that being"[38]
- That the being's sense of "good is sufficiently similar to our own to provide a basis for some system of comparability"[39]
- "[T]he being constitute a 'point of view': that is, that there be such a thing as what it is like to be that being"[40]

He goes on to point out that a being that feels pain, such as someone who is starving, would clearly meet these conditions, and be a party to such a contract. So, Scanlon demonstrates that, contrary to Narveson's claim, a contractual approach to obligation would include the far-away needy as equal parties in such a contract. As Scanlon points out, it is hard to believe that agents seeking rational agreement on principles – which would be acceptable to rational agents who are simply seeking principles that no one could rationally reject – would not in turn agree to this, that is, to expend minimal energy to save a life. What else, one might ask, could agents in this situation agree to if not this?

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37. T. M. Scanlon, "Contractualism and Utilitarianism," in *Utilitarianism and Beyond* (New York: Cambridge University Press, 1982), 274.

38. Ibid.

39. Ibid.

40. Ibid., 275.

Indeed, Scanlon holds (rightly) that it is incumbent upon social constructivist arguments to show that they can preserve the Singer principle as a contract principle rather than as a consequence of utilitarianism. But, however we assess that project, Scanlon's point is right – it is a poor theory that cannot preserve Singer's modest claim, however it does so. It is hardly to <u>any</u> theory's credit if it cannot.

II.6 Cullity's Subsumptive Argument

In a postscript that he adds to his article, Singer says, "[I]t was my aim in writing 'Famine, Affluence and Morality' to produce an argument which would appeal not only to utilitarians, but also to anyone who accepted the initial premises of the argument, which seemed to me likely to have a very wide acceptance."[41] So, Singer rejects the idea that acceptance of his argument requires accepting utilitarianism as the one true theory, or as the final word on all moral matters. After all, one might, along intuitionist lines, think one simply had a clear duty to perform THIS rescue, or think, along constructivist lines, that the principle here would be accepted from a bias-free position of fairness. Singer is clearly right that one <u>could</u> endorse this principle of rescue from a variety of moral theory perspectives.

Cullity says something similar in "The Moral Demands of Affluence." He writes, "[Y]ou might think that as an argument in applied ethics, it must be assuming some general moral theory – a version of consequentialism, perhaps or some kind of 'virtue theory' – and applying that to the particular case under discussion. However, I do not

41. Available at Singer's Web site, http://www.utilitarian.net/singer/by/1972----.htm

present the argument in this way because I do not think it relies on any such theory."[42] Cullity views the "theoretical modesty" of his argument as one of its strengths.[43] And, as Singer noted, it is better to make an argument that is able to achieve broad agreement than an argument that will persuade only those who accept a particular background theory. Indeed, to the extent that one argues for a principle that seems to be implicated by a wide range of theories, the possibility arises that it has no coherent rival, and cannot be seriously challenged.

That said, one should not overlook, or fail to mention, the obvious utilities that are at work in Singer's argument as Singer present's it. On one side we have the highest possible utility of saving a life, whether it be a nearby drowning child, or a far-away starving child. On the other side we have a very minimal dis-utility – getting one's clothing wet or a negligible financial sacrifice – so minimal that, in the modest version of this principle, it is assumed it is soon unnoticed or wholly fails to affect one's consumption elsewhere. Conversely, if one does *not* wade into the pond (we leave aside the application of this analogy to the famine problem for a moment), a life is lost and virtually no gain of any consequence is achieved. One cannot ignore the drastic difference in utility in these two possibilities, or the power of this difference. Again, it is important to note that accepting a utilitarian reading of this situation does not entail a complete endorsement of a general consequentialist moral theory. One might well think that in other situations others sorts of considerations rightly apply. Still, here, in the

42. Garrett Cullity, *The Moral Demands of Affluence* (New York: Clarendon Press; Oxford University Press, 2004), 30.

43. Ibid., 31.

modest case, the utilitarian reading does seem to get at something both fundamental and morally undeniable.

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Cullity critically analyzes Singer's argument that takes the pond example to support the conclusion that we are obligated to give to aid. Here, I describe Cullity's argument, and then critique it. He begins with the claim that Singer is using a "subsumptive" argument. A subsumptive argument is one that "treats the task of justifying moral judgments about particular actions as the task of indentifying general moral principles under which those judgments can be subsumed as instances."[44] The schema for what he means and how this is done is given in the following three stages:

Stage 1: Begin with a "confidently endorsed moral judgment,"[45] In the case of the pond illustration, this would be the moral judgment that it is wrong to refuse to "make a small sacrifice to save someone's life directly,"[46] which is why a passer-by should save the child drowning in the pond.

Stage 2: A general principle is extracted from the stage 1 judgment – in this case, that stopping significant harm is a moral requirement if no more than a minimal sacrifice is required.

Stage 3: The principle from stage 2 is applied to form other moral judgments, such as, "[C]ontributing nothing to aid agencies, when doing so would save a life, is wrong."[47]

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44. Ibid., 12.

45. Ibid., 13.

46. Ibid.

47. Ibid., 14.

Such an argument provides a basis for an obligation to aid. One of Cullity's concerns with this method is that "we face the problem that there will be many possible ways to generalize at stage 2… that yield very different conclusions at stage 3."[48]

As an example of a way that one could improperly generalize at stage 2, Cullity notes that it would be possible to come up with a much narrower stage 2 principle, such as "stopping harm *when we have a direct, immediately presented emergency* is a moral requirement." With this as a stage 2 principle, the conclusion that one should donate to aid agencies in stage 3 will not follow. By an "immediately presented emergency," Cullity means one that is immediate both in time (it is happening now, and must be resolved now) and immediate in distance (it is physically nearby). I discuss why such a conclusion is wrong in a moment, but Cullity is right to cite it as an example of an improper principle to derive at stage 2.

In any event, just because the principle in question is "underdetermined" from the example, Cullity does not and should not abandon the search for a subsumptive principle covering both the life-saving case and the famine case. Rather, he thinks that we can identify the right principle if we "[work] from the judgments endorsed at stage 1 by plausibly identifying the reasons for making them,"[49] and that this will prevent improper generalization at stage 2. Cullity proceeds to lay out what he considers a plausible justification for making the stage 1 judgment that will in turn generate the right stage 2 principle. Here is Cullity's version of the right justification, and so the right principle: "The reason why failing to save a life directly is wrong, is that it displays an

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48. Ibid.

49. Ibid., 15.

inadequate concern for other people's interests, and [this] is equally a reason for faulting non-contribution to aid agencies."[50] Cullity does not here specifically mention the minimal nature of the sacrifice, but I believe it is inherent in his notion of "inadequate concern" – concern is "inadequate" when it refuses to make even a minimal sacrifice to further another's interests.

Cullity defines beneficence as "a practical concern for other people's interests."[51] When we do not save a child drowning in a pond, it is a failure of beneficence. Applying the same principle, when we fail to make any contribution to aid agencies that are saving starving children, this is also a failure of beneficence. That is how Cullity structures the argument for why we are obligated to give to aid, and thus far I find no obvious problems with his reconstruction except that – as the reader will see – he goes on to use "other people's interests" in a manner that I think misses the force of Singer's argument and derives an incorrect conclusion from the argument as Singer unquestionably understands it.

Cullity goes on to discuss other factors that might affect this obligation, the other reasons that could "countervail" against the reasons for beneficence. He sees two types of reasons that could, as he puts it, countervail. First are reasons that <u>outweigh</u>. These are cases where there is "a good pro tanto reason to help him [the needy person] … [but] there is a stronger reason to do something else."[52,53] One can easily describe such a case using a modified pond example. You come upon a child drowning in pond

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50. Ibid., 32.

51. Ibid., 16.

52. *Pro tanto* is a Latin phrase meaning "only to that extent."

53. Cullity, *The Moral Demands of Affluence*, 17.

A. As you are about to save him, you realize that there are five children drowning in pond B. You can either save the one child in pond A or the five children in pond B. In this case, the reasons you have for saving the child in pond A are outweighed by the reasons you have for saving the five children in pond B. Cullity uses the following example as an illustration of a case of "outweighing." If the only way you could help someone meant you would have to neglect your own children, then the reason for helping would be outweighed by the reasons you have for not neglecting your own children. Of course, in the life-saving pond case as Singer deploys it, the assumption is clear that there are no other duties or obligations pulling the agent in any other direction. And, in the parallel obligation to give to famine relief in the modest case, it is assumed that these contributions are relatively small – so small that they in no way harm one's loved ones. The case where the agent cannot perform these actions because other obligations "outweigh" his obligation can probably be set aside here as not relevant to the Singer argument, certainly not to the modest principle.

The second way the reasons for beneficence could be countervailed are by what Cullity calls <u>undermining</u> reasons. The particular way this idea is here filled out is that I should not want to further someone's interests if those interests are <u>malicious</u>. In this case other reasons are not more important; rather, the reason for helping a person (furthering their interests) is undermined by the fact that those are not the type of interests that the helper wants to see advanced. As Cullity says, "If a gangster's gun jams, I ought not to help him fix it."[54]

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54. Ibid., 138.

Another type of undermining reason might arise if the person requiring aid is in that situation because of his own mistakes, or even worse, his own culpability – that is, if he "has brought his misfortune on himself."[55] As Cullity sees it, undermining reasons could restrict the extent of beneficence in such cases, and this may be true in some very limited cases. We do not fail to give aid to people who contract cancer as a result of their smoking, nor do we refuse admission to emergency rooms to victims of motorcycle accidents – examples that Cullity would do well to contemplate – but we might not bail out the reckless gambler.

Cullity concentrates on "malicious" undermining reasons, such as the gangster's gun, and he takes the idea much further. He claims that there is a more general undermining reason that undercuts the strong version of the Singer principle. It is this: that the person being saved would not pursue an altruistic life. (Note: Cullity is speaking of an altruistic life, and this should not be confused with altruistic philanthropy which I discussed in Chapter I. When Cullity speaks of a fully-altruistic life, he means a life where one follows the strong version of the Singer principle, and gives almost to the level of impoverishment.) This is why Cullity ultimately rejects this version of the subsumptive argument. He claims that since the interests of the person being saved may be non-altruistic, an altruistic obligation such as the life-saving analogy undercuts itself. In a review, Julia Driver puts it like this: "One's interest in having or doing things that are wrong for one to have or do [e.g. living a non-altruistic life] cannot provide someone else with a reason for helping [that person] attain those things, or do those

55. Ibid., 24.

things."[56] Here, I must make an important qualification regarding what version of a life-saving argument Cullity is rejecting. He formulates what he calls the "Extreme Demand," which is more-or-less a strong version of the Singer principle. More importantly, here he is adopting an iterative approach to the life-saving pond analogy. I discuss iterative versus aggregative approaches in more detail in Chapter III. Here, it is enough to say that under the type of iterative approach Cullity has in mind, giving to a point of near-impoverishment would be obligatory, and there would be no space for a modest principle. I offer a thorough rejection of this position in Section III.2.

However, even if one granted Cullity that the pond illustration, applied in an iterative fashion, creates an obligation to live an altruistic life, the balance of the argument is still unsound. Essentially, Cullity defends three claims.[57] The first is that providing life-saving aid to others is morally required. Note here that I do not add a qualifier such as "if the sacrifice is minimal." As I noted, Cullity imagines an iterative application of the life-saving pond example, and this results in a situation where there is no natural stopping point for having to make the next contribution, no way to qualify the obligation or see it as having any natural limit. Under these facts, it is allegedly "wrong" to live even a partially non-altruistic life (I take this as meaning, more or less, the same thing I have called "giving to the point of self-impoverishment"). He turns the more-or-less modest, reasonable requirements posed by the shallow pond example into the most exhausting and extreme possible. His argument relies on the wrongness of living a non-altruistic life, a life where one does not donate to that point. Cullity hopes, it

56. Julia Driver, "Review of *The Moral Demands of Affluence* by Garrett Cullity," *Philosophical Books* 48, no. 1 (2007): 68.

57. Cullity, *The Moral Demands of Affluence*, 137-43.

would seem, to turn Singer's argument into something of a *reductio*. It would seem very artificial to accuse anyone leading a life that is less than fully-altruistic of acting wrongly, and Cullity's argument relies on just that thought.

The second claim is that since the strong principle makes it a moral requirement to help others, and since we know that others are leading (partially) non-altruistic lives, the strong principle requires us to advance the non-altruistic "interests" of others. As I explain in a moment, I think Cullity's entire focus on "interests" is misguided; however, I grant this reading for the sake of argument.

His third claim is that helping another advance interests that it is wrong to have obviates any moral obligation to help him. This claim is wildly implausible. It may work for a gangster's gun – we indeed have no obligation to help him get his gun to work (any more than we have an obligation to tell the would-be murderer where his victim is hiding, to borrow a shop-worn example from Kant), but it has absolutely no clear application to a child drowning in a pond. Indeed, we would think that on the whole, if we do have a duty to rescue, we do so quite apart from the moral worthiness of the beneficiary. Lifeguards generally have to rescue even those responsible for oil spills if they are drowning, let alone local mafiosi, and these considerations provide another reason to reject this argument.

The idea of course is to generate a *reductio ad absurdum*. Cullity's first claim is that we are obligated to help the needy. But, his third claim is that it turns out we are not obligated to help the needy. I, of course, reject the *reductio* because I reject the third claim. It is based on a very flimsy move, in which our obligation to others gets re-described as an obligation to advance the interests of others, and that in turn is

cancelled when those interests are less than perfectly good. But, even if one accepted all of Cullity's premises, his line of attack would not be effective against the modest principle. The modest principle by definition resists any iterative interpretation to begin with. We are assuming a demand that can be more-or-less easily met, and so we cannot include an iterative description of the pond example, or something like it, in the first place as consistent with a correct reading of the modest principle. When that point is held fast, the demand to lead a more-or-less altruistic life would not arise – and so of course, neither can Cullity's *reductio*. Under the modest principal, since the demand to lead a fully-altruistic life cannot arise to begin with, it cannot be "wrong" to live a non-altruistic one.

Now, it seems, on its face, that there must be something very wrong if we are equating sending food to a starving child in Somalia with helping a gangster fix his gun. Let me explain why I think this claim, that we should not advance the interests of others if their interests are morally improper, has no real application here. First, how can we know of the interests of the person we are saving, whether they are good or malicious? We certainly can't interview a drowning child to ensure he is not a terrorist in training. It seems that one reason the pond illustration uses a child is that childlike innocence means there are no fully-formed interests yet, either for good or for evil. Even if there were good reason not to save a non-altruistic person, we cannot know with certainty the status of each person being saved. Cullity seems to assume that since full compliance with an altruistic life is rather rare, we should assume that those we are saving are non-altruistic. But, if we cannot know this, it seems wrong to make an assumption that may

be incorrect, especially when it comes to whether or not to extend life-saving aid. After all, the child saved may be a person who would indeed live a fully-altruistic life.

But, let us assume we somehow "knew" that the object of our aid was not the best of men. What follows? Cullity seems to assume that we are never obligated to save the life of the bad person, and this is hardly obvious. I suppose one could make a case that if I had foreknowledge that a person in need of saving would ultimately create great dis-utility, be he Hitler or Stalin, I would have an undermining reason that would lead me not to provide aid. Fair enough – and a very by-the-numbers, orthodox utilitarian thing to say. Such a conclusion may be appropriate for a very contrived counter-factual. But, this does not lead to a general conclusion that the lives of bad people have no utility, or that utility can be normative about the quality of life saved. Surely a lifeguard has an obligation to save a drowning man regardless of the man's character. And so, even if we knew that the person being saved is morally flawed, the conclusion that we are not then as obligated as we would otherwise be does not follow. Nor does it follow that we would ever decide to save some and not others because they are "morally better" – worry about the moral worthiness of the people needing aid has no place in discussions of aid.

One place where the sleight of hand occurs is in how Cullity identifies the object of our aid. Cullity says that it is the "interests of others" that are the object of our beneficence, and this leads him, understandably, to ask about what those interests are like, how "worthy" they are. Presumably, against the backdrop of a principle that requires one to give to the point of impoverishment, it might be understandable to ask, "But, how worthy is the object of all my sacrifice?" I suppose even parents might ask

this about their children if those children persist in a life of crime and continue to ask for bail. But, this hardly seems relevant. I see no reason why Singer cannot concede that, in cases where we know the object is wildly-unworthy, certain sacrifice may have its limits. But, as I have argued, I do not believe any of this constitutes a successful point against Singer when considering the moderate principle as reasonably interpreted.

One way to accommodate this argument, such as it is, is simply to understand the object of beneficence as "the basic well-being of others" rather than the "interests" of others. That way, the temptation to judge or asses how worthy these interests are will be avoided. And, by basic well-being, I mean the obvious understanding – to be free from hunger, disease, and so on.

If, instead of focusing on interests, altruistic or otherwise, we simply considered basic well-being – which of course is essentially captured in the idea of "utility" – then Cullity's problem, indeed his entire line of attack, no longer really arises. Under a strong principle one might indeed be obligated to give up everything in excess of their own basic well-being to save the lives of others. And, under a modest principle, not making a minimal sacrifice to preserve the basic well-being of others is indefensible. One's well-being is not subject to the type of altruistic versus non-altruistic assessment that bothers Cullity – after all, well-being is a state, not a posture towards others, and so cannot be either altruistic or non-altruistic.

With this modification, the subsumptive argument and principal proposed by Cullity actually make a good case for the claim that we have some obligation to aid others based on the pond analogy. However, Cullity's detour into "interests" and his questionable understanding of the concept causes him to unfairly reject this largely-

straightforward interpretation of the pond analogy. After all, if we can raise skeptical doubts as to the worthiness of the object of our beneficence – a kind of "for all we know, even this child may become a bad person" argument – then we can claim no obligation even in the pond case – a most unsatisfactory conclusion and almost a *reductio* against his own argument.

II.7 Distance

Cullity suggests that it is improper to generalize from the pond illustration to an obligation to a non-proximate context, and so to an obligation to donate to aid. If our moral obligation depended on the proximity of the recipient, then the pond illustration would not apply to aid in which distance enters into the relation between giver and recipient. Here, I discuss spatial distance. Distance can also be temporal, but that feature of "distance" is better taken up when I discuss when to make donations.

Distance and the difficulties allegedly introduced by distance are often raised in discussions of the pond illustration, and I will use some of the terms introduced by Cullity to discuss these ideas. The question here is whether the immediacy and closeness of a child drowning in a pond is morally significant so much that when it is absent the obligation is so too. Does the fact that the child in the pond is close-by make a difference when considering whether there is a moral obligation to help? If distance matters morally, then there could be an obligation to save the child in the pond, but no such obligation to save a child five thousand miles away. Both Singer and Cullity take up this question, and like most others, myself included, argue that non-immediacy cannot be what Cullity would call a countervailing reason against beneficence. Our

obligation to help a drowning or starving child cannot be dependent on the nearness of the child if the act in question is equally effective at saving both.

Singer notes that "if we accept any principle of impartiality, universalizability, equality, or whatever, we cannot discriminate against someone merely because he is far away from us."[58] One could change the pond analogy in ways that make this fairly obvious. Instead of having to jump into a pond to save a drowning child, assume there is a button that must only be pushed and the pond will drain, saving the child. It would be obvious that the moral obligation to save the drowning child would not change if instead of being next to the pond the button is a thousand miles away from the child and pond, but equally effective. (I suppose there would need to be a video feed, so the rescuer could see the child.)

Cullity spends a bit more time coming to the same conclusion. He notes that if immediacy matters when it comes to whom we are obligated to aid, then we must take note of the reason that it does so. One reason immediacy might matter is that it engenders sympathy – we will likely feel more sympathy for a child drowning in a pond in front of us then we do for a far-away child. This sympathy could be a reason for providing aid that might not be present with a far-away recipient. But, sympathy is a fact about the helper, not a fact about the person needing aid, nor does it have anything to do with the objective ground of the obligation if there is one. And, such facts about the helper should not be determinative in assessing whether there is a moral obligation to help someone who needs aid.

It is also possible to look at it from the other side. Instead of asking why immediacy provides a motivation to help, we might ask if non-immediacy constitutes a

58. Singer, "Famine, Affluence, and Morality," 790.

countervailing consideration. In this case, we would be questioning whether non-immediacy gives countervailing reasons *not* to provide aid – that is, whether there is some reason not to provide aid to someone far away. If it does so, it will have to be as an undermining reason, not an outweighing reason. "An outweigher is a stronger reason that favours an alternative action,"[59] and non-immediacy could not fit this requirement. If it matters, non-immediacy would give a reason not to act, rather than a reason to give some other action priority – which means non-immediacy would have to act as an undermining reason. Here, Cullity is correct in concluding again that such an approach would be too self-regarding and centered on facts about the person providing aid to constitute a good undermining reason. If the reason concerns the proximity of the helper to the need, it would again mean that "the extent to which facts about others people's interests provide reasons to help them is conditional upon facts about me [the helper]."[60] So, the fact that those who may need aid are very far away does nothing to diminish the obligation to help them. It certainly has no bearing on utility, and I can see no reason why, in the aid context, it should matter at all. One might object that distance is not the compelling issue, but rather that in Singer's illustration you are the only one at the pond who can help. I respond to this objection in Section III.3.

Cullity does provide some interesting thoughts that apply to how much to give, and I will return to him in Chapter 3. In regard to my current question, whether there is some obligation to give, neither Cullity nor Narveson has provided any plausible

59. Cullity, *The Moral Demands of Affluence*, 24.

60. Ibid., 25.

argument for rejecting Singer's principle when it is reasonably or modestly understood as generating some obligation to give.

II.8 Over-population

I now turn to the issue of overpopulation[61]. Here we have a case where the empirical context is extremely important and there is disagreement regarding the empirical data. On one extreme, some argue that over-population is not a global problem. On the other extreme are those who believe that over-population is a key cause of most extreme poverty in the world, and that a "population bomb" is imminent, a concern voiced by Malthus some 200 years ago. I review the current status of this controversy of predictions below, but first I look at how this would affect my argument.

If one holds the Malthusian position, giving to aid makes things worse in the long run, so Singer's argument regarding life-saving aid would be undermined. However, ultimately, I think the situation is not so dire, and the argument is not undermined. Instead, the understanding of life-saving aid needs to include donations to organizations that will effectively curb over-population.

Under the Malthusian view, there would be a stronger argument not to support life-saving aid. Famine relief would be counter-productive because it increases population, which is in itself bad. And, saving a few people who are starving today means that at some future date there will be *many* who will starve. Certainly, under the type of utilitarian framework Singer is using, it would be morally wrong to save few from starving today if it results in many starving in the future, so one should not give to aid if that is the case. However, there is a further question to be considered here, which is

61. My thanks to Professor Stefan Baumrin for pointing out the importance of this issue.

whether the future catastrophe in which millions might starve is avoidable, for example through lowering birth rates. If the catastrophe might be avoided, the life-saving argument does not change in structure. Rather, the proper place for donations would be population control. Of course, under a completely pessimistic Malthusian position, a population catastrophe is inevitable, so there might be no reason to fund population control to stop the inevitable. As I discuss below, trends indicate that overpopulation might be a solvable problem. The lives saved are in the future, but as I discuss in Section III.7, that is no reason to morally discount them.

This is consistent with Singer's position in his 1972 article. He says that if a potential donor believes that population control is a more effective way to prevent suffering than normal aid services, "[s]ince there are organizations working specifically for population control, one would then support them rather than more orthodox methods of preventing famine."[62]

It would be impossible to adequately discuss the controversy over overpopulation without mentioning Paul Ehrlich, who wrote the 1968 bestseller *The Population Bomb*. I remember reading the book as a teenager, and it had a large impact on the public discourse regarding population. Ehrlich is still a professor of Biology at Stanford, and he recently wrote an informative retrospective entitled "The Population Bomb Revisited."[63]

Superficially, it might be possible to dismiss the 1968 book entirely. Ehrlich made some astoundingly-incorrect predictions, which he acknowledges. For example,

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62. Singer, "Famine, Affluence, and Morality," 795.

63. Paul R. Ehrilich and Anne H. Ehrlich, "The Population Bomb Revisisted," *Electronic Journal of Sustainable Development* 3, no. 1 (2009): 63-71.

he wrote in the prologue in 1968, “The battle to feed humanity is over. In the 1970’s the world will undergo famines – hundreds of millions of people are going to starve to death in spite of any crash programs embarked upon now.”[64] This did not happen, and Ehrlich admits errors and states that “the analysis of the food situation in *The Population Bomb* was thus wrong and it underestimated the impact of the green revolution.”[65]

This does not mean that Ehrlich has become a population optimist. Far from it. He still claims that “collapse now seems ever more likely and possibly sooner than even many pessimists think.”[66] But, on close examination, his position rests on the idea that the optimal population that the planet can sustain is around 1.5 to 2 billion people, which is less than a third of today’s population. Ehrlich accepts that there is “good news” on the population front, and that “humanity may add some 2.5 billion people to the population before growth stops and (we hope) a slow decline begins,”[67] but considering his optimal population figure it is not surprising he is still pessimistic.

An opposing position is taken by David Lam in a paper entitled “How the World Survived the Population Bomb: Lessons from 50 Years of Extraordinary Demographic History.”[68] Lam surveys the unusual demography of the 1960s as well as the critical concerns at the time, which were food production, resource depletion, and poverty.[69,70]

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64. Ibid., 67.

65. Ibid.

66. Ibid., 64.

67. Ibid., 65.

68. David Lam, "How the World Survived the Population Bomb: Lessons from 50 Years of Extraordinary Demographic History," *Demography* 48, no. 4 (2011): 1231-62.

69. Ibid., 1233.

70. Ibid., 1238.

He argues that through improved food production methods, fertility decline, and progress in combating poverty through education, the catastrophe was avoided. He acknowledges that there are many future challenges, among them environmental concerns, but he considers himself among "the camp of optimists." He writes, "I am sure that by… 2050, the world will still face important challenges but I also expect that it will have improved in many ways, including lower poverty rates, higher levels of education and plenty of food to go around."[71] Whether one agrees with Ehrlich or Lam, philanthropic donations made to issues that impact overpopulation, such as food production or lowering birth rates, are the type of philanthropy that saves lives and prevents extreme suffering. I do not see the empirical data supporting a completely pessimistic position that saving hundreds of lives today will result in millions starving in the future.

I turn away from Singer for a moment to consider other issues related to the question of whether or not to donate, and what motivates people who give.

II.9 Other Reasons to Support Philanthropy

Thus far, I have identified only one recipient for whom philanthropy might be obligatory, those who are in need of life-saving philanthropy. The question of what does and does not count as life-saving philanthropy will have to be investigated further when I discuss where to donate (Chapter IV). Questions about the extent of the obligation may mean that based upon level of income, some individuals may not have the obligation. It is obvious that someone living on a subsistence income would not be obligated to make

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71. Ibid., 1258-59.

donations to feed the starving if making the donations caused the donor to starve. One thing is clear: if any people have an obligation to donate to prevent harm, the very wealthy do.

Much has been written about this issue of the moral obligation to help the starving. There has not been nearly as much said about supererogatory philanthropy. I am arguing that, certainly for the very wealthy, some life-saving philanthropy is obligatory. Going back to Fishkin's definitions, if no other philanthropy rises to the level of obligation, it follows that all other philanthropy is either morally indifferent or supererogatory. Since philanthropy is certainly not morally indifferent, it leaves the conclusion that actions of philanthropy not directed at preventing harms such as starvation are supererogatory in character.[72]

Thus far, I have been looking at how the question "Should a wealthy person engage in philanthropy?" might be addressed from an ethical standpoint, and if there is a moral obligation to do so. The question "Why do wealthy people give to philanthropy?" is somewhat different. I will briefly look at this question as it pertains to individuals and what motivates them, beyond adherence to moral obligation. In the next sections, I discuss how some of these issues effect the Singer principles, and differ in the practice of corporate philanthropy.

II.9.1 "Concern for the well-being of others"

As I noted earlier, Cullity uses the phrase "concern for the interests of others" to describe the reason that we can move from his stage 1 judgment to his stage 2

72. Further discussion on giving to non-life-saving philanthropy can be found in Sections IV.2.1 and IV.2.2.

principle. I replaced this with "the well-being of others," and this is also an important psychological motivation for philanthropy.

Philanthropy can be viewed as taking action to bring about certain states of affairs. Giving to aid agencies is done to foster a state of affairs in which fewer people are starving. If you give to the American Cancer Society, you do so because you are trying to promote a state of affairs in which fewer people die of cancer. If you endow a poetry magazine, you do so because you want to see a world where more people get to enjoy poetry, which presumably you believe will enrich their lives.[73] Now, in all of these cases, the desired state of affairs is one in which people's lives are bettered and, in some sense, their overall well-being is advanced.

So, philanthropy is motivated by a desire to advance the well-being of others in some fashion. People are motivated because they care for others. This is seen in the etymology of the word. "Philanthropy" comes from the Greek words *phileo*, which means love, and *anthropos*, which means having to do with man. So, the literal root is love of man.

Not all philanthropy seeks to better the state of affairs for humans. There are obvious notable exceptions. They include giving to the Sierra Club (a state of affairs in which wilderness areas are preserved), or to People for the Ethical Treatment of Animals (a state of affairs in which animals do not experience pain or abuse). For the time being, I will let the term "others" include all potential recipients of philanthropy.

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73. A distinction could be made regarding primary and secondary beneficiaries. For example, when one donates to the opera, some of the money goes to pay the salaries of the singers, so they are clearly beneficiaries, as are those who sit in the audience. The opera company exists to stage performances, so I would look at the audience as the primary intended beneficiary and those in the opera company as secondary beneficiaries.

II.9.2 Benefits received by the donor

A second motivation for philanthropy is the benefits received by the philanthropist. There are many types of benefits that accrue to an individual who makes donations. One of these is esteem in the community. In my years at the CUNY Graduate Center, I have spent a lot of time waiting for elevators in the main lobby. Prominently placed on the wall near the elevators are the names of those who made large contributions to renovate the building. When I go to the ballet, I find displayed prominently in the program the names of those who have contributed. In both cases, there is a certain reputational esteem that accrues to the individuals who made the donations. The reputational esteem associated with philanthropy is unique, as it cannot be obtained in any other way.

There is an interesting passage in the New Testament regarding esteem related to making donations. Jesus is delivering the Sermon on the Mount in Matthew Chapter 6. He recognizes the esteem that donations carry, and gives an example of those who "sound a trumpet" when they make their donations so that others will see them. He calls the esteem they receive being "honored by men" (New International Version). Jesus criticizes the practice because he believes the desire to please people should be subordinated to the desire to please God. However, even in Jesus's view of philanthropy there is a significant benefit realized by the philanthropist. He advises that the donations be made in secret, "do not let your left hand know what your right hand is doing." His reason donations should be made in secret is that these donations only God sees, and that God will reward such donations. "Your Father who sees what is

done in secret will reward you." So, the benefit in this case is a reward from God, presumably in the after-life, instead of the esteem of others.

At times philanthropists specifically forgo the esteem benefit by making anonymous donations, and there might be many reasons for doing so. These include, for some, this biblical example, or for others simply a desire to stay out of the public eye or to avoid solicitation for more donations. The analysis of philanthropy by individuals must recognize this possibility of anonymous donations. For reasons outlined in Chapter I, this is not possible in the corporate environment.

A benefit that is closely related to reputational esteem is reputation in posterity. Duke, Vanderbilt, Stanford, and Carnegie Mellon are the names of great universities. They are also the names of the wealthy philanthropists who made donations to create these universities. By making these donations, these individuals assured that the recognition of their names would continue beyond the time of their own lives.[74] Much fundraising directed at philanthropists takes into account these benefits of current esteem and esteem in posterity.

Another aspect of the esteem benefit is what I will call a "veneer of respectability." There is sometimes an assumption that a person who gives to philanthropy is a generally good person. The criminal Bernie Madoff was a noted philanthropist. Among his investors and potential investors his philanthropic activity was counted as evidence that he was a trustworthy and moral individual. As it happens, he was not. The Madoff example shows that philanthropic activity alone cannot be a reliable indication of an individual's overall character – the veneer of respectability

74. I see an interesting similarity here to the Egyptian pharaohs. Some believe that the Pharaohs built the pyramids so that their names would not be forgotten.

provided by philanthropy will always hold a special appeal for those, like Madoff, who have something to hide.

In addition to the intangible benefits I have been discussing, there are the obvious tangible benefits, such as front-row seats at the opera, or a seat at a fancy dinner. In the case of donations made by philanthropists, as I am using the term, these tangible benefits often pale in comparison to the size of the gift. A seat at the opera can be purchased for a lot less than the millions that some donate.

So, philanthropy can be motivated by a concern for the well-being of others, but also by a concern for oneself and the benefits one receives. In Chapter I, I discussed altruistic and self-interested philanthropy. There, I based the distinction between the two on who actually receives the benefits. This concern for both others and self parallels the altruistic/self-interested distinction that I outline there. And, just as the external benefits may be mixed between others and self, motivation for a philanthropic action can be a combination of self-interest and concern for others.

II.9.2a: Tax deductions

I introduce the tax deduction as a sub-topic under benefits of philanthropy. It is a unique type of benefit. Money given to eligible organizations is subtracted from the donor's taxable income. The result, under today's U.S. law, is that for every dollar given to philanthropy, the donor's marginal tax rate is reduced by thirty to fifty cents.[75] Whether the tax deduction is good public policy is a topic that is outside my scope.

In and of itself, it would seem that the tax deduction is a not motivation to give. This can be seen by considering the following. Suppose the government allowed a 45%

75. There are unique cases, for example donating appreciated assets, that could generate even higher net-percentage savings.

tax credit on any money flushed down the toilet. For every dollar flushed, a taxpayer would reduce their tax bill by forty-five cents. No one would do this, because the deduction alone is not sufficient motivation to waste money. The donor must be giving to something that they consider worthwhile, or the deduction will not be enough to motivate action. However, the deduction does significantly reduce the net cost of a donation and therefore makes donating more attractive. When a donor's net cost of donating a dollar is only fifty-five cents, he or she is able to leverage the impact of donated funds.

For those concerned about whether it should be the government or the private sector that addresses areas of need, the deduction is very important. A portion of tax revenue is "redistributed." By giving a tax deduction for donations, the government is, in effect, saying to donors, "If you want to decide how to redistribute some of your money on your own, we won't take it from you and make the decision for you." Clearly a policy of giving tax breaks for donations increases private-sector financing towards the public good and reduces government funds available for this. So, this can also be seen as government adopting a policy that sees private philanthropy as more effective and able to express a wider variety of interests in a wider variety of ways. Or, it can be seen to endorse the mixed view that private giving will always have a place alongside government policy.

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In conclusion, there is wide consensus that philanthropy is a morally-allowed and praiseworthy activity. Singer offers an argument that in certain cases philanthropy is even obligatory. None of the arguments I have so far considered against philanthropy

generally succeed, nor do any of those I have so far considered succeed against Singer's view that under certain facts giving would be obligatory. So, the question of whether to give is certainly answered in the affirmative. Deciding to donate means that the philanthropist has to make two more decisions: how much to give, and who the recipients should be. The following chapter looks more at the obligation argument proposed by Singer, and takes up the question of how much to give.

Chapter III – How Much to Give

I now turn to the question of how much a potential philanthropist should give. I approach this question by considering whether the philanthropist should give all (or something very close to all) of his money to prevent death being caused by starvation and poverty, through donations to aid agencies. I do not worry right now about exactly what the difference is between "all" and "almost all," as from a monetary standpoint they are almost equivalent for the potential philanthropist. I simply call this giving "all" of one's assets.

I also put aside two other questions for the moment and return to them in Chapter IV. First, there are serious questions about whether aid agencies such as Oxfam are the best way to deal with the problem of starvation, or if they are effective at all. For now, I can let aid agencies stand in for whatever the appropriate recipient should be to alleviate the problems that organizations like Oxfam exist to ameliorate. Also, for the present, I proceed as if such aid agencies are the only appropriate recipient of donations.

With these preliminaries completed, I return to Singer's life-saving pond analogy introduced in the previous chapter, as it certainly bears upon the question of whether to give all. There, I introduce what I have called Singer's strong and moderate principles, as well as my own modest version of the principle, and argue that the real difference between the principles comes down to the level of sacrifice demanded. Under the strong principle one would be obligated to sacrifice or forgo any personal expenditure unless it was for something that itself has "comparable moral importance" to saving the life of a dying child. Since few expenditures can pass this test, the only morally-

acceptable use for all one's funds, *ceribis paribus*, would be giving almost all to aid agencies and retaining only enough for one's own subsistence. As I noted earlier, Singer himself acknowledges that the strong principle would require giving to a level close to self-impoverishment and that only a person's assets needed for modest subsistence would escape this obligation.

I note here that it would seem there are two axes under which the constraints upon the obligation to aid can be seen. The first is what Singer calls "comparable moral importance," but I prefer to call that the "weight" axis. By weight, I mean the obvious difference in utility between a life being saved, and getting a suit wet in a pond. As I have discussed, this tremendous asymmetry cannot be overlooked.

The other axis is the motivational axis. By this, I mean the motivational resistance that arises when an individual is presented with an extremely-demanding moral requirement. How hard is it to do what is here said to be the right thing? How reasonable is it to ask people to perform this action? There might be constraints upon the extent of a moral requirement on either or both of these axes independently. In financial transactions, they move together – actions requiring a modest sacrifice have both a low weight and a low motivational resistance, and both are high with a maximal financial sacrifice.

Examples of an action with a high motivational problem might be seen under any theory. A person who holds a divine command theory of morality might think it's God's will to be chaste, and yet reflect on how hard or unreasonable it is. Or, someone who is a Marxist might believe he should relinquish all his property and, understandably, might find this very hard. And so on. It is possible that for subjective or idiosyncratic reasons

someone could find it hard to do a small thing – a very lazy person might find it hard to do a minimally-decent thing, or someone very attached to watching a TV show might find it hard to turn off the set and help their child with her homework. These examples are not very important here because in Singer's case it is conceded that the motivation problem would arise for almost anyone, and it arises here in a context where the sacrifice would unquestionably do a great deal of good.

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In part, just for these reasons, I will not seek to defend the strong version of the Singer principle. I think it is overly-demanding from the motivational perspective. More importantly, in the case of a potential philanthropist the modest principle has extensive and important results. So, I do not need to defend the more controversial strong principle. The position that I will develop and defend can rely on the modest principle. I argue that for the potential philanthropist, even the modest Singer principle will require (perhaps surprisingly) that giving all at death is morally obligatory.

Under the modest Singer principle we are obliged to make sacrifices that are not too taxing if doing so will save a life or lives, or otherwise promote that which is of substantial moral significance. Giving all or nearly all at death does not in fact impose a substantial sacrifice, and does save lives or promote that which is of substantial moral significance; therefore, we are obligated to give all at death. I state this as follows:

> Under the modest Singer principle the potential philanthropist is morally obligated to donate (almost) all their assets, at the time of death or before, except those assets that may be set aside as a suitable provision for heirs.

This may well strike some readers as a surprising claim, so I will begin by taking up why the modest Singer principle requires giving all at death. As I have already argued in the

previous section and continue to argue throughout, there are no good philosophical arguments to resist the modest Singer principle. If this is so, then the issue shifts to, "What does the modest Singer principle imply for giving at death?" When that issue has been discussed, I then move on to a discussion of when gifts should be made (during one's life or at death), and also what constitutes a "suitable" or "minimal" provision for heirs.

When faced with the question of whether or not to wade in and save a drowning child, the implications of the modest Singer principle are clear. But, when we turn to giving to aid, it is not at all obvious what the modest principle would require of a potential philanthropist. In the previous section, I looked at some basic criticisms of Singer that I argued did not succeed. I now turn to some additional criticisms of Singer, which can be more directly related to the modest principle. Taking these up will help to explicate what the modest principle requires and, I believe, support my thesis concerning what a potential philanthropist is obligated to do at death.

Few reject the modest Singer principle entirely (a notable exception was reviewed in the previous section), and much of the discussion and disagreement is not about whether the Singer principle obligates the affluent to give to aid, but rather how much sacrifice is required. I begin here by looking at John Arthur. As we will see, Arthur thinks that the modest principle has no real independent force, and so he considers only the strong principle. In any event, for reasons that would, on his argument, apply to any version of the Singer principle, he thinks that no one is obligated to donate at all.

III.1 John Arthur on the Moderate Principle and Entitlements

John Arthur's objective is to deny that Singer's argument in "Famine, Affluence, and Morality" has any real moral force at all. Arthur presents a criticism that he thinks shows we have no obligation whatsoever in the circumstances to which Singer points.

I argue that Arthur makes three critical mistakes, and I discuss them in the following order. The first is that Arthur rejects the moderate version of the Singer principle, a mistake that undermines the scope of his argument, and I explore why he makes this error. The second is that he presents a flawed argument about the impact of entitlements and ownership on the Singer principle. The third is an incomplete understanding of just deserts and property rights.

It is quite surprising, and troubling, that rather than evaluating both of the principles proposed by Singer independently, Arthur dismisses the moderate principle in a mere footnote. Arthur's footnote is so short that I present it in its entirety:

> Singer also offers a "weak" version of this principle that, it seems to me, is too weak. It requires giving aid only if it [the sacrifice] is of NO moral significance to the giver. But since even minor embarrassment or small amounts of unhappiness are not completely without moral importance, this weak principle would imply no obligation to aid, even to the drowning child.[76]

This is a remarkable mis-characterization of Singer's argument, and this interpretation cannot possibly be plausible. Arthur goes on to recite Singer's pond example. However, a careful reading of Singer shows that the pond example is intended to provide an illustration of the <u>moderate</u> principle, so Arthur uses it improperly. Arthur fails to distinguish between the weight and motivational axes that I introduced earlier. For this reason, he conflates the questions of whether there are demands upon us so

76. John Arthur, "Famine Relief and the Ideal Moral Code," in *Ethics: History, Theory, and Contemporary Issues 3rd ed*, ed. Steven M. Cahn and Peter J. Markie (New York: Oxford University Press, 1996), 808.

great that there must be some reason to resist them, and whether an obligation can arise simply from the tremendous differences in utility that I have outlined. Needless to say, if we focus on a moderate demand, a sacrifice that is not too onerous, then the weight issue drops out by definition – we are assuming that the level of sacrifice is, in the case of the modest or moderate principle, not too great. All that is then left are the issues raised by operating within reasonable motivational constraints.

Singer does not use the "strong," "moderate," "modest," or "weak" labels, and I would note that the only distinction made by Singer between the strong and the moderate principles is that the moderate is a "qualified" version of the strong.[77] Clearly, there is a sense in which the moderate principle is weaker in its demands than the strong principle, but I think Arthur uses "weak" in a pejorative sense and without thorough analysis of the matter.

However, let us turn to Arthur's reason for rejecting the moderate principle to begin with. It relies on a very questionable interpretation of what it means for something to have "moral significance." As a side note, Arthur uses the terms "importance" and "significance" as synonyms, andI willdo so also.

Arthur equates having any moral implications whatsoever with being morally important. Earlier, I spoke of a spectrum of the sacrifice that one might be obligated to make to provide aid. Arthur equates being on the spectrum – that is, having any moral implications – with being morally important. He wrongly assumes that a small amount of something (such as a minor embarrassment or slight unhappiness) is the same as an important or significant amount. This is obviously false. He is correct to say that almost every action has some moral implications, but when he says that almost every

77. Singer, "Famine, Affluence, and Morality," 790.

action is morally important he misses Singer's entire point. Indeed, this point is just what follows from the doctrine of utilitarianism. Under utilitarianism, any pleasure or pain, however small, counts for something – something very small if that is its status. In a context in which nothing else but that small pleasure or pain existed, then that small pleasure or pain would be decisive. For the aesthete stranded on a desert island, the annoyance of getting too tan gives him a reason for action. But, small pleasures and pains are easily counterbalanced by more significant ones if they are in the offing, given the context. Getting one's clothing wet in a pond is such a small pain. It could, of course, have moral implications and be morally decisive <u>if</u> there were no pleasure or pain on the other side lost or gained by the same action. Thus, Singer can say, and it is obviously right to say, that the discomfort is not morally important in the pond case, where it is wrapped up in the same act that saves a life.

The obvious conclusion from the moderate principle is that if we can make a minimal sacrifice to prevent starvation and death, we should do so. In any event, it is a mischaracterization of Singer's argument to hold that, so long as there is some weight or disutility at all in an act, even getting one's clothes wet in a pond, it can never be morally obligatory to perform it. Given that there is almost always some disutility in acting at all, this has the result of attributing to Singer the thesis that the utilitarian can never make sense of obligation, ever. Surely Arthur should have realized he was on the wrong road if this is the consequence of his interpretation of Singer.

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I can now move on to the points Arthur makes in his article about moral entitlements. He raises some issues that I believe should be considered in determining

what is morally-required of a potential philanthropist, but these ultimately do nothing to overturn my thesis regarding the obligation to donate all upon death.

By “moral entitlements,” Arthur means the rights we have to keep property we own. He argues that such rights should be taken into consideration when discussing obligations to aid. He notes that even if we concede that morality dictates something like the Singer principle, morality also dictates other principles. A competing principle that he wishes to focus on is “having either a right, or justly deserving something.”[78] I now explain how Arthur appeals to such rights, and then criticize the argument he employs.

Consider, Arthur says, something like our body parts, and the right we have to keep our body parts, even if donating them might save someone else’s life, To this end he invokes Judith Thomson’s argument in her “In Defense of Abortion.” Certainly, Arthur is right to make the connection – there is an interesting link between Thomson’s argument and the argument Arthur wants to run concerning the Singer principle. As the reader no doubt remembers, Thomson uses the example of a violinist who needs to be attached to someone else’s body to stay alive until he is otherwise able to survive. The intuition she draws on is the thought that a person would hardly be obligated to allow even a great violinist the use their body for nine months. Your body, the suggestion goes, is yours, and no one has a right to the use of it without your consent regardless of the benefit that would result from such use. The degree to which the body is needed, and the degree to which its use saves a life, is irrelevant – even if Henry Fonda needed only to walk across a room and put his cool touch on a fevered brow in order to save a

78. Arthur, "Famine Relief and the Ideal Moral Code," 799.

life, Fonda is not obligated to perform this action, to allow another the use of his body for this end.[79]

I do not wish to wade into the question of abortion, and for purposes of the argument before us there is no need to, but one can see that the argument Thomson makes can be relevant to the Singer principle in that it examines the extent of the sacrifice that can be required of a person. After all, as Arthur notes, your life might be made shorter if you were to donate a kidney, but the comparable moral importance of someone else dying is much worse. Following the argument behind this comparison, it would seem that the Singer principle would require that, at least in some cases, we donate a kidney to save a life.

My response to this argument is to withdraw to higher or more easily-defended ground. While it is arguably a plausible interpretation of the strong version of the Singer principle to claim that one might, under certain fact patterns, be obligated to donate the kidney, this is very much not the case under the moderate or modest principles. As a side note, for remainder of my critique of Arthur I will talk about the moderate principle, but everything I say will apply also to the modest principle. Keeping a kidney is exactly the type of thing that could rise to the level of moral importance under the moderate Singer principle, exactly the type of non-minimal sacrifice that might outweigh any obligation to help others. So, under the moderate version of the Singer principle, there would be no “moral obligation” to donate a kidney, and the argument that Arthur employs here so far has no purchase.

79. Judith Jarvis Thomson, "A Defense of Abortion," in *Ethics: History, Theory, and Contemporary Issues 3rd ed*, ed. Steven M. Cahn and Peter J. Markie (New York: Oxford University Press, 1971), 740.

The seemingly-undeniable idea that “you have a right to your body” leads Arthur into a discussion of positive and negative rights. As the reader is no doubt aware, negative rights are “rights against interference,”[80] and positive rights are “rights to receive some benefit.”[81] A negative right is asserted when someone declines to allow their body part to be used by someone else. A moral entitlement to retain the property one already owns would also express a negative right. An example of a positive right is the right to be paid back for a loan, or the right to expect a promise made to be kept. Arthur’s point is that our moral code calls for us to respect rights, both positive and negative. Since our moral code calls for us to respect such rights, to ignore them or to allow such rights to be abrogated would be morally wrong.

Arthur is not asserting that our moral code says only that rights must be respected. He is merely asserting that respecting rights is one of the factors called for by our morality. Likewise, the moral considerations raised by the Singer principle do indeed raise other legitimate considerations, but these are not the only considerations that come into play here. Arthur concludes that our moral code “seems to pull us in opposite directions, sometimes toward helping people who are in need, but other times toward the view that rights and desert justify keeping things.”[82] So, he sees a competing principle of rights that might trump the Singer principle.

Arthur’s position means that the respect for the right to hold on to financial assets, like the right to keep body parts, is something that morality requires. He claims that accepting this does not remove or relieve the obligations of the Singer principle, but

80. Arthur, "Famine Relief and the Ideal Moral Code," 799.

81. Ibid.

82. Ibid., 807.

it does establish another aspect of morality that must be taken into consideration – what Cullity might call an outweighing reason. It is just here, at this juncture, that Arthur's earlier, premature dismissal of the moderate principle undermines his argument. If the property sacrifice is minimal, then we have no reason to defer to property rights. Under the strong principle, the demands are so great that they could undermine property rights by threatening the institution of property, but this is not the case under the modest principle.

Arthur's slide from rights to our body to rights to property or money must also be questioned – this is no small move. The body is arguably, rightly, seen as special – you do not easily replace bits of it. And, the connection to personal identity is very strong – perhaps impossible to overstate.[83] We do allow the state to take your property if it claims it needs it, and it merely gives you money in exchange – we would hardy allow this were it to requisition our kidneys. The fact that money is fungible, that money and property arise through social forces, is hardly unimportant, and the body is not like this at all. It is no small thing to move in one breath from talk of the body to talk of property. To equate body parts with financial assets is not a legitimate move, and Arthur is wrong to make it.

Arthur claims that the Singer principle requires us to give all, or nearly all, and this in turn violates the moral principle of entitlements, or what could also be called the moral rights that flow from ownership. But, while the strong version of the Singer

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83. There is another reason this comparison is so vulnerable. Arguably, our bodies arise and become ours purely through natural biological processes. Property is a social product, and is created and sustained through cooperative effort. It is worth noting that even the 5th Amendment speaks of the impermissibility of the government taking property for a good reason and not paying compensation. If property really were like a body part, imagine how obnoxious and objectionable this "recognition" of property rights would be.

principle may call for such sacrifice, the moderate version (by definition, one might say) does not. Arthur's argument is that adhering to the Singer principle would cause us to jettison another legitimate aspect of our morality, those entitlements that stem from ownership. While he may have a reasonable claim if we look only at the strong principle, obviously his argument can have no purchase on the more moderate interpretation. By definition, adherence to the moderate principle does not require the wholesale rejection of the rights we have through ownership. If, on reflection, these claims are deemed to be worthy of respect, then they will operate as constraints upon what we can reasonably be asked to give. I put the point this way because chances are we will not see the rights and entitlements we have to our money as anything quite like the rights and entitlements we have to our body. It Is unlikely that there can be no good argument to overcome donating some of our money holdings, however much we might wish it otherwise (consider taxes); whereas, it may well be there IS no good argument to require we sacrifice a part of our body. In any event, the moderate principle <u>can</u> respect ownership, recognizing an agent's right what they own. By definition, it gives some weight to whatever <u>we</u> think ought to count from the moral point of view – and at the same time, the moderate principle will call on an agent to make certain minimal sacrifices. In fact, the moderate Singer principle allows for exactly the kind of give-and-take that Arthur calls for, balancing moral principles of entitlement (or whatever else appropriately gets weight) against the considerations of utility and sacrifice that obligate us to help others in certain circumstances.

However, before leaving Arthur's argument, his use of Judith Thomson's argument warrants a bit more exploration. In Thomson's view, actions such as Henry

Fonda walking across a hospital room to touch someone's brow, where this would save a life, or letting a violinist use my kidneys for just an hour, where this would save a life, are roughly equivalent. The question Thomson wants to answer is not whether Fonda has a personal moral obligation to walk across the room and touch a fevered brow to save a life. Given how I have been using "obligation," I do not think anyone could say he does not have such an obligation.[84] If a person has a moral obligation to wade into a pond to save a life, then they would also have an obligation to walk across a room and touch a forehead.

Rather, the question Thomson wants to answer is whether Fonda is "unjust" if he does not walk across the room. By unjust, she means, this: that even if X is a person and so X has a right to life – all of which she concedes – this does not entail that X has a right to whatever it is X needs to live, and Y does not necessarily act unjustly if Y fails to provide those things. The homeless man has no pre-existing right to the dollar in my pocket, so I am not unjust if I do not give it to him.

Thomson does not want to concede that the violinist has any right to be connected to someone else's body, or that the sick person in bed has a right to Fonda's touch. If we extend the illustration, we might say that the child drowning in the pond has no right to be saved. But, this would not be a problem for Singer. Singer is not concerned with the rights of the drowning or starving person. Rather, he is concerned with the moral obligation of the person walking by or writing a check to Oxfam.

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84. For example, Thomson says of the case in which the violinist needs to be attached to me for only an hour, "So even though my own view is that you ought to let the violinist use your kidneys for the one hour he needs, we should say that if you refuse, you are… self-centered and callous, indecent in fact but not unjust" (746) [emphasis mine].

I offer an interpretation of Singer (and of arguments like Singer's) in which we can speak of obligations arising, and being objectively compelling, or providing objective reasons for action for those to whom they apply, without this in turn entailing any right to the performance of the obligation held by the recipient of the obligation. Indeed, I think for Singer, and for utilitarians generally, this "decoupling" of rights and obligations is crucial for a satisfactory account of how to think of charity.

In an article entitled "The Correlativity of Rights and Duties," David Lyons argues that it is "at best misleading to say that rights generally 'correlate' with duties."[85] First, of course, a rehearsal of the correlative view that is being set aside as not controlling here. Typically, particularly in contract situations, obligations and rights do arise in tandem. If I have borrowed one hundred dollars and have an obligation to pay this sum to you, you in turn have a right to it. If you thought that this was the only framework in which obligations could be said to arise, one in which there was a counterpart right to the thing one was obligated to do, then one might, through *modus tolens* as it were, argue that the charity (or pond) context generates no obligation at all – clearly (or it certainly seems on reflection) no one has a right to anything here. So, if that starving Somali has no right to my five dollars, it might, via this modus tolens argument I am referring to, seem that I cannot have an obligation to give that five dollars either.

However, as both Lyons and Joel Feinberg in "The Nature and Value of Rights" note, there are clear cases where duties do not imply a right. Feinberg puts it like this:

> When we leave legal contexts to consider moral obligations and other extra-legal duties, a greater variety of duties-without-correlative-fights present themselves. Duties of charity, for example, require us to contribute to one or another of a large number of eligible recipients, no one of whom can claim our contribution from us as his due. Charitable contributions are more like gratuitous services,

85. David Lyons, "The Correlativity of Rights and Duties," *Noûs* 4, no. 1 (1970): 45.

> favors, and gifts than like repayments of debts or reparations; and yet we do have duties to be charitable.[86]

Feinberg goes on to argue that even though correlativity of duties and rights does not always hold, a world without rights, even if it contained every important moral obligation, would be lacking. He defines to have a right as "to have a claim," and argues that the "activity of claiming,… as much as any other thing, makes for self-respect and gives a notion of personal dignity."[87] But here again, as explained, I see no reason that adherence to the modest Singer principle would conflict with such rights, or any reason to deny his claim regarding the importance of rights.

Rather than correlating with rights, why not argue – why not see Singer as arguing – that obligations arise in virtue of certain utility distributions, and leave rights aside? So, if getting my clothes wet is on one side of the utility distribution, and saving a life on the other, then the utilitarian can argue that the agent who can endure one in order to bring about the other is obligated to do so, period. And, with such an argument there is no need to bring in rights, and discussion of rights for Arthur is a distorting influence.

But even if there were a convincing argument that correlativity holds in all situations, it would not be a fatal problem for the Singer principle. Rather than accept the modus tolens and say there can be no obligation to aid because the starving Somali has no right to aid, I would simply be forced to admit that the starving Somali does indeed have some type of right to aid. To support my thesis I do not need to argue that

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86. Joel Feinberg and Jan Narveson, "The Nature and Value of Rights," *The Journal of Value Inquiry* 4, no. 4 (1970): 244.

87. Ibid., 257.

a right to aid exists for the starving person, but if such a right does exist it would not conflict with, and would only lend additional support to, my argument.

The conceptual linkage affirmed by the correlativity thesis and Thomson – that if A has an obligation to aid B then this must mean that B has a right to A's assistance – is exactly what is rejected by a utilitarian like Singer. A does not aid B because B has a right to this aid. Rather, A aids B because of the obvious difference in utility between a minimal sacrifice and saving a life, and this distribution of utilities generates, in Singer's view, a clear obligation. Thomson seems to appreciate, or at least gesture towards, something that Arthur misses – that talk of a recipient's rights to some good is clearly not relevant when we are discussing a minimal sacrifice with great payoff. In a case such as making a minimal sacrifice to save a life, appealing only to a framework of rights is not sufficient.

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In my discussion of Arthur thus far, he has been considering entitlements based on ownership. In the next section of his article, Arthur takes up the question of just deserts. He takes up why people "deserve to keep what they have acquired," if and when they do."[88] Consider two farmers, he says, one of whom works hard and thereby acquires a lot of food, and another who is lazy, so has no food. Arthur claims that the industrious farmer has some special right to keep his food, and that the industrious farmer should not be obligated, because of the Singer principle (or any other principle for that matter), to give food to the lazy farmer. But, even the way Arthur frames the situation does not adequately describe the choices, again reflecting his mistake in dismissing the

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88. Arthur, "Famine Relief and the Ideal Moral Code," 800.

moderate version of the Singer principle. He asks, "Must our industrious farmer give the surplus away?"[89] He should ask, "Must the industrious farmer give any of his surplus away, and if so how much?" The illustration would be more informative if he looked at whether the industrious farmer has an obligation to donate some portion of his food that would not affect his own well-being at all to starving, innocent children.

The conclusion Arthur wants to draw is that the industrious farmer has a right to his food because he worked to get it. This should not be a controversial conclusion, because it is really just a restatement of Locke's theory of property[90] – that mixing one's labor with an unowned object gives rise to property rights.[91] Arthur's explication of entitlements and property would be improved by looking to Locke, and to Nozick's interpretation of Locke.

Nozick points out that in addition to a "principle of justice in acquisitions,"[92] such as Locke's argument for property rights arising through labor, a "principle of justice in transfers" is required. A principle of justice in acquisition combined with a principle of justice in transfers ensures that all holdings are just.

This can be demonstrated by adding to Arthur's example. In addition to the industrious farmer and the lazy farmer, let us add another industrious farmer. However, this industrious farmer, after all his crops have been harvested, through a legitimate transfer gives them to his lazy son as a gift. I want to consider these two, Arthur's

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89. Ibid.

90. Thanks to Professor Stefan Baumrin for pointing out the similarity between Arthur's argument here and Locke's.

91. John Locke, *Locke's Second Treatise of Civil Government : An Essay Concerning the True Original, Extent, and End of Civil Government: A Contemporary Selection* (Grand Rapids: W. B. Eerdmans Publishing. Co., 1978), 40..

92. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 151.

industrious farmer with plenty of food, and the lazy son with plenty of food. Under Arthur's approach, the industrious farmer is entitled to keep his food for two reasons: he owns it, and he earned it. The lazy son is also entitled to keep his food, but not because he earned it, only because he legitimately owns it. If one follows Arthur, an argument might be made that the industrious farmer has some greater right to his property than the lazy son. However, this would be wrong. For property rights to operate, then all holdings, whether initial acquisitions or transfers, must be included.

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I have no quarrel with Arthur that entitlements and property rights exist. However, he is wrong to indicate that these would impact the obligations to aid that might exist under the modest version of the Singer principle. In summary, Arthur's position is that there are competing principals within morality. Entitlements such as rights pull one way, and the Singer principle pulls the other way. No single principle can be relied upon in making philanthropic decisions. Arthur states, "We have more than one factor to weigh,"[93] and this may be right in a platitudinous sort of way. But, as I have said, I do not think the grain of truth in this view is at all a problem for the Singer argument when we consider that argument in the form of the modest principle.

David Schmidtz makes a similar argument in his article entitled "Separateness, Suffering and Moral Theory." Schmidtz expresses it as follows:

> The only problem comes when we treat the Singer principle as something more than a way of articulating an understanding about one facet of morality. The Singer principle is a piece of a map. It cannot be more than that. No principle can be more than that.[94]

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93. Arthur, "Famine Relief and the Ideal Moral Code," 807.

94. Schmidtz, "Separateness, Suffering and Moral Theory," in *Peter Singer under Fire: The Moral Iconoclast Faces His Critics*, ed. Jeffrey A. Schaler (Chicago: Open Court, 2009), 453.

This seems a weak criticism to me. I agree with Arthur and Schmidtz that there are many facets of morality. The property rights that Arthur points out are surely one such facet. However, Singer need not quarrel with Arthur on this. The moderate Singer principle can recognize ownership rights as morally important and still call for minimal sacrifices to help the suffering. I think what Arthur adds to the discussion is a good defense of recognizing that our moral code does and should respect ownership. But, when it comes to making a minimal sacrifice, ownership rights do not make a great deal of difference.

Perhaps the only thing Arthur could legitimately claim to be concerned about regarding entitlements or property rights is that complying with obligations to beneficence might somehow undermine or destroy the institution of property rights. But, this also turns out to be an unfounded concern. I suppose if everyone suddenly gave all their property to aid, the concept of property might not survive. However, this is a counter-factual that has such a remote possibility of actually taking place that it can easily be set aside. And, this is a problem of extreme utilitarianism everywhere – no institution is intrinsically stable if its dismantling produces the greatest utility. That is why, again, it is best to defend only the modest Singer principle. Certainly, neither partial nor full compliance with a personal moral requirement to donate all of one's assets upon death will disrupt the ongoing place of property rights as part of our moral code.

III.2 Iterative vs. Aggregative Approaches to the Pond Analogy

Consider this modification to Singer's simple pond illustration. You are walking along and come upon a child drowning in a shallow pond. You fulfill your moral duty and rescue the child. But then, you walk a short distance and come upon yet another pond with a drowning child. Once again, you rescue the child. What if, as you walk, every five minutes you came upon yet another pond with a drowning child?

While the case of one child in one pond is fairly straightforward, the situation with multiple ponds is not so clear. Does the fact that you have already rescued some children lessen your obligation to rescue a child when you come upon him drowning in a later pond? Garret Cullity introduces the terms "iterative" and "aggregative" for the ways to interpret such a multiple-pond illustration. Under an iterative interpretation, previous instances are not taken into consideration when contemplating the nth occasion of rescue. Cullity describes the idea like this: "No matter how many lives I may have saved already, the wrongness of not saving the next one is to be determined by iterating the same comparison." [95] So, under an iterative interpretation, the facts that I have previously rescued some and that there may be others needing rescue in the future are not relevant to the argument, and so not relevant to the moral obligation.

By contrast, an aggregative interpretation attempts to aggregate all instances of giving aid in deciding whether to give aid in this current instance. Under this interpretation, one would consider "when the aggregate cost to me of my successive contributions to helping needy people has become great enough to excuse refusing to go further,"[96] and the thought here need not be expressed in terms of "cost." One might just ask whether the past performance has simply been sufficient to render any claim of

95. Cullity, *The Moral Demands of Affluence*, 71.
96. Ibid., 82.

future obligation already handled, already met. So, previous instances or potential future instances are taken to bear upon the assessment in this case.

As the reader might guess from my opening multiple-pond analogy, I think there are serious problems with any attempt to apply an iterative interpretation to the pond example. Let me explain why. Cullity raises the question of iterative and aggregative interpretations after he endorses the life-saving pond analogy. What he is questioning is how the implications of the life-saving pond analogy should be understood and implemented, and he argues that two interpretations could proscribe different courses of action. Cullity ultimately rejects an iterative interpretation, but I think he gives it more serious consideration than it in fact deserves. I think there are fairly straightforward and obvious reasons to reject an iterative interpretation, both its plausibility and relevance.

To begin with, Cullity's characterization of how to understand the pond example "iteratively" has little straightforward application to the context of life-saving aid. Suppose someone says, "I just gave fifty dollars to Oxfam to discharge my obligations under the modest Singer principle, and if things do not change much I plan to donate the same amount repeatedly every year or so." This sounds like a defensible modest position to hold, and it is also, it would be appear, a perfectly satisfactory response to the iteratively-repeating pond example. The idea that somehow if we imagine this requirement repeated over and over again we have an impossible-to-handle situation is just false. This requirement is repeated over and over again, and we typically handle it with donations timed over a period of time. After all, money, and so also the possibility of what remains merely modest sacrifice, does tend to reappear in our lives too.

Under an iterative interpretation as Cullity understands it, a modest version of the Singer principle would soon become impossible. Using the multiple-pond analogy, I as approached each additional pond, I would have to ask myself the question, “Does saving this child constitute more than a minimal sacrifice based on my current situation?” After the first pond, one more pond does not seem like that much of a sacrifice, and after two ponds a third is not that much more of a sacrifice, and so it goes. It is a mathematical certainty that if you multiply anything minimal many times, the result will, eventually, no longer be minimal, and at some point become maximal. Staying within Cullity’s iterative interpretation, I will not stop saving children until a point near to when it becomes impossible to sustain myself as I do so. But, this is just to find ourselves back with the extreme or “strong” version of the Singer principle. Cullity’s iterative interpretation will inevitably lead to demands that, if we <u>were</u> to accede to them, in turn would require a justification along the lines of the strong Singer principle, and so would require something approaching self-impoverishment in meeting our obligations to the dying.

The fact that this interpretation of an iterative reading fails to accommodate the difference between a strong and modest version of the Singer principle probably counts as a good enough reason to reject it in itself. At the least, for those committed to defending the modest principle, this would justify setting Cullity’s argument aside. Cullity might say that I am rejecting the iterative interpretation because I do not like its implications, but I think there are more fundamental reasons to reject it.

For Cullity’s version of the iterative interpretation to work, both previous instances and potential future instances must be ignored when deciding whether to give aid in <u>this</u>

instance. Neither can have any role in describing the nature of the decision before us now, and the result is an exhausting demand upon us. But, even if one granted that there is no reason to take past instances into account, there is no reason at all to say this about future instances. One cannot legitimately ignore the fact that people have reasonable insight into the future. Having such insight, they can plainly see that the immediate need for life-saving aid worldwide far surpasses the resources of any one person. So, no matter how much they give, there will still be more people that need life-saving aid. Only by ignoring such knowledge could an agent follow an iterative interpretation, but it is impossible to ignore such knowledge, nor would it be right to expect people to do so. In the multiple -pond scenario laid out a moment ago, even if the agent were willing to ignore past instances, it would be unreasonable to expect the agent not to take information into account about how many more ponds with drowning children are ahead before making a decision at the first pond, or the second pond, or at some point along the way. If we know there will be future cases now (and we do), then the iterative interpretation and the aggregative interpretation are essentially the same. The distinction just trades on ignorance. So, the iterative interpretation, as Cullity describes it, cannot be applied to the need for donations to aid that exists today.

This can also be seen as a practical reason that an iterative interpretation has no natural place in philanthropy. Under an aggregative interpretation, a person would in effect step back and reflect on what their moral obligation is to those needing aid, then make a one-time decision (or plan) about how much to give, and *decide* what organizations to sponsor. While such a plan must be dynamic, it is always aggregative in nature. It considers the donor's current asset/income stream, and how much in the

aggregate should be allocated for philanthropy. It is hard to imagine an iterative application in philanthropy. To me, this seems to be one area where the analogy drawn from a child drowning in a pond does not translate fully to the practical matter of giving money to organizations like Oxfam. I can save only one drowning child at a time, but I could give all my money to Oxfam today.

To be as effective as possible, philanthropy needs to be planned and therefore aggregative. As Cullity imagines it, an iterative interpretation of the way the life-saving needs arise is unplanned and ad hoc. Just like a business enterprise, an ad hoc, unplanned approach to philanthropy cannot be as efficient or as effective as a planned one. And, in the real world, there is no reason to see these needs this way in the first place. We know now that there will be hungry and destitute refugees somewhere in the world next year, even if they cannot presently be picked out.

But, to return to the contrast between planned and unplanned philanthropy, one reason it is important that philanthropy be planned is that to the extent that doing something efficiently would save more lives I ought to do it. I don't bother to defend this claim, but merely provide an example that makes it intuitively obvious. If giving one million dollars to organization A will save the lives of one million people, but giving the same million dollars to organization B will save the same million people plus an additional five hundred thousand, then, ceteris paribus, I ought to give the money to organization B. So, an iterative approach to philanthropy, to the extent that we can distinguish from an aggregative approach, should be rejected on the grounds that it is not applicable to aid, and would be counter-productive. To the extent that we see the repetition of the same demands upon us stretching into the future and simply plan for

this (as we do), then the "iterative" and "aggregative" interpretations are utterly coextensive. We understand and try to face this demand (as stretching into the future), but we do so, I am arguing, within the constraints of the modest Singer principle, and so nothing terribly worrying follows from imagining this requirement realized again and again into the future. This demand is going to be realized in the future; we know this now, and we include this in how we understand the requirement upon us now. This last point is also connected to why this argument should be set aside as having little to do with any serious thought about how to characterize our obligation to give life-saving aid.

III.3 Liam Murphy's Fair Share View

To understand Murphy's argument, I begin by drawing attention to the title of his book, *Moral Demands in Non-Ideal Theory*. His project is to determine the weight of moral arguments such as the Singer principle's demand to contribute to aid. However, he notes that even if we could determine the just or appropriate extent of those demands under ideal circumstances where everyone fulfills their moral requirements, this conclusion does not necessarily map onto the real world where not everyone fulfills their moral requirements. Murphy argues, "The practically relevant question of the shape of required beneficence is thus a question of 'non-ideal theory' – a question, that is, of what a given person is required to do in circumstances where are least some others are not doing what they are required to do."[97]

The idea of a "non-ideal theory" of course comes from Rawls, who takes up in his theory construction the question of what the best ideal theory would be. Murphy

97. Liam B. Murphy, *Moral Demands in Nonideal Theory* (New York: Oxford University Press, 2000), 5.

considers an ideal situation as one in which everyone is fulfilling their individual moral obligations.

Murphy's claims that we need a "compliance condition." This is a condition that limits the sacrifice required by the strong Singer principle. Without such a condition, Murphy says, the demands on an individual to come to the aid of those in need would be extreme, and "it would be objectionable to expect agents to take up the slack caused by the noncompliance of others."[98] He offers as a compliance condition, "Agent-neutral principles should not under partial compliance require sacrifice of an agent where the total compliance effect on her, taking that sacrifice into account, would be worse than it would be (all other aspects of her situation remaining the same) under full compliance."[99] This compliance condition leads a collective principle of beneficence: "The principle does not require sacrifice of an agent under partial compliance where the agent's level of expected well-being, taking the sacrifice into account, would be less than her level of expected well-being would be (all other aspects of her situation remaining the same) under full compliance from now on."[100]

This is a rather long and technical definition, and is easiest to grasp by offering an illustration of how it would play out in simplified situation. Assume a world where there are one million people in need of life-saving aid. The cost of rescue is one hundred dollars per person or one hundred million dollars in total. There are only one hundred people in this world who can help, and they each have over one million dollars. You are one of these hundred people, and you happen to have fifty million dollars.

98. Ibid., 76.

99. Ibid., 80.

100. Ibid., 85.

In such a world, what Murphy calls “full compliance” would take place if each of the one hundred people who can help gave one million dollars. This would provide one hundred million dollars in total, and fund all of the required aid. But, not everyone gives what morality requires; naturally, there is only “partial compliance.” Let us suppose that no one else is willing to give, and the “development” representative from Oxfam is on the phone asking if you will make a donation. Taking into account only the fair-share principle advocated by Murphy, you could respond that the moral demand on you is not that you give all of your fifty million, or anything close to it, but that you give only one million. This is because one million is the amount you would give under “full compliance.” So, in our “real,” non-ideal world a person would not be required to donate more than they would be required to donate in an ideal world, an ideal world being one where everyone is in full compliance with their obligations to make donations.[101]

Murphy contrasts his collective principle of beneficence with what he calls the “optimizing principle of beneficence.” This is more-or-less akin to the obligation to aid derived from the strong Singer principle. Murphy describes it like this: “[we must] keep benefiting others until the point where further efforts would burden us as much as they would help the others.”[102] In the scenario above in which you have fifty million dollars that you could give towards saving lives, the fact that your “fair share” in solving the problem is only one million dollars is irrelevant under the optimizing principle. The optimizing principle would say that you have fifty million dollars and you should give of that fifty million until you reach some point where you can make a legitimate claim that

101. To be more precise, Murphy is focused on the economic position of the donor after the donation is made, but this works out to be more-or-less the same thing.

102. Murphy, *Moral Demands in Nonideal Theory*, 6.

by giving more you would be as bad off as those you are helping. Murphy finds this "over-demanding" aspect of the optimizing principle of beneficence to be unacceptable and "absurd," for reasons I detail in a moment."[103]

Any agent applying Murphy's principle would, he says, need to take the following three steps. First, the agent must determine what would be the required donation under full compliance. That is, what would their obligation to aid be in a world where everyone fulfilled their moral obligation to donate to aid? Next, the agent would determine what their condition would be in that world of full compliance. That is, what would their level of well-being be in the world of full compliance after they have fulfilled their obligation and everyone else has done the same? The amount that is required to be donated is the amount that would leave the agent no worse off in this world then they would be in that world of full compliance.

Murphy's collective principle of beneficence bears remarkable similarity to the taxation context, or to any other contribution made under collective political agreement, and some of the differences between this context and that of donation to life saving-aid undermine the plausibility of his entire argument. In Chapter II I put aside the case where government was meeting all the basic or life-saving needs of fellow citizens. Here, I should note that if through an agency like the United Nations, all the nations of the world through taxation collectively funded all the basic needs of the world's poor, there would be no need for philanthropy. Everyone, through their contribution to their nation's coffers, and the nation's contribution to the United Nations, would in fact be in "full compliance." But, such a world is not likely in my lifetime or my children's, so I set

103. Ibid.

this aside also. At the least, we are entitled to ask how things stand until such a world arises.

Let us begin by looking at some of the differences between a taxation situation, where everyone pays what they pay on the assumption that everyone pays their taxes (the government fixes the rates it does assuming it will collect these rates from almost all taxpayers), and Murphy's collective principle. An obvious, and very important, difference is that in the taxation context a collective agreement is present.[104] People pay their taxes in part of course because there are penalties for non-compliance, but compliance is also motivated by the fact that when I pay my taxes I believe that some collective agreement exists and I am paying only my "fair share "under that agreement.[105]" I believe a fair share is already being enforced. But, no such collective agreement exists when I am presented with the need for life saving-aid, nor is it obvious that the absence of any such agreement should have any bearing on my decision to donate to aid. In fact, there is no reason to assume that the obligations to life-saving aid that I am discussing are in any way collective in nature. This is a reason to question whether a collective or "fair share" principle has any application whatsoever to the life-saving pond analogy or our obligations to aid.

But, I put that aside to say something about how Murphy's fair share principle bears on my thesis stated earlier in this section. If one accepted Murphy's reasoning, how would this argument effect a potential philanthropist making an end-of-life decision

104. I also put aside the case in which taxation is administered corruptly or by a corrupt government. I assume that when the tax collector says my "share" is a certain amount this is correct based on publicly-endorsed rates.

105. I cannot help but note that at the time of this writing the question of fair tax rates is hotly contested in the political arena. Percentages that everyone agrees are "fair" are never found in tax rates. This is a point against Murphy because it is unlikely there ever could be agreement on what constitutes a "fair" share when calculating how much to give to aid.

about donating to aid? First of all, as noted above, for Murphy to answer this particular question, empirical data such as the cost to save the starving and the pool of assets of potential donors is required.

One thing we do know about the world today is that the assets of any single individual are not adequate to solve problems like starvation, and governments and the UN are not spending enough. Specific numbers are bound to vary widely when considering a question like the potential cost of eradicating starvation or poverty.[106] I use some of the numbers that Peter Singer presents in *The Life You Can Save*, in which he briefly critiques Murphy.

As noted, if the calculation is purely economic then there are two numbers that are needed to determine one's fair share. First, what is the cost to solve the problem? Singer cites a United Nations task force led by Jeffery Sachs that pegs the cost to seriously ameliorate the world's poverty at something under two hundred billion dollars per year.[107] The second number is the number of people that are available to make a contribution. Singer assumes that anyone living above the average income of Portugal (selected because it is the poorest in the "rich club") could make contributions. This is around one billion people. This leads to the conclusion that "the total amount each of us would need to give in order to wipe out, or at least drastically reduce, large-scale extreme poverty would be in the hundreds rather than thousands of dollars."[108]

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106. There is also a valid question as to whether the problems of starvation or poverty can be solved even given unlimited donations, but I leave that until Chapter IV. If this were the case, "full compliance" as Murphy defines it would never be possible.

107. Peter Singer, *The Life You Can Save: How to Do Your Part to End World Poverty* (New York: Random House, 2010), 143.

108. Ibid., 144.

This leads to a startling – and, to use Murphy's word, absurd – outcome that would certainly run contrary to my thesis. A person with tens of millions of dollars could agree that they have a moral obligation to help the starving, but claim that they entirely fulfilled that obligation when they sent a thousand dollars to Oxfam last month. My claim that they morally ought to give almost all their assets to aid as an end-of-life gift would certainly not be the case. A mere thousand dollars would be their fair share.

I would note that by modifying the assumptions about the number of people who are available to comply, a fair share calculation would yield a very different result. For example, if the group of potential donors is very small then the demand on each would be no different than it would be under the strong Singer principle, and would have the same motivational resistance problems. If the five hundred wealthiest individuals in America all gave all of their assets to aid tomorrow, it would not be nearly enough to solve the problem.[109] Singer chooses to spread the obligation to all citizens of the world's most prosperous countries when doing his calculation. But, if instead we use the Forbes 400 as potential donors, Murphy's fair share would mean they each should give all. In such a situation, his collective principle yields the same result as his optimizing principle. Whether the obligation to aid should fall on all citizens of prosperous countries or on some sub-set of the very wealthy is rather arbitrary, and this would be a significant problem for putting Murphy's collective principle into practice.

But, one can envision a situation in which the pool of those able to provide help is not arbitrary yet very small, and here a collective principle and optimizing principle do yield the same result. Imagine a small embassy staff in a German city in the late 1930s,

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109. The total net worth of all the individuals on the Forbes 400 list is about $1.5 Trillion (*Forbes* 9/21/11).

where everyone on the staff believes they have an obligation to help those in danger of their lives by doing things like providing false passports or basement hiding spaces. They will never be able to provide enough passports or hiding places to save everyone in need of saving. In this case, each staff member's fair share is no different than their share under an optimizing principle of beneficence.

Singer draws out the absurdity of a situation in which a mere thousand dollars would meet a billionaire's obligation with another modified pond example:

> You are walking past the shallow pond when you see that ten children have fallen in and need to be rescued. Glancing around, you see no parents or caregivers, but you do notice that, as well as yourself, there are nine adults who have just arrived at the pond, have also seen the drowning children and are in as good a position as you to rescue a child.[110]

The conclusion is obvious. If five of the other adults walk away, and fail to provide aid, you and the other remaining adults should not be absolved of responsibility to rescue a second child. But, this is what fair share theory would do. If fair share theory were correct, it would create the odd situation in which the children drowning in the pond would have been better off if only the five complying adults had shown up on the scene, because then they each would have been obligated to save two children. In the same way, the idea that someone with tens of millions of dollars could fulfill their obligation to the starving with a contribution of a few thousand dollars seems wrong on its face.

This also answers an objection that could be raised regarding a difference between the pond case and donating to aid. One might claim that what is unique about the pond case is that the person walking by the pond is the sole person available to help the child, but everyone could give to organizations like Oxfam. The objection would then be that while an obligation might arise if a person is the only one who could stop

110. Singer, *The Life You Can Save*, 144.

certain suffering, no such obligation exists when anyone and everyone could provide aid. But, as shown by the example above with ten people at a pond where a child is drowning, person A would not be relieved of an obligation to help simply because person B, who is just as able to help, was also present.

Let me look at what I think is wrong with Murphy's argument, and then demonstrate how inclusion of the modest principle would help his argument. I begin by recapping his outline of the structure of his argument.

Murphy begins with the optimizing principle of beneficence, which as I noted is consistent with the strong version of the Singer principle. Murphy's primary problem with the optimizing principle is that it leads to what he considers "absurd" results.[111] This is the familiar issue of some moral argument or other requiring a person to give to almost the point of impoverishment. I have talked about this before as the motivational problem in which we are asked to do too much. However, Murphy sets aside this frequently-cited problem of "excessive demandingness" as the reason for this absurdity, that it is too motivationally-difficult. Instead, he claims the reason the optimizing principle leads to absurdity under partial compliance is that the consequences are so unfair.

Under partial compliance in the real world, the optimizing principle calls on people to give their own share (which using Singer's calculations is a great deal less than giving until close to impoverishment), plus to take on some significant portion of what would have been the responsibilities of others, had others been in compliance with the optimizing principle. Making such a sacrifice, greater than your share, Murphy considers unacceptable because it is inherently unfair.

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111. Murphy, *Moral Demands in Nonideal Theory*, 6.

So, Murphy formulates the compliance condition for any principle of beneficence, and claims that the reason the optimizing principle produces “absurdity” is that it greatly exceeds the requirements of this compliance condition. By contrast, his collective principle of beneficence is the appropriate remedy for the optimizing principle.

I have already indicated several problems with this approach. It is not obvious that an argument suitable in a context of political organization is appropriate here. It is not obvious that we are in fact justified in giving only “our fair share” to help others when in fact that share is a fractional sacrifice for us, as it happens, and the need is enormous. A further problem with Murphy’s argument is how he relies on the notion of fairness. A key premise of his argument is what an agent living in a world of partial compliance might say to reject the demands of the optimizing principle: “Why should I have to do more just because others won’t do what they ought to do?... Surely I should only have to do my own fair share.”[112]

From this, Murphy concludes that “[i]t would be objectionable to expect agents to take up the slack caused by the non-compliance of others.”[113] He considers it an absurd requirement that an agent give more under partial compliance then the agent would under full compliance, when the need for giving more is a result of the non-compliance of others.

Again, I have argued that one reason to reject this line of argument is that there is no reason, certainly no collective agreement, that would justify an agent taking what others do into consideration here. Another response to Murphy’s argument is to grant that the optimizing principle leads to a result that might be considered absurd under

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112. Ibid., 76.

113. Ibid.

partial compliance given the current state of philanthropy, but to counter that (as my illustration above shows) the collective principle does no better. The collective principle leads to a conclusion that a billionaire need give only a few thousand or a few hundred dollars to aid if that is her fair share, and certainly this is just as absurd as a principle that calls for someone to give more because of the non-compliance of others.

Even if one set many of these problems aside and granted Murray's claim that some type of collective context here applies, and so the obligations we have should reflect this, a simple addendum incorporating the modest principle in the fair share approach would at least remove the potential absurdity that exists when a billionaire says thousands of dollars is a fair share. The problem is that under a fair share principle as stated by Murphy, a very wealthy person is not morally obligated to give more than a pittance if that is their share. Murphy's cooperative principle, like much of the work related to the Singer principle and beneficence, questions the maximal sacrifice that is required by morality. However, this leaves out the important consideration of an obligation to make a minimal sacrifice. When we consider the modest principle, Murphy's substantive worries disappear. It might still be "unfair" on his view to give a bit more, but so what? This means only that the act is in fact genuinely charitable.

Even if a fair share principle were somehow justifiable, it seems quite wrong to hold that the amount of a donation that would be required under the modest principle should be reduced in order to comply with a fair share principle – an implication Murphy must accept. So, any argument for giving your fair share as a maximum, your fair share and no more, must be modified to incorporate the premise that <u>it is obligatory to give</u>

more than your fair share if that amount still represents a minimal sacrifice given the background conditions. By "background conditions," I mean facts about the person making the donation such as assets, stage in life, and so on. This modification ought not to trouble Murphy. His concern about the optimizing principle is that it is unfair to expect someone to make a donation to compensate for the non-compliance of others. But, this concern should drop away if the donation simply represents a substantive donation that remains a minimal sacrifice for the donor. While it might be unfair to expect an extreme sacrifice to make up for the non-compliance of others, a minimal sacrifice imposing no hardship cannot rise to the level where it would qualify for consideration as "unfair" (though it would technically be so, under Murphy's argument). Acceptance of a fair share principle modified in this way does not conflict with my thesis about donating all at death. In the case of a person with millions of dollars claiming that their entire obligation to aid at death would be met by giving a few thousand dollars to Oxfam, they would be wrong.

III.4 Further Questions on Whether Giving All at Death is a Minimal Sacrifice

It seems that an objection might be raised against my claim that donating all to aid, even at death, is in fact after all a minimal[114] sacrifice. One might claim that such a donation is not minimal at all, but a significant sacrifice, and the modest Singer principle should not apply. The response to that claim would be as follows.

I have noted that the choices available for disposition of assets at death are limited. What people usually do with most of their assets at death is give them to their

114. A claim could be made that "minimal" is a relativistic term, and that there may be someone who considers my "minimal" sacrifice an insufferable burden. By minimal, I mean what a reasonable person would find minimal under reasonable conditions.

children and grandchildren. People are typically pleased to know that their children are provided for, and ensuring this can impact a parent's present happiness. This is the reason that I have qualified my thesis to set aside a suitable provision for heirs, which I discuss below.

For the moment, I consider the case of a person with no heirs and no one they wish to consider an heir. This will allow me to briefly defer the question of a suitable inheritance. Other than philanthropy, what are the choices for such a person?[115] There are silly options, such as building a self-aggrandizing monument like the pyramids, though in our current culture if one seeks esteem in posterity then philanthropy is usually the better avenue anyway. As one examines the dearth of possibilities, the old adage "You can't take it with you" rings true. It is because you can't take it with you that giving it away at death is after all a minimal sacrifice. For a person with no heirs, giving all at death is not only a minimal sacrifice, it is a default action. This does not mean that I have fully addressed the issue of whether giving all is more than a minimal sacrifice. I have merely concluded because there are only two possible uses for the assets, donations or bequests, it comes down to a question of the amount left to heirs, a question to which I can now turn.

III.5 How Much to Bequeath to Heirs

When dividing an estate, a potential philanthropist ultimately has two choices: donations or gifts to heirs. For the most part, one's heirs are one's children. An after-

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115. A reminder to the reader – in this section I am equating philanthropy with giving money to aid. A donor certainly has a choice whether to give to Oxfam or the opera, but I consider that distinction in Chapter IV.

tax estate can be seen as a pie that is divided into just two pieces, one of which is donated and one of which is passed to children. In practical terms, this means that a decision about how much to donate will be a question of balancing the two. I have claimed that the moral obligation that exists to provide to aid allows one to make "a suitable provision" for one's heirs. Now, I must explain what that means and why it is so.

Before doing that, however, it is worth mentioning that I see is no argument that there is a moral obligation for parents with assets to leave any inheritance to their children, assuming those children are full-fledged adults. I put aside special cases such as children with a handicap that prevents them from being self-sufficient.[116] But, while there may be no moral obligation to do so, most parents, understandably, want to give an inheritance to their children, so let me turn to the question of what constitutes a "suitable" inheritance. I am trying to fix this idea given the moral demands of the modest Singer principle to donate those funds to aid instead. One way to get at the idea of "suitable" or "proper" is to consider what would be unsuitable. As I just said, I do not think a person fails to fulfill a moral obligation if he leaves nothing to his children. On the other end of the spectrum, it might be possible that there is such a thing as an excessive inheritance. What would constitute an "excessive" inheritance?

Any guidelines that might help to define an excessive inheritance must look not just at the size of the bequest, but at the purpose of the bequest. Just like their parents, heirs have only a limited number of options for their money. This means that any

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116. In an article entitled "The Lockean Rights of Bequest and Inheritance," Leslie Kendrick defines inheritance as "the right of a decedent's heirs to succeed to his property in the absence of specific directions from him" (147). This would not apply in a case when a parent, through a conscious choice, decides not to leave money to a competent adult child.

inheritance is going to be used by the heir for either investment, consumption, donations, or passing on to the following generation(s). An inheritance that is donated by the heir is effectively the same as a direct donation, so I will set it aside and consider the others.

If a person receives money as an inheritance and continues to hold it as an asset for investment, never spending any of it on consumption, then they will ultimately be in the exact same place as their benefactor.[117] They will be faced with a decision whether to donate the money or leave it to their heirs. And, this would repeat generation after generation. So, inheritances that are not expected to be used for consumption result in what I would call an attempt to create dynastic wealth.

By "an attempt to create dynastic wealth," I mean when someone leaves an inheritance that is so large, there is no reasonable expectation that their descendants will do anything but continue to pass it on from generation to generation. Perhaps the reason for such action is rooted in evolutionary psychology. Perhaps we can say that endowing your offspring with excessive resources will increase the chances that your DNA or alleles will succeed in the evolutionary struggle. So, it would make sense that such activity might be hard-wired in the human psyche. But, an evolutionary description does not yet give us a justification.

Creating dynastic wealth, simply for its own sake, provides no actual present benefit to the person doing so other than a vague sense that many years from now they

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117. For the sake of simplicity, I am assuming an easily-identifiable distinction between funds used for investment and for consumption. Sometimes there is overlap – for example, the legitimate desire for a safety cushion that is a hybrid between consumption and investment. A parent may have a child who does not need any inheritance to lead a comfortable life; yet, they may desire to leave an inheritance with the expectation that in all likelihood it will be never be used, and will probably be passed to the next generation, but that it is available in a time of need.

will be remembered and perhaps appreciated by some descendant. To my sensibilities, this benefit is vain, and sacrificing it is, morally, equivalent to dirtying one's suit in a pond. This being the case, relinquishing a plan to create dynastic wealth would be a minimal sacrifice – the type of minimal sacrifice required under the modest Singer principle. Furthermore, as I have said, if one's goal is some type of remembrance or reputation in future generations, this can often be accomplished more effectively through philanthropy than by passing money to future descendants.

The type of dynastic wealth I have been speaking of does not happen often in the United States, and would require an unusually-large asset base. What happens more often is that an inheritance is left such that the income from the inheritance will provide consumption funds for the immediate heirs without diminishing the principal. For how many generations this can continue is more a function of how many children are born in each generation than anything else. While it might seem that the size of the inheritance is the most important factor in determining how many generations an inheritance can provide for, this is not the case. Because of the way exponents work, most inheritances can be diluted to almost nothing in a few generations, unless each generation is capped at a small size. Consider that two children per generation will mean about a thousand descendants in ten generations to split an inheritance. It is possible that a multi-billion-dollar estate could continue to provide a meaningful inheritance split among that number of heirs after ten generations. However, four children per generation would mean that in ten generations over one million descendants would have to split an inheritance, and even the largest fortune, after augmentation, could not provide for that number of heirs.

So, most inheritances will ultimately be used by descendants to fund consumption of one type or another. This means that bequests will fund consumption by descendants. So, to the extent that a bequest is suitable or excessive it will provide either a suitable or excessive amount for consumption by descendants. And, that means my question of an excessive bequest becomes a question of excessive consumption.

III.6 What Constitutes Excessive Consumption?

Up until now, I have considered mostly philanthropic decisions made at the end of one's life. I think this has been helpful in that it provides a less-complex situation for analysis, and for other reasons related to present value that I will discuss in a moment. If a twenty-five-year-old with no heirs receives a twenty-five-million-dollar inheritance and pursues a career that does not produce income, such as art or public service, then at the end of his life he would have the following amount available to donate to aid: the original twenty-five million dollars plus all interest/investment gains minus the amount he spends on consumption over his lifetime.[118]

With that in mind, any dollar spent on consumption is a dollar that could have been given to aid. Cullity supports a strong version of the Singer principle, and based on that he thinks one shouldn't spend money on any luxuries or even on an expensive stereo system because that money could have been given to aid.[119] Clearly, the modest principle does not warrant such a demand. And, I will put aside environmental concerns, the thought that a high level of consumption might be morally wrong, in and of itself. <u>But, what can the modest principle say about what level of expenditure is too</u>

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118. I define these terms in Chapter II.

119. Cullity, *The Moral Demands of Affluence*, 152-58.

much? This is the question to which I now turn. Whatever the answer to this question is, it will apply to the twenty-five-year-old in the proposed example, and also provide insight to anyone in a similar situation deciding how much to spend on themselves and how much to leave to heirs to spend.

III.6.1 Consumption Directed to Self-Authorship Projects is not Excessive

I begin by considering what is not excessive consumption, under any but the strongest interpretation of the Singer principle. Jean Hampton, in her article "Selflessness and the Loss of Self," questions the extent of the sacrifice required by moral obligations. Hampton claims that "altruistic action [such as giving money to aid] is wrong when it prevents one from paying moral respect to oneself,"[120,121] and she defines the characteristics of such respect as follows:

> (a) a sense of your own intrinsic value as a human being,
> (b) a sense of what you require as a human being to flourish, and
> (c) a sense of what you require, insofar as you are a *particular person*, to flourish as that particular person.[122]

Hampton comes to the conclusion that this principle of self-respect should be accepted as part of the moral code.

Hampton's argument proceeds in the following way. She begins with an example from Carol Gilligan's interviews with children about moral judgments, and discusses the way in which two particular children responded to the question, "When responsibility to

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120. Jean Hampton, "Selflessness and the Loss of Self," *Social Philosophy and Policy* 10, no. 1 (1993): 141.

121. Hampton is not responding directly to Singer; her project is directed toward altruistic behavior in general. However, her critique of altruistic action applies to the Singer principle, and for the purposes of this section I consider the two equivalent.

122. Hampton, "Selflessness and the Loss of Self," 141.

oneself and responsibility to others conflict, how should one choose?"[123] In analyzing the responses, Hampton sees two positions regarding morality and self-respect. On one view, "Moral behavior is almost exclusively concerned with the wellbeing of others and not with the wellbeing of oneself."[124] She believes this leads to a morality where "all altruistic behaviors are prima facie moral obligations."[125] This is more-or-less the morality one would have if one adhered to the strong Singer principle without giving weight to any competing principles.

On the opposing view, morality is about only not harming others. I have no obligation to help others, as long as I do not harm them. "There are altruistic behaviors that are recommended but not required."[126] An obligation to aid would not exist under such a view. It would treat giving to aid agencies as supererogatory but not obligatory. Unless you did something to cause the starving people to be starving, you have not harmed them and therefore you have no obligation to give them anything.

Hampton proposes her principle of self-respect because she believes that it provides a middle ground between the two extreme positions. She believes self-respect will allow us to have "a conception of morality that recognizes the importance of beneficent involvement in other's lives, but which not only 'leaves room' for the development of oneself, but also makes that development a moral requirement."[127]

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123. Ibid., 137.

124. Ibid.

125. Ibid., 139.

126. Ibid.

127. Ibid., 101.

Recognizing your own value (from (a) above) comes from the Kantian notion that all people are “intrinsically and equally valuable.” If this includes all people, then it includes me, and therefore I am valuable. When Hampton mentions flourishing in (b), she means both physical and psychological flourishing. She cites an example of a woman she knew who spent all her time and energy caring for her family, did not care for herself, and as a result became ill. In such a case, the woman was, wrongly, not including herself among those who should have what they require to flourish. She included her children in this category, but not herself.

In her discussion of (c), Hampton says that we need “to ensure that we have the time, the resources and the capacity to develop characteristics, skills, plans and projects that make us unique individual selves.”[128] Each individual will have different conceptions of what is important for their life, and devoting adequate resources to such projects is part of self-respect. Hampton calls this “self-authorship” because each individual determines and shapes what flourishing will be for them. Money spent pursuing such legitimate self-authorship projects is not excessive consumption because such projects have a high value on what I have called the weight axis.

For example, I take pursuing a graduate-level education, even for its own sake without reference to future potential earnings, to be a legitimate self-authorship project. While the money one spends on self-authorship projects is certainly money that could have been given to aid agencies, it is money that under any but the strongest interpretation of Singer could be exempted from an obligation to aid, and certainly under the modest principle.

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128. Ibid., 143.

Before I leave the topic of self-authorship projects, I should note that philanthropy itself can be a self-authorship project. Bill Gates is best known as the founder of Microsoft. Later in life, he made helping the needy a self-authorship project. He has donated large sums to efforts to help the starving. But, more than money, he has taken on the personal project of running a large foundation and ensuring that philanthropic donations are employed effectively.

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Cullity looks at a similar question, and what Hampton calls self-authorship projects Cullity calls "life enhancing goods." He uses the term "requirement grounding losses" to describe giving up such life enhancing goods. In Cullity's case, if giving causes me to suffer what he calls a requirement grounding loss, then even under the strong principle it is not morally required. Cullity states, "It is reasonable for me to have a policy of contributing towards helping others that allows me to retain a defensible engagement with my own projects, relationships and other life enhancing goods while recognizing the claims that other people's interests make on me.[129] Like many others', Cullity's goal is to try to determine how much can one defensibly spend on oneself without violating our moral obligation to the needy. Cullity wants to defend a version of the strong Singer principle, but sees the need to carve out space for expenditures on life enhancing goods. Cullity offers a tentative list of seven categories of these life enhancing goods:

i. Close personal relationships – relationships of friendship and love;
ii. Achievements in the pursuit of worthwhile personal projects[130];

129. Cullity, *The Moral Demands of Affluence*, 191.

130. Cullity notes that developing one's own talents might be considered part of this category.

iii. Enjoyment;
iv. Understanding of oneself and the world;
v. Autonomy;
vi. Involvement in the life of a culture and community;
vii. The freedom to live in accordance with one's fundamental beliefs and commitments.[131]

My goal here is not to defend this list. It certainly doesn't seem that the seventh item would substantially conflict with obligations to aid. The list is not perfect, and one could certainly propose alternatives. What I do wish to emphasize is that even if two people agreed on this list, they might still differ on whether a particular expenditure was for a life enhancing good. In this list, the term "worthwhile personal project" is an example of a category that will potentially be very different from person to person. Focusing on life enhancing goods allows one to focus on the nature of expenditures rather than on dollar amounts. A worthwhile personal project could be inexpensive or very expensive.

Let me provide an example that illustrates both these points. Space tourism became possible shortly after 2000 with a number of individuals paying over twenty-million dollars to the Russian space agency for a one-week trip to a space station. I think it might be interesting to ride in space, and like many people I would welcome the opportunity. But, given the number of lives that could be saved with a twenty-million contribution to aid, I could not possibly justify what to me would be such a frivolous consumption expense.

However, for someone else, someone for whom matters related to astronomy, aeronautics, and related fields is a life passion, such an expense may be justified as a life enhancing good. For such a person, a trip into space meets all of the last six criteria listed above, even though the price tag is very high.

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131. Cullity, *The Moral Demands of Affluence*, 162-63.

Whether we use “self-respect,” “self-authorship,” “life enhancing good,” or some other term, there exists that class of important activities that are central to our being persons. Expenses for such activities are justified, even given the background of need that exists in the world. So, expenses on such things would certainly not be considered excessive consumption.

Criteria like those listed above provide a useful guideline in evaluating consumption expenses, especially in defining expenditures that are clearly not excessive. Cullity questions whether one would be justified in owning expensive clothing or furniture,[132] and there are many goods and services like cars and watches for which the variation between the cost for basic functionality and the cost for high-priced luxury is enormous.

Since I am considering a person who has enough assets to potentially fund luxury consumption, some further brief comments on how to asses such expenditures are in order. I begin by looking back to the space tourism example and adding another variable. Would it matter if the person who was spending twenty million on a space trip had just donated one hundred million to aid? It seems that it might. It seems that even a person for whom a space trip is just a fun experience and not a life enhancing good might be justified even at such an expense if they had just donated five times the cost of the trip to aid. But, I think this is a misleading intuition. In this case, any dollar spent on a luxury expenditure is a dollar that could have been donated to aid. Under an aggregative approach, which I supported above, decisions about consumption versus donation should be evaluated based not just on the present, but on part of a long-term plan. Under such a plan, it is reasonable that a percentage of income or assets would

132. Ibid., 183.

be earmarked for consumption. But, even if that is the case, spending a sum as large as twenty million for a one-week vacation would certainly seem excessive, regardless of the fraction it constituted of one's assets .

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Thus far, I have assumed that assets available for inheritance are solely cash or other liquid assets. Some important asset classes – such as real estate, art, and family controlled businesses – are often not immediately liquid but can be converted into cash in a relatively short period of time. More important, sometimes these types of assets, which I called "active investments" in my Introduction, hold unique personal specific importance for their owners. So, even though it may be possible to sell such assets and donate the proceeds, retaining them may be part of a legitimate project of self-authorship for one's heirs.

III.6.2 Relative Views on Excessive Consumption

A further perspective on excessive consumption comes from Judith Lichtenberg, who looks at consumption and the relativity of wealth and well-being. In "Famine, Affluence, and Psychology," Lichtenberg notes that "[w]e want things because we see them, and we see them because others around us have them."[133] This highlights "positional goods." Tangible items such as a luxury car, as well as intangible items such as an Ivy League education, can be positional goods. "The value of a positional good

133. Judith Lichtenberg, "Famine, Affluence, and Psychology," in *Peter Singer under Fire: The Moral Iconoclast Faces His Critics*, ed. Jeffrey A. Schaler (Chicago: Open Court, 2009), 250.

depends on its place in a system – on how it compares to what other people in the system have."[134]

Lichtenberg's goal is increased donations to aid, and she believes such donations are crowded out by consumption. For this reason, she would like to see consumption reduced. One way she sees to do this is to recognize and reduce at least some over-consumption. "To the extent that our consumption of goods is rooted in comparative reasons, we could consume less, and give away more, without reducing our well being."[135] For example, Lichtenberg claims that if everyone lived in houses that are 10% smaller no one would feel any worse off. A house that is ninety percent as big as the one I have would be fine for my needs, as long as it didn't compare unfavorably to the homes of those who are called my "reference group" in sociological literature – that is, those with whom I primarily compare myself.

I am inclined to agree with Lichtenberg regarding this point. However, I am not sure how much impact it would have on a potential philanthropist. It is one thing to say, if we all lived in smaller houses, we would spend less on consumption and have more to donate. But, this does not mean that people would actually donate the savings. Furthermore, one might agree with Lichtenberg that the world would be better off and we would each feel no worse off if we all lived in smaller houses or drove smaller cars and donated the difference, but it does not follow that I should move into a smaller house or drive a smaller car right now. In any event, this issue can be set aside since what matters is our obligation to give what we do not need. How "what we need" is to be fixed can be set aside for now.

134. Ibid.

135. Ibid., 251.

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My suggestion for an individual philanthropist about how to avoid excessive consumption is to consider what I would call “relative consumption disparity.” The term “income disparity” is used frequently, but in the light of my current question, what is important is not income but expenditures on consumption. Annual expenses on consumption in the United States are approximately $50,000 per household.[136] A consumption level of $1 million per year is 20 times the average, and a consumption level of $4 million per year is 80 times the average. Again, I would make an appeal based on the most modest interpretation of the Singer principle. Surely, there is some point at which consumption is so far above the norm that reducing such consumption, and donating that amount to aid, cannot be more than a minimal sacrifice. And, if that is so, then this “sacrifice” would be morally required.

So, I have discussed and defended two attributes of what I would call a “suitable inheritance.” First, a suitable inheritance does not attempt to create dynastic wealth. Second, it is not intended to fund excessive consumption. I have purposely avoided trying to identify specific expenditures as excessive; questions such as “Is it excessive consumption to buy that huge diamond ring for one’s girlfriend? ” or “Is it excessive consumption to buy that yacht?” cannot be answered in isolation. As I have noted, relative aggregate expenditures are a better way to gauge excessive consumption, and the potential variety of expenditures that might be a legitimate part of self-authorship must also be considered. I now turn to the question of when donations are made.

III.7 Timing of Donations

136. http://www.census.gov/hhes/www/income/data/statistics/index.html

In the Chapter II, I described a twenty-five-year-old heir. I pointed out that whatever funds she did not need to set aside for consumption, she could either donate or retain. Even if it were her long-term intention to donate the funds, she could retain some or all of the money for her whole lifetime. What are the ethical considerations of deciding when to make donations? The question I want to consider is, are there any ethical reasons to make the donation immediately, or can the donation be put off until death?

When we talk about the needs provided for by philanthropy, we are often talking about immediate needs. Rescuing a drowning child saves a life, and we are told that giving to aid agencies does too, that if I send a certain sum of money, say one hundred dollars, to Oxfam, a life will be saved. One question that comes up in the discussions about obligations to aid is that it is not usually possible to draw a direct line from my one hundred dollars to a particular child who would have starved otherwise.[137] This is one of the ways in which giving to an aid agency is not like saving a child in a pond.

But, I put aside this problem and assume that donating to an aid agency would save children today. When I realize that there is a child who might die if I do not make a donation, then it seems I should do it now and save that child. However, something else must also be considered. If I give the money now, then I will no longer have the money, and so I can't give it in the future. By giving money now, I will save a child in 2011, but then I can't give that money in 2040. If I retain the money, I will have it and can give it to save a child in 2040. Is there any moral reason to favor the child in 2011 over the child in 2040?

137. Because they know that people respond to such direct connection, some aid agencies give donors the name of a child helped by their organization. I suspect that the direct connection is tenuous at best.

Tyler Cowen and Derek Parfit take up this topic in their article "Against the Social Discount Rate." Although most of their argument is directed towards broader public policy issues and longer time periods, some of what they say nonetheless pertains to my question. Some background explanation is required before looking at their argument. Economists know that receiving a sum of money in the present is more valuable than receiving the identical sum of money in the future. Money in the future is "discounted" or considered less valuable than money received in the present. This applies, for example, if an investor is asked the question, "Would you rather receive one thousand dollars today, or two thousand dollars in seven years?" If a "risk-free" bank account pays ten percent annual interest, then a thousand-dollar deposit today will double to two thousand dollars in that seven-year period. If the investor did not intend to use the money for seven years, it would make no difference to him if he received one thousand dollars today or the larger sum in seven years. With a ten-percent interest rate, one thousand dollars today is equivalent to two thousand dollars in seven years. But, one thousand dollars today is worth almost twice as much as a one thousand dollars in seven years. The difference between the value of money now and money in the future can be expressed as a percentage, and this percentage is called the "discount" rate – it tells how much something should be discounted, or considered less valuable, because it is in the future.

The <u>social</u> discount rate that Parfit and Cowen analyze takes this discount rate concept and applies it to benefits such as the value of a life saved today compared to the value of a life saved in the future. Instead of dollars, the value in question is a social benefit or utility. A positive social discount rate is a rate over zero percent. Just like

with dollars, a positive rate means that a life saved today is more valuable than a life saved in the future. A zero social discount rate, which is advocated by Parfitt and Cowen, means that a life today is equivalent to a life in the future, and I think they are correct in arguing for this zero rate.

Parfit and Cowen critique a number of arguments for a positive social discount rate, but I focus on only one. This is the claim made by some "that we should discount more remote [in time] effects because they are less likely to occur."[138] For my purposes, this might be said, "Since we don't know if people in the future will need life-saving aid, the importance of saving them should be discounted compared to the importance of saving people today." Cowen and Parfit argue that this claim is not really a good basis for a social discount rate, but is rather the conflation of two questions:

1. When a prediction applies to the further future, is it less likely to be correct?
2. If some prediction is correct, may we give it less weight because it applies to the future?[139]

They acknowledge that question 1, about future events being less likely, is often answered positively, but this has no bearing on how we answer question 2, whether to give something less weight because it is in the future. Question 2 is about the social discount rate over time. But, the likelihood of occurrence is a completely different matter, addressed by question 1. Cowen and Parfit's point is that it <u>is</u> legitimate to discount based on the probability of an event, but this differs from applying a non-zero social discount rate.

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138. Tyler Cowen and Derek Parfit, "Against the Social Discount Rate in Justice Between Age Groups and Generations," in Peter Singer Under Fire, ed. Jeffery Schaler (New Haven: Yale University Press, 1992), 146.

139. Ibid.

When these two questions are applied to the question about the timing of donations to aid, the result is as follows. Regarding the probability that during the time span under consideration life-saving aid will still be needed, I believe it is best to proceed with the assumption that one life can be saved by an equal number of inflation-adjusted dollars in either 2011 or 2040. This assumption could be criticized from both sides. One might argue that there is a high probability that in the next 30 years starvation and similarly-grave situations will not exist. This would argue for making donations now. On the other side, it might be argued that advances in technology mean that the life-saving impact of donations will be greater per dollar donated in the future. so donations should be postponed. I do not think either of these views can be defended and don't consider them further.

As to the second question, whether there should be less weight given to a life to be saved because it is in the future, I agree with Parfit and Cowen that there is no moral reason to do so. The "temporal distance" involved here is quite similar to the question of physical distance I discussed in Chapter II in relation to the Singer principle. When considering distance and proximity, Singer concludes, "If we accept any principle of impartiality, universalizability, equality, or whatever, we cannot discriminate against someone because he is far away from us.[140] A life saved in America is morally equivalent to a life saved in Africa. And, a life saved in 2011 is morally equivalent to a life saved in 2040. This means that, under present conditions, if it is a donor's intention to comply with the moral obligations of the modest Singer principle, there is no imperative that donations be made only prior to death.

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140. Singer, "Famine, Affluence, and Morality," 790.

I have defended a thesis that calls on those with significant assets to donate most of those assets to aid at or before death. I have considered a very binary choice: either donate funds to life-saving philanthropy, or use them for consumption by present and future generations. But, the choices actually available are not quite so binary. There are numerous avenues for philanthropic donations, and giving to life-saving aid agencies is just one of them. In the next chapter, I look at considerations related to choosing the recipients of donations.

Chapter IV – Recipients of Philanthropy

In the previous chapter I discussed moral obligations to give to aid. But, giving to aid agencies is not the only form of philanthropy. Donations can be made to a wide range of non-profit organizations other than aid agencies. It seems apparent that there is a difference between a donation to an aid agency and a donation to a ballet company. But, how should we characterize this difference? I begin this chapter by looking at that question.

IV.1 Life-Saving Philanthropy

So far, I have allowed aid agencies to stand in for a certain type of philanthropy. Singer opens his 1972 article with a discussion of the situation in East Bengal, Pakistan where people were then dying of starvation. Such problem areas continue throughout the world today, both for ongoing structural reasons, and also due to unexpected calamities like drought, tsunamis, or war. Singer lets the words "bad" or "very bad" stand in for "suffering and death from lack of food, shelter, and medical care."[141] What I discussed in the previous chapter was philanthropy that is intended to stop or prevent such bad things by making donations to aid agencies.

One could argue that Singer's definition of something bad is not broad enough. Perhaps, one might say, other goods, such as educational opportunity, should be included. But, I think this would be a mistake. People can live happy, fulfilling lives without an education, but not when they are suffering or dying. So, it is appropriate that this type of philanthropy, at least in some respects, be differentiated from other types of philanthropy. "Life-saving philanthropy" is the term I have used for this. This term has

141. Ibid.

nothing to do with the character of the donor or donation, but is based on the ultimate beneficiaries of the philanthropy and the anticipated results of the philanthropy .

One might also worry that Singer's characterization is too broad because it includes "suffering," and there is so much suffering in the world. For example, it is possible that hundreds of millions of women in the nation of India suffer domestic abuse. Should stopping this suffering be considered on a par with saving lives? I would note that Singer does restrict himself to a certain type of suffering, suffering that can be ameliorated by the provision of basic the necessities of food, shelter, and medical care. In most cases the continued absence of these necessities leads to suffering that will ultimately result in death. Singer could have simply said "death from starvation" and left "suffering" out. But, from a practical standpoint this would have been an incomplete definition, as aid that saves some who would have died almost always also reduces the suffering of some who would not have died.

Of course there will always be cases on the border where there will be suffering that might be difficult to classify. Domestic abuse is horrible, but it seems that dying of starvation is worse. And, if someone disagrees with this characterization it would not undermine the basic structure of my argument. It would only mean that different recipients should be chosen for donations. Again, one of the most compelling characteristics would be the utilitarian calculus of the efficacy in creating a positive outcome. Where a donation of a sum of money that represents a minimal sacrifice, like getting clothes wet in a pond, is compared to the good of stopping death or extreme suffering, the obligation to act arises. This does not mean that only aid agencies are

engaged in life-saving philanthropy, and below I argue for a somewhat more expansive understanding of life-saving philanthropy.

IV.1.1 Two Aspects of Life-Saving Philanthropy

There are two types of activities performed by the agencies that receive life-saving philanthropy: rescue and prevention. The difference between the two, and why they are both important, can best be pointed out by examples. During the famine described by Singer in 1972, people were, at that very moment, dying because of lack of basic necessities. Providing those basic necessities, which donations allowed aid agencies to do, immediately saved lives. Such situations still take place today, such as the recent earthquake in Haiti, and aid agencies still provide relief that "rescues" the recipients from death or suffering.

In Africa today, malaria is still a deadly disease, especially among children. Malaria is spread by mosquitoes, and sleeping with a mosquito net significantly reduces the incidence of infection. According to "Nothing But Nets," a non-governmental organization (NGO), close to two hundred million people are infected each year and one million die. The cost of a mosquito net is about ten dollars, so the lives that can be saved per dollar spent by buying nets is very high relative to other life-saving activities. This type of aid is preventative in nature. But, just like rescuing, it saves lives. The differences are mostly temporal. In one case stopping something bad that is currently happening, and in the other case stopping something bad from ever taking place in the future. As I explain below, philanthropy intended to ameliorate the problems of overpopulation is preventative.

The rescue/preventative distinction is seen in an old adage that has become a cliché in the world of philanthropy: “Give a man a fish and he will eat for a day; teach him to fish and he will eat for a lifetime.” Giving a man a fish provides immediate rescue, but teaching him to fish prevents long-term hunger. Of course, if a man is dying of starvation, you may need to give him a few fish so he can build his health and learn to fish. More problematic as far as the adage is concerned, there are many people for whom learning a simple skill that would provide sustenance is not an available option.

IV.1.2 Is Life-Saving Philanthropy Effective?

One of the biggest questions hanging over life-saving philanthropy is whether it is ineffective, or worse, counter-productive. Ineffective philanthropy would mean that the money being spent is not making the intended recipients better off, and counter-productive philanthropy takes place if the actions of aid agencies result in the intended recipients (or some other group) being worse-off in the long term.

Entire books have been written on both sides of this subject. Concerns are mostly leveled against preventative philanthropy, and rescue philanthropy is less vulnerable to attack. It would be beyond the scope of my arguments to examine this debate in detail. Much of the poverty in the world cannot be eradicated without governmental and societal shifts that are, in large part, outside the scope of aid agencies. That said, it is also true that for the foreseeable future, philanthropic donations to aid can prevent suffering and death from a lack of basic necessities such as food, shelter, and medical care both through immediate relief and long-term reversal of poverty. Arguments that aid is counter-productive must be taken seriously and inform

donors and NGOs. But, I do not see any serious argument that the best thing we can do for those in severe need is nothing. The obligation to donate to life-saving philanthropy cannot be undermined by a claim that certain types of aid are ineffective. If one is concerned with the effectiveness of one type of aid, then donations can be made to an alternate activity.

IV.1.3 Life-Saving Philanthropy beyond Foreign Aid, Including Population Control

Potential recipients of life-saving philanthropy could be more diverse than expected. Some people in Africa cannot obtain basic necessities because they live in areas where repressive and ineffective government does not provide stability and economic opportunity. A donor may believe that supporting an NGO that will change the governmental structure in such countries is a better use of funds than supporting an NGO that teaches better farming methods. Both NGOs would be examples of organizations that provide preventative life-saving activities.

One aspect of preventative aid is population control, which I discussed in Section II.8. Donations to avoid such a world-wide "population bomb" catastrophe would certainly qualify as giving to preventative life-saving philanthropy. But, even if one does not believe a world-wide catastrophe is imminent, there are good life-saving reasons to donate to population-control efforts. This can be seen by considering a young couple living an isolated, subsistence existence on a small piece of land. Barring any change in farming techniques that will produce more food, there is a fixed number of people that the land can support. A family of four might survive passably, but a family of eight might face starvation. Population control allows people to keep family size in line with the

available resources. There are countries where this is a significant problem, and donations that fund population control in these areas do save lives. The lives saved are in the future. But, as I have discussed, that is no reason to morally discount them.

Donations to organizations that are far from what one normally thinks of as aid agencies could also be considered life-saving philanthropy. Global climate change is an example. I do not take up this controversy; I just note that almost all scientists believe that climate change has the potential to wreak havoc throughout the world, and to cause severe drought and hunger. If some of the worst predictions are borne out, the results would be catastrophic. This being the case, a donation that might prevent such an outcome would be considered preventative life-saving philanthropy.

This could be taken even further, and one could argue that philanthropy to support hospitals in the United States is also life-saving philanthropy. While this might be technically correct, there are important differences between giving to foreign aid and providing funds to build a hospital in America. In the first place, the number of lives saved through foreign aid per dollar donated is dramatically higher – consider the example of the mosquito nets. Second, the foreign countries in question usually have no government safety net to provide any care, while such a safety net (however inadequate) still exists in the United States. When philanthropic donations build a hospital in Haiti or Somalia, they provides hospital beds for people who otherwise will probably not get medical care. When philanthropic donations build a new hospital in the U.S., they are probably used to replace an older hospital with a more modern facility. Building a new hospital in the United States is not likely to actually save many additional

lives. Certainly, some philanthropy directed at medical or health issues is life-saving, but not all of it is.

IV.2 The Problem with the Current Distribution of Recipients of Philanthropy

My view is that while a philanthropist might not be obligated to give all of their philanthropic donations to life-saving philanthropy, it should nonetheless constitute a significant or meaningful percentage of their donations. Before I argue for this view, let me explain how it differs from the current distribution of philanthropy.

In 2005, The Center on Philanthropy at Indiana University conducted a study of donations in the United States. The chart below lists donations in seven categories:

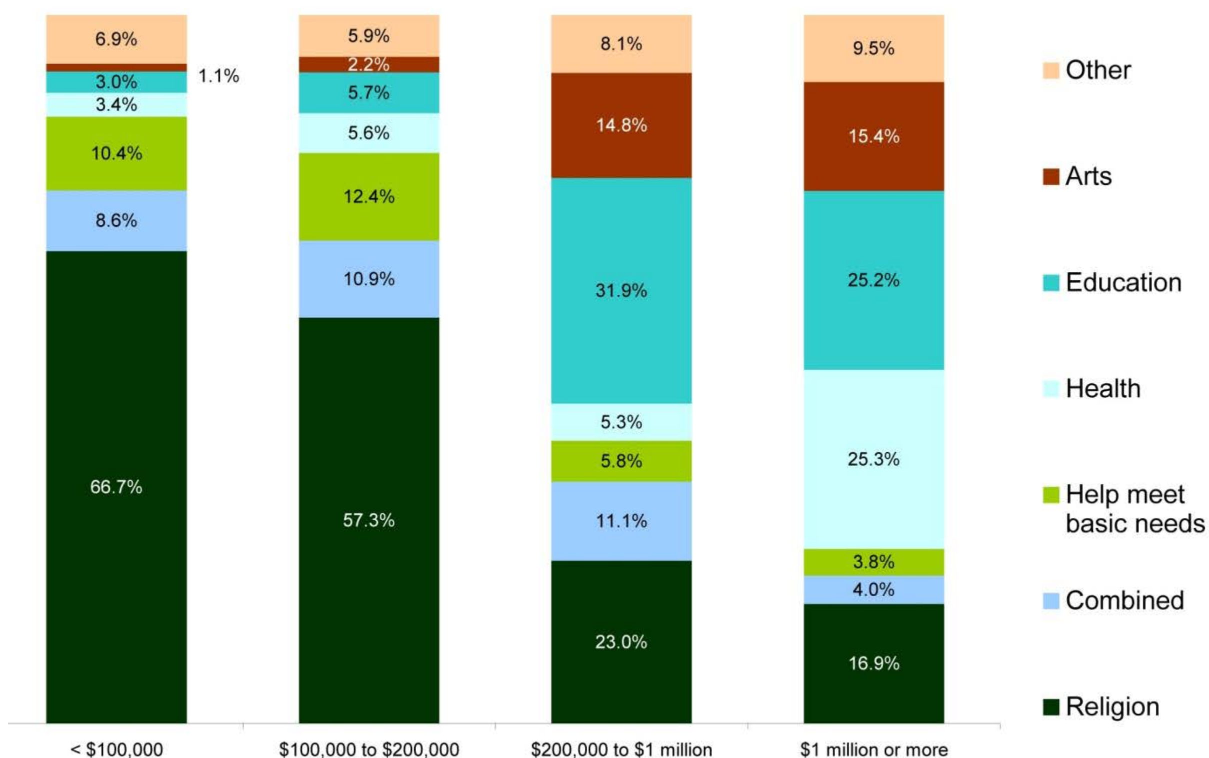

Figure 1.
Estimated Allocation of Charitable Dollars by Income Group, 2005

The percentage devoted to help meet basic needs is quite low. The authors believed that many of the categories had overlap (e.g. money given to a school in a low-income neighborhood is counted as education, but is also helping to meet the basic needs of the poor), and in order to get an accurate picture of how much is really going to help the poor they created the following breakdown:

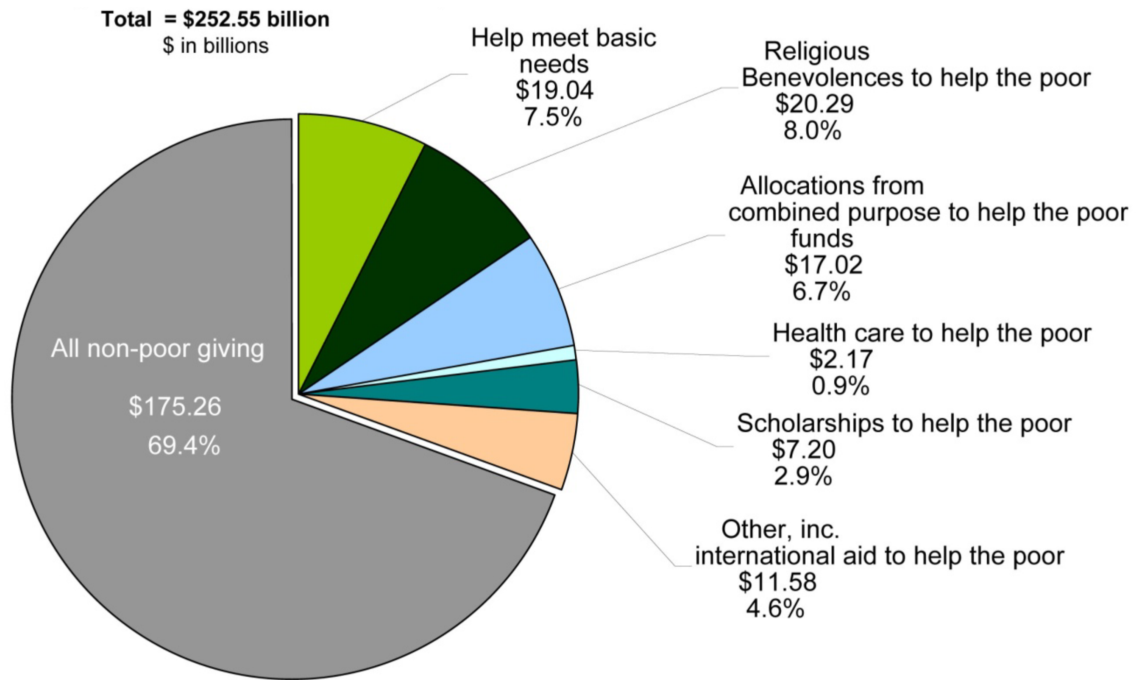

Figure 2.
Estimates of Giving Focused on the Needs of the Poor

Giving to international aid, the closest category to life-saving philanthropy as I have defined it, has to be included in "other" and is less than five percent. I find this an alarmingly-small number. I think these results can be interpreted as follows. In Chapter I, I used "public good" to stand in for the recipients of philanthropy. The categories used in this study and shown in these charts provide a good list of the types of donations that go to the public good. This pie chart demonstrates that only about thirty-one percent of donations go to helping those in need. This is divided into less than five percent to

foreign aid and about twenty-six percent to providing for the needs of the poor in America. A full sixty-nine percent of donations go to fund non-poverty-related initiatives.

To me, this seems backwards. The most important issues are receiving a small share and the less important issues a larger share. Based on the numbers I presented earlier, the need for life-saving philanthropy might be somewhere in the neighborhood of two hundred billion dollars per year. It is very apparent that the ten billion dollars given in America, the world's largest economy, is very small in relation to the need. One criticism I have of the authors of the report is that they did not make more of an effort to illuminate just how little of American philanthropy is directed at the most critical needs in the world. Let me now turn to an ethically-based argument for why the current distribution reflects improper priorities.

IV.2.1 Philanthropy that Prevents Harm, but Does Not Save Lives

I argue that obligations to aid ought to take some precedence, over giving to other philanthropy. Almost all of the discussions of the Singer principle compare consumption spending with donating to life-saving philanthropy, but there is very little discussion on comparing life-saving philanthropy to non-life-saving philanthropy. In *The Life You Can Save*, Singer states that philanthropy for the arts is "morally dubious" if it crowds out life-saving philanthropy, but he does not develop the argument.[142] Singer cites as an example the then-recent purchase by an art museum of the "one more" masterpiece for tens of millions of dollars.

I wish to make two claims regarding this issue. First, in the circumstances I am considering, it is morally acceptable to divert philanthropy from aid to other areas,

142. Singer, *The Life You Can Save*, 149.

provided that a meaningful amount is given to aid; second, even when giving to non-life-saving philanthropy, it is important to consider the relative need of the intended beneficiaries, and this favors giving to poverty-related causes. This creates a hierarchy with life-saving philanthropy most important or highest, other philanthropy aimed at poverty next, and finally all other philanthropy. This hierarchy is the inverse of current actual giving patterns. This hierarchy is proposed as a guideline for donors who are, more-or-less, neutral or undecided regarding where to direct donations. In many cases self-authorship and self-expression will be instrumental in determining recipients of donations, and that would, I think, be a valid reason for deviating from the hierarchy.

IV.2.2 Diverting Philanthropy from Aid to Other Areas

As to the first claim, I remind the reader that I am discussing an aggregative approach to philanthropic planning, primarily at the end of life. As an example, I have used a ninety-five year-old with twenty-five million dollars. I have argued that if this person follows the modest principle, they would give that sum to aid upon death. Now I must consider the case of the person who has decided to donate that sum, but rather than give all of the money to aid, would like to direct a portion of it to some other recipients. Something in the arts, such as an opera, would be a good example of a potential non-life-saving recipient, but there are some special features of the arts that I would like to discuss separately. So, I examine a case where, for important personal

reasons, a donor wants to reduce the amount given to life-saving philanthropy and give it to an adult literacy program.[143]

Based on his concern, Singer's argument might run that since giving to aid is obligatory, it would wrong to take money that could be given to aid and donate it to non-life-saving philanthropy like adult literacy. Since only life-saving considerations could generate an obligation in the absence of some contract or prior duty, only life-saving philanthropy is obligatory. Earlier, I introduced three categories of morally permissible activities. They were "morally indifferent"; "morally required" or "obligatory"; and "supereragatory."[144] Applying these categories to te choice between a donation to an adult literacy program and Oxfam is, in this case, a choice between the supererogatory and the obligatory.[145] This is a choice between two morally-appropriate choices. It is not at all obvious how one should resolve such a conflict. This reminds me a bit of Sartre's student who had to choose between caring for his mother and joining the resistance, but with this important difference: Sartre's student could only care for his mother or join the resistance.[146] He believed he ought to do both, but circumstances prevented him from doing both. A person making an aggregative philanthropic plan can give to aid and give to other causes. And, I see no justification, if there are legitimate

143. An adult literacy organization in Suffolk County was supported by a wealthy businessman who had hidden his functional illiteracy his entire adult life. After he was taught to read by a member of the organization, it is not surprising that he would have a strong personal motivation to support this cause.

144. From Fishkin – see Section II.4, footnote 20.

145. Donations to support museums, houses of worship, and symphony halls would also be supererogatory under this classification.

146. Jean-Paul Sartre, "Existentialism is a Humanism," in *Ethics: History, Theory, and Contemporary Issues 3rd ed*, ed. Steven M. Cahn and Peter J. Markie (New York: Oxford University Press, 2006), 400.

moral reasons to do more than one action, and an agent is not forced into a one-or-the-other choice between the available actions, to solely do one.

Here, the context of the donation in an aggregative philanthropic plan makes a difference. Certainly, if one has already made a meaningful contribution to aid, there is a sense in which the obligation under the modest principle has been satisfied. By "a meaningful contribution" I mean one that a reasonable agent in the same circumstances would consider meaningful. I would think such an amount is best understood as a percentage. If a person donating ten million dollars gives five million to aid that is fifty percent, which I think anyone would call meaningful. But, the same five million dollars donated from a billion-dollar estate represents less than once percent, which I think would clearly fail to be a meaningful contribution in that context. So, while life-saving aid need not be the only recipient of donations, it should be a meaningful percentage of the allocation.

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Life-saving philanthropy prevents harm, but it is not the only philanthropy that does so. Some donations, like those to education and literacy, attempt to improve harms caused by illness or poverty. They are not life-saving and do not relieve the kind of extreme suffering at which life-saving aid is directed. I will call this non-life-saving, harm-prevention philanthropy, or simply harm-prevention philanthropy.

I have argued that a person first has an obligation to give to aid, but that once this is done, if the person wants to direct philanthropy to non-life saving purposes there is no reason he should not do so. In determining which other recipients to choose, self-expression will obviously be important. When comparing two recipients, we cannot

expect there to be an objective measure of the utility of the donations. Comparing any two can bring up the well-known problem for utilitarianism when comparing goods that are unlike, such as push-pins and poetry. Bentham's argument, that both are valuationally the same, does not work here.[147] Adult literacy, animal rights, political causes, hospitals, and so on are each very different and it would be impossible to generate a standard measure of utility that would allow such comparisons.

Philanthropy can be, and often is, a form of self-expression. While one person may think adult illiteracy is one of the most critical problems in their community and find intrinsic value in promoting literacy, someone else may think literacy pales in comparison to the import of other potential recipients. Or, someone may agree that the utilitarian considerations do represent an obligation to give to some harm prevention philanthropy, but claim that for other non-utilitarian reasons giving to the opera is more important to them. We should expect such reasonable differences. And, it would be wrong to say that the person for whom opera is important ought to give all their money to aid, and none to the opera. To so restrict someone who believes a recipient to be important would seem to be a sacrifice that would not be required by the modest Singer principle.

IV.3 The Arts

Funding for the arts represents about fifteen percent of all philanthropy given by individuals in the two highest income brackets. Like many organizations supported by philanthropy, the arts rely on private donations, government funds, and payments from consumers. In the case of the arts, consumers are those who attend performances, buy

147. Jeremey Bentham, *The Rationale of Reward* (London: Parker, 1830), 206.

paintings, and so on. Ronald Dworkin, Thomas Nagel, and Noel Carroll have all written articles questioning whether government should fund the arts. Most of the issues they raise do not apply to private philanthropy, but there are some arguments relevant to my concerns. In the first place, the support of the arts is, for the most part, a subsidy for the middle class,[148] and benefits those "already advantaged."[149] This distinguishes such subsidies from philanthropic activities that benefit the needy. However, as I noted above, this does not disqualify them from being morally-endorsable recipients.

The arts do benefit a population beyond those who attend performances or go to museums. Dworkin considers this a "spillover effect."[150] This is the idea that society as a whole is better because the arts exist, and that this should be considered when making decisions to fund the arts.

Nagel makes a strong argument for the arts from a different perspective. He criticizes the notion that "the value of anything can be broken down or reduced to its value for the individuals it affects."[151] In the case of the arts, Nagel says we have "something whose value transcends the pleasures he or others get from viewing it or hearing it,"[152] and "things that are wonderful and important in a measure quite beyond the value of the experiences or other benefits of those who encounter them."[153] The

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148. Ronald Dworkin, "Can a Liberal State Support Art?," in *Morality and Public Policy*, ed. Steven M. Cahn and Tziporah Kasachkoff (Upper Saddle River, NJ: Prentice Hall, 2003), 34.

149. Noel Carroll, "Can Government Funding of the Arts Be Justified Theoretically?," in *Morality and Public Policy*, ed. Steven M. Cahn and Tziporah Kasachkoff (Upper Saddle River, NJ: Prentice Hall, 2003), 50.

150. Dworkin, "Can a Liberal State Support Art?," 35.

151. Thomas Nagel, "Public Benefit of the Arts and Humanities," in *Morality and Public Policy*, ed. Steven M. Cahn and Tziporah Kasachkoff (Upper Saddle River, NJ: Prentice Hall, 2003), 46.

152. Ibid., 47.

fact that art has such value may or may not be an adequate reason to allow government funding of the arts, but it is certainly a legitimate reason that could motivate the potential philanthropist. The arts also provide an avenue for the type of self-authorship and self-expression priorities that I have argued are an important part of philanthropy.

IV.4 Questionable Donations

There are two questionable cases I would like to discuss: self-interested philanthropy, and ineffective philanthropy.

Self-interested philanthropy was contrasted with altruistic philanthropy in Chapter I. A great deal of fundraising done by non-profit organizations emphasizes the self-interested benefits associated with the donation that I talked about in that chapter. A perfect example of this would be a building named after a donor. While it is easy to criticize such activity as egotistic and shallow, such activity does increase the overall amount of philanthropy, which is a good thing.

One thing that concerns me about such practices is that, because fundraisers emphasize these rewards when dealing with potential donors, it is possible that donors will over-emphasize self-interest when making philanthropic plans. As anyone who has been to the Rose Center for Earth and Space at the Museum of Natural History in New York, or the Rose Art Museum in Boston, can testify, many museums will be happy to name a building after you if you give a large enough gift.[154] Suppose a donor has enough funds to make such a donation and that is all the funds he has. It is possible that the allure of something like one's name on a building might cloud an otherwise

153. Ibid.

154. In both cases the benefactors were named Rose, but they are unrelated.

morally clear choice – that a significant percentage of donations should go to life-saving and other basic-needs philanthropy.

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Effectiveness of Non-Profit Organizatins: Earlier when I discussed the differences between the intention and the actual result of donations, I postulated a feed-back loop that keeps the two synchronized. It must be admitted that this feedback loop is far from perfect. This puts an additional responsibility on donors when choosing recipients. Donors must take adequate steps to ensure that donations are having the intended result and that funds are used effectively. The importance of this activity by donors should be stressed. Let me explain why.

What I have called a feedback loop takes place in the private economy because the consumers of products vote with their dollars about the relative value of goods and services. A business must adjust its activities to respond to the feedback of its customers. In a democratic society, elections provide a feedback loop. Elected officials know that they must listen to the feedback of their constituents (or perhaps their lobbyists) if they hope to be re-elected.

However, the people who run non-profit organizations, both board members and employees, do not often have the same accountability to the people they benefit. This is especially true with life-saving and basic-needs philanthropy because the beneficiaries by definition have no power base. To the extent that private philanthropy is the sole support of a non-profit organization, the <u>only</u> people who can ultimately make sure the employees and directors of the organization operate it so it fulfills its objectives

are the donors. The beneficiaries cannot. It seems to me that this responsibility is increased for a person giving a large gift.

For those who do not wish to expend energy on vetting potential recipients, this would favor giving to well-established organizations like Oxfam. Oxfam is cited by Singer and Cullity as an example of an effective recipient for life-saving philanthropy donations. But, a philanthropist making a sizeable gift and willing to vet recipients has a unique opportunity to fund newer, and perhaps more innovative, approaches.

Chapter V – Conclusion

I began with three simple questions. Should a wealthy person give to philanthropy? How much should they give? And, where should donations be made? I then turned to Singer's pond illustration and argued that there is indeed an obligation to donate to life-saving philanthropy. While most authors argue about how to understand and apply Singer's strong principle, I have taken a different approach, and instead I have defended a more modest version of the Singer principle. For my purposes the modest principle has two great strengths. First, it is easily defended. While some contest the legitimacy of the strong principle, there is no good argument for why a person is not obligated to make a modest sacrifice to aid. I considered two arguments, one from Levy on the political left, and one from Narveson on the right, but neither was effective as an argument against this modest obligation.

Second, when the modest principle is applied to the question of how much a wealthy person is obligated to give to life-saving aid, it yields a surprising result: at death one can make a suitable provision for heirs, but after that ought to donate all money to philanthropy.[155] This has been my central thesis. Two of the reasons that this is the case are the nature of death, and the non-importance of temporal distance. You do not survive your own death, and this means that you have no use for your money after you die. To donate the money at that point represents no more than a minimal sacrifice.

Physical distance makes no difference when considering obligations to aid. Whether a child is in a pond twenty feet away from me or in Africa has no traction as a

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155. Obviously, if one wishes donation can be done before death, but I have mostly considered the case where the donor prefers to wait until that time.

moral reason not to provide aid. The same is true of temporal distance. People will need life-saving aid for the foreseeable future, and a life saved today cannot, from an ethical perspective, be considered any different from a life saved thirty years from now. Since temporal distance is not a relevant moral consideration, there is no reason that donations cannot be postponed until death. This is consistent with the arguments made by Cowen and Parfit for a zero social discount rate.

I looked at a number of arguments related to the life-saving pond illustration and how they might bear upon my thesis. I rejected two arguments proposed by Garret Cullity. The first argument I rejected was that the moral character or potential future evil actions of someone needing aid has any bearing on whether to render aid to them. Cullity's example of not helping a gangster fix his gun has no place in a discussion of life-saving philanthropy. I also considered Cullity's iterative/aggregative distinction, but concluded that an aggregative interpretation is the only one that makes sense when talking about philanthropy. John Arthur's concerns that obligations to aid might somehow violate or undermine property rights also did not apply to a modest sacrifice. Further, I argued that Liam Murphy's fair share interpretation has serious problems and, even putting these aside, would need to take the modest principle into account in its formulation.

I argued that a suitable provision for one's heirs does not fund excessive consumption and does not attempt to create dynastic wealth for its own sake. The importance of self-authorship as argued for by Jean Hampton and what Cullity calls life enhancing goods are an example of suitable goals for an inheritance. I suggested

relative consumption as a way to gauge what does and does not constitute excessive consumption.

Finally, I looked at the question of whether donations to non-life-saving philanthropy such as the arts should be completely avoided in favor of only life-saving philanthropy. Here I argued that after an agent has made a meaningful contribution to aid, there is no reason they should not give to other recipients that promote the public good. In choosing recipients, the self-authorship and self-expression of the donor will be a factor, and also the importance of harm-prevention should be taken into account.

I take Singer's argument essentially to be this: some genuine, objectively-justified obligation exists to give to agencies that provide life-saving aid. I think this argument, and its reliance on factors that need not appeal to any contractual relationship between people, represents a genuine advance in moral theory. The implications, when suitably circumscribed, are difficult to resist. Even the most modest interpretation of Singer's life-saving pond example calls for us to make some minimal sacrifice. In the case of the very wealthy, I believe this means there is an obligation to give more-or-less all of one's wealth at death.

Appendix – Corporate Philanthropy

My study of philanthropy began with a focus on corporate philanthropy. As I began my research and formulated questions, it seemed to me that there were many unanswered and important questions regarding individual philanthropy that had to be considered first. Those questions turned into an entire thesis. Having completed that, in this appendix I turn back to the questions in corporate philanthropy that began my research.

The nature of corporations might be an apt topic for a metaphysician.[156] They exist, but like Pegasus, no one has ever seen one or touched one. Anyone who has studied the history of corporations knows that they are relatively recent, and a legal construction. Prior to the creation of the corporation, businesses were owned and operated by individuals, families, or very small partnerships.

Benefits of the corporate ownership structure include the ability to have numerous equity shareholders, thereby having a wide access to capital; separation of management responsibilities from ownership; a limit of legal liabilities, and thereby potential losses, for shareholders; and perpetuity. From a legal standpoint, a corporation is treated in many ways like an individual, but there are obvious and important ethical differences that I will discuss. The questions I wish to answer are whether corporations should engage in philanthropy, if so how much, and how beneficiaries should be chosen.

VI.1 Profit-Maximizing vs. Altruistic Corporate Philanthropy

156. When I speak of corporations, I refer to large, publicly-held corporations such as those listed on the major exchanges or in the S&P 500.

In Chapter I, I discussed two ends of a spectrum that can be used to analyze corporate philanthropy – altruistic, and profit-maximizing. When considering whether corporate philanthropy should be permitted, one thing is clear: purely profit-maximizing corporate philanthropy is non-controversial. In Milton Friedman's article, which I discuss at length below, he notes that there is nothing improper about a corporation donating funds to provide a public recreation center in a community in which many of its employees live. The argument would run that by funding the center the corporation winds up with a more productive work force, which leads to greater profits. Friedman says that profit-maximizing corporate philanthropy is perfectly permissible, but let's not fool ourselves and call this altruistic. Profit-maximizing corporate philanthropy can be justified in the same ways as advertising and marketing to build brand recognition. Directing expenditures to increase profitability is something businesses do every day, so purely profit-maximizing corporate philanthropy is non-controversial, and I can turn my attention to altruistic corporate philanthropy, which is quite controversial.[157] But, before doing so, I must remind the reader that in Chapter I I argued that purely-altruistic corporate philanthropy is not really possible for a corporation because of the reputational benefit. That said, Friedman and Hayek have in mind corporate philanthropy that is mostly or almost-entirely altruistic, and I will assume for the sake of argument that altruistic corporate philanthropy, or something close to it, does exist.

My question then is the permissibility of altruistic corporate philanthropy. First, I should explain what I mean by "permissible." I could mean legally-permissible, ethically-permissible, or something else entirely. I begin by considering the legal

157. Note that when I say that profit-maximizing corporate philanthropy is non-controversial, I bracket out some extreme views that there should be no philanthropy, corporate or individual (for example Levy, whom I critiqued in Chapter II).

question. If corporate philanthropy were illegal, then I suppose I would have to examine if there were some reason that the laws against corporate philanthropy were unethical and should be changed. As it turns out, corporate philanthropy is quite legal in America, and is encouraged by the tax code. The legal opinion that set the precedent for corporate philanthropy is "A.P. Smith Manufacturing Co. v. Barlow," which was decided by the New Jersey Supreme Court in 1953.[158]

The court upheld the right of a company by the name of Smith Manufacturing to make a donation to Princeton University even though some stockholders objected. One of the reasons the court cited for allowing the donation is that it could be "justified as being for the benefit of the corporation."[159] Such a phrase can clearly be seen as allowing profit-maximizing corporate philanthropy, but not necessarily altruistic corporate philanthropy. However, the court's decision does not distinguish between the two, and so it ratifies both forms of corporate philanthropy. This remains the law of the land today. The points to be made here are that the law does permit corporate philanthropy, and that the law does not really distinguish between profit-maximizing corporate philanthropy and altruistic corporate philanthropy.

But, the law can be changed, and since corporations are legally-constructed entities created by statute, the legal status of a corporate activity is not necessarily an

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158. From the court's decision, reprinted in Tom L. Beauchamp, Norman E. Bowie, and Denis Gordon Arnold, *Ethical Theory and Business 8th ed.* (Upper Saddle River, N.J.: Pearson/Prentice Hall, 2008), 92:

> The company was incorporated in 1898 and is engaged in the manufacture and sale of valves, fire hydrants, and special equipment…. Its plant is located in East Orange and Bloomfield and it has approximately 300 employees…. On July 24, 1951, the board of directors adopted a resolution which set forth that it was in the corporation's best interest to join with others in the 1951 Annual Giving to Princeton University, and appropriated the sum of $1,500…. When this action was questioned by stockholders the corporation instituted a declaratory judgment action… and trial was had in due course.

159. Ibid., 93.

indication of the activity's proper ethical status. Some make an argument against corporations engaging in philanthropy. The most widely-reprinted such argument is Milton Friedman's article "The Social Responsibility of Business is to Increase Its Profits."[160] I consider his arguments as well as F. A. Hayek's in "The Corporation in a Democratic Society: In Whose Interest Ought It To and Will It Be Run?."[161] Hayek takes a position similar to Friedman's. A great deal has been written about Friedman's article. I have drawn upon a number of articles to bring out the opposing points of view on this argument.[162]

Friedman and Hayek claim that it is wrong for corporations to be involved in altruistic corporate philanthropy. They do not think corporate executives and directors should engage in altruistic corporate philanthropy, and do not think stockholders should allow it. I distill their views into seven basic arguments against altruistic corporate philanthropy, although there will be some overlap. I show that each of these arguments fails.

VI.2 Arguments against Corporate Philanthropy

VI.2.1 The purpose of the Corporation

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160. Milton Friedman, "The Social Responsibility of Business Is to Increase Its Profits," in *Ethical theory and Business*, ed. Tom L. Beauchamp, Norman E. Bowie, and Denis Gordon Arnold (Upper Saddle River, N.J.: Pearson/Prentice Hall, 2008), 51-55.

161. Friedrich A. von Hayek, "The Corporation in a Democratic Society: In Whose Interest Ought It To and Will It Be Run?," in Management and Corporations, ed. Melvin Anshen and George Bach (New York: McGraw-Hill, 1980), 221-229.

162. Mulligan 1986, Shaw 1988, Nunan 1988, and Mulligan 1990 appeared as an ongoing dialogue in *Business Ethics Quarterly*. I also draw upon ideas expressed by Kolstad (2007) and Feldman (2007) in their discussions of Friedman's article.

Hayek claims that “the only specific purpose which corporations ought to serve is to secure the highest long-term return on their capital.”[163] Similarly, Friedman claims that business should only “use its resources and engage in activities designed to increase its profits.”[164] Both Friedman and Hayek make this claim, but neither makes a compelling argument for why this must so.

My disagreement with Hayek and Friedman here is not with the notion that businesses should strive to make a profit. Clearly the primary reason that corporations exist is to generate profits. However, there is a clear distinction between saying that profitability is the primary purpose or objective of corporations and saying that profitability is the only or exclusive purpose of corporations.

The primary purpose of my car is to transport me from point A to point B. If doing this efficiently were the only purpose of my car, then it would be inefficient and wasteful for my car to have a heater that reduces its mileage. If my car’s heater used up all of the energy produced by the engine, so that there was no energy left to turn the wheels, then the heater would have to be abandoned because it makes the car’s primary objective unachievable. Fortunately, the designers of my car were able to combine multiple purposes, including keeping me warm while I move from point A to point B. Producing heat does diminish the engine’s ability to move the car, but only very slightly, and not enough to make the two incompatible. Cars, people, and corporations are able to engage in a primary objective and are not thereby precluded from also pursuing other objectives.

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163. von Hayek, "The Corporation in a Democratic Society," 301.

164. Friedman, "The Social Responsibility of Business Is To Increase Its Profits," 55.

However, the real problem here is that both Friedman and Hayek beg the question by stipulating profit as the sole purpose of a corporation. By definition, altruistic corporate philanthropy reduces profits. If one stipulates that maximum profitability is the only purpose of corporations, then altruistic corporate philanthropy would violate that purpose and should not be permitted. But, as I argue, there is no reason to think that the shareholders who own corporations would not choose to reduce profits slightly just as they might make a personal financial sacrifice to engage in altruistic philanthropy. So, there is no reason to presume that profit is or can be the only purpose of corporations.

VI.2.2 The Theft Argument

Friedman claims that when the corporate executive allocates funds to altruistic corporate philanthropy, this is "spending their [the stockholder's] money" and "imposing taxes."[165] He claims this is akin to theft. The best formulation of this type of argument would go something like this. Assume XYZ corporation has one million dollars in the bank. Obviously there are countless ways that the company could spend or invest this money. But, I assume for the sake of argument, they have narrowed the use of the money to two possible decisions – either for altruistic corporate philanthropy, or to pay a special dividend to shareholders. A decision by management to spend part or all of this money on corporate philanthropy is "theft" to Friedman.

Spending someone else's money or outright theft could both be characterized as A taking property that belongs to B, without B's consent, thereby depriving B of the right

165. Ibid., 52.

to use it as she sees fit. Friedman would see the corporate executives as A, the shareholder as B, and the money in the corporation's bank account as B's property.

I discuss percentages in greater detail later, but I do want to point out here that context is important. If the shareholders have invested large sums of capital and never received a dividend, then it might be appropriate to give XYZ's entire one-million surplus to them. If on the other hand they have received a high return on investment and this one million in dividends would be added to hundreds of millions of dollars in dividends already received this year, it is then a different situation.

Even putting aside this contextual issue, there are reasons that the situation sketched here fails to meet the necessary conditions that Friedman himself lays out for theft or unauthorized taxation to occur. The first is that for theft to occur, the taking of the money must happen without B's consent. It is possible that, if such a donation were put to a vote, all the shareholders in the corporation would consent to use the one million dollars for altruistic corporate philanthropy. I acknowledge that such a unanimous vote is unlikely. I discuss handling the problem of a non-unanimous vote in the next section. The point I wish to make here is that one cannot assume, without providing further proof, that because of consent issues an act of altruistic corporate philanthropy is theft. Friedman asserts that the responsibility of corporate management is to carry out the operations of the business as the shareholders desire. He then assumes what the shareholders desire is that the very last penny of profit be squeezed out of the company even if it means the company does not engage in social responsibilities such as altruistic corporate philanthropy. As noted above, there is no

reason to assume that the shareholders will want profit returned to them to the exclusion of all else.

The second condition for theft/taxation that the example fails to establish is that the money in question is B's property. The one million dollars is in a bank account. B is a shareholder of the corporation. However, it would be wrong to conclude that a percentage of the money in the bank is B's property. B owns shares in the corporation and nothing more. This does entitle B to certain rights, but direct ownership or claim to the funds in the corporation's bank account is not one of these.

This understanding of corporate profit be seen initially in Adolph Berle and Gardiner Means's classic 1932 work, "The Modern Corporation and Private Property." They recognize that the "traditional logic of property" is not appropriate when considering a corporation.[166] They also recognize that in the corporate case, there is a depersonalization of assets because ownership is so diffuse and transient. This depersonalization is one reason that money in the corporation's bank account is not subject to the wishes of a direct claim of a single shareholder, but is subject to the consent of the majority of the owners. They also cite the separation of ownership and control (or management) that is inevitable in a modern corporation. This separation also contributes to the depersonalization of the corporation's assets.

Bill Shaw and Frederick Post come to a similar conclusion. They see the shareholder's position as undergoing "a transition from 'owners' to 'investors' and then

166. Adolf Augustus Berle and Gardiner Coit Means, *The Modern Corporation and Private Property* (New Brunswick, NJ: Transaction Publishers, 1991), 293.

to simple 'beneficiaries.'"[167] When the shareholder is seen as a beneficiary, it cannot be considered stealing from that shareholder when funds are expended in a manner that is approved by the majority of the shareholders. If B wanted unrestricted access to his money, he should have put it in a different investment vehicle such as a money-market or savings account instead of a business corporation.

VI.2.3 The Unanimity Argument

In the previous section I claimed that one reason using corporate funds for altruistic corporate philanthropy is not theft is because it is possible that all the shareholders would desire that the money be used in that manner. Imagine that the following options are presented to the shareholders of a corporation.

- A: The Company will have a profit of fifty billion dollars and give no funds to altruistic corporate philanthropy.
- B: The Company will have a profit of forty-nine-and-one-half billion and give five-hundred million to altruistic corporate philanthropy.

My intuitions differ from Friedman on what the shareholders would choose. Friedman assumes that they would all choose option A. My opinion is that a majority would select option B. Ultimately, intuition will not matter here, because the shareholders can vote to make their preference known. I argue below that in most U.S. corporations they have, at least implicitly, voted to allow altruistic corporate philanthropy.

Above, I indicated that if all the shareholders chose option B, then there is no way Friedman can claim an unethical theft or taking is occurring. However, as I noted

167. Bill Shaw and Frederick R. Post, "A Moral Basis for Corporate Philanthropy," *Journal of Business Ethics* 12 (1993): 748.

at that time, such a unanimous vote might never be possible. So, then the question becomes, if a majority of the shareholders vote to choose option B, can they "impose" that decision on the rest of the shareholders? Friedman has an interesting answer to this question. He holds that it would be wrong to impose decision B on any dissenting shareholder. His reason is that "the political principal that underlies the market mechanism is unanimity,"[168] as opposed to "the political principle that underlies the political mechanism is conformity."[169] In matters political, such as an election about the tax rate, Friedman expects conformity. By conformity, he means that even if you voted against a tax rate increase approved by a majority in an election, you must still conform and pay that rate of tax.

However, Friedman argues that a different standard applies to economic transactions. In economic transactions, which are part of markets, he holds sacrosanct the voluntary nature of <u>every</u> aspect of the transaction. Since the decision between option A or B above falls under his category of economic transaction, he believes a non-unanimous vote should not be binding or legitimate. He says that "in an ideal free market resting on private property, no individual can coerce any other, all cooperation is voluntary, all parties to such cooperation benefit or they need not participate."[170]

I see two faults in Friedman's argument. First, and most obvious, he has defined the preferred voluntary nature of economic transactions as ones in which those who do not think it is in their benefit "need not participate." If the majority of the shareholders of the corporation wish to pursue one policy, and I wish to pursue another policy, and I do

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168. Friedman, "The Social Responsibility of Business Is to Increase Its Profits," 55.

169. Ibid.

170. Ibid.

not like having their preference imposed on me, I can sell my shares in this company. I do have the ability to "not participate" simply by selling my shares. So, a non-unanimous vote does not impose the will of the majority on a minority that has no recourse. Those in the minority can sell their shares. Also, in management decisions minorities always have to go along with the majority.

Second, Friedman makes a move from the importance of economic transactions being voluntary to the conclusion that a non-unanimous vote on altruistic corporate philanthropy should not be allowed because it violates this voluntary component. This is not a legitimate move. One could agree with Friedman that when an individual engages is an economic transaction (e.g. buying or selling a product) no one should be coerced. But, being a shareholder in a corporation is very different from a personal economic transaction such as buying or selling something. When a person becomes a shareholder in a corporation, they voluntarily enter into an arrangement where they will have a limited say in the operations and policies of the corporation, and most importantly they realize that there is majority rule – majority (or in some cases super-majority) rule is how corporations are governed. No shareholder should have an expectation that his or her personal preference might not be overridden by the majority.

So, corporate philanthropy does not and should not require a unanimous vote of the shareholders; like other corporate decisions, some type of majority is sufficient. This also provides an answer to the question of how much corporations should donate – they should donate an amount that is acceptable to their shareholders.

VI.2.4 The Competence Argument

Another reason sometimes cited against the permissibility of corporate philanthropy is that managing charitable donations is outside the core competence of corporate executives. Competence at running a company does not mean a person is capable of making good decisions in the area of philanthropy. When Friedman makes this argument, he uses a straw man example to prove his point. He talks about a corporate executive trying to fight inflation. He says that the corporate executive is "presumably an expert in running his company…. But nothing about his selection [for an executive position] makes him an expert on inflation."[171] I would agree with Friedman that a corporate executive should probably not take upon his company a project such as combating inflation, and that he probably doesn't have the ability to do so. But, fighting inflation is not something that any single corporation can effectively do, and is best left to governmental fiscal and monetary policy anyway. Friedman wrongly extends this to all socially-related action, and claims that executives would be just as incapable of actions such as deciding how to engage in corporate philanthropy.

The evidence does not support his claim here. Far from being ineffective, corporations represent an important source of donations for many non-profit organizations. There are many advantages to corporate philanthropy. Corporations are more likely than individuals to have rigorously-defined criteria for making donations. Decisions about which recipients will be given priority can come from a wide base of potential influence (employees, customers, suppliers, etc.). Corporations have diverse areas of expertise (accounting, PR, information databases, etc.). They provide public visibility for organizations they support. And, corporations have the ability to make large

171. Ibid., 53.

enough gifts to allow potential recipient organizations to obtain higher cost-benefit outcomes in funding solicitations.

This is not to say that corporations are perfect donors. There are many abuses in corporate philanthropy, and I discuss these later. For example, some executives use charitable causes to throw lavish parties for themselves. However, we should not throw out the baby with the bathwater, and the assertion that corporations are not effective when engaging in corporate philanthropy is empirically false.

VI.2.5 The Competitive Disadvantage Argument

Kolstad presents this argument as follows: "A business that assumes responsibilities beyond maximizing profits, will incur added costs, and will therefore be wiped out in competition with firms that do not assume such responsibilities."[172] As Kolstad notes in his response to this argument, empirical evidence shows that this is not the case. Many corporations that engage in socially-responsible practices such as altruistic corporate philanthropy thrive. The fact of the matter is that because of the reputational advantages attached to philanthropy, any company that ignores it entirely would be more likely to be at a competitive disadvantage.

The proper response to the anti-competitive argument is a recognition that corporate philanthropy must be balanced with other practical aspects of running a corporation. In the example above, I talked about a company giving one percent of its profits to philanthropy. If the example were changed and instead the company donated ninety-nine percent of profits, either the shareholders would revolt or the company

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172. Ivar Kolstad, "Why Firms Should Not Always Maximize Profits," *Journal of Business Ethics* 76, no. 2 (2007): 138.

would go out of business. It would be difficult to claim that the survival of the company is at stake because of a one percent reduction in profit. By contrast, giving away ninety-nine percent of profits would put the company at an enormous competitive disadvantage, and could easily lead to its demise. But, the lesson here is only that corporate philanthropy, as practiced today, does not create such situations. There are appropriate and inappropriate levels of corporate philanthropy. Appropriate levels do not threaten a corporation's survival.

VI.2.6 Political Mechanisms vs. Economic Mechanisms

At the time of this writing the word "socialism" has come into vogue again. President Obama is regularly called "socialist" by his critics, a charge that has socialists up in arms because it is so far from the truth. I mention this because it shows how easy it is to throw around a term such as "socialism" and how potentially-meaningless the term can be.

Over 30 years ago, Friedman used the same word to describe the evils of corporate executives engaging in socially-responsible practices such as altruistic corporate philanthropy: "[T]he doctrine of 'social responsibility' involves the acceptance of the socialist view that political mechanisms, not market mechanisms, are the appropriate way to determine the allocation of scarce resources to alternative uses."[173] I do not focus on the legitimacy of Friedman's rhetorical use of the term "socialist." Instead, I consider his underlying argument. His complaint in this passage is really identical to the complaint that I just addressed when I discussed the non-unanimous vote. What bothers Friedman is that in an economic environment, a non-unanimous

173. Friedman, "The Social Responsibility of Business Is to Increase Its Profits," 53.

vote can be binding on dissenters. As I discussed in Chapter III, Friedman is wrong to require unanimity in the realm of corporate governance. A vote by shareholders to allow altruistic corporate philanthropy can reasonably be considered part of the market mechanism.

I should note that the way Friedman frames the statement makes a political mechanism and a market mechanism mutually exclusive, and there is no reason to accept that this is the case. If shareholders vote non-unanimously to engage in altruistic corporate philanthropy, one can see both an economic mechanism and a political mechanism working together. Through the process of a vote, the shareholders are deciding how to allocate a part of the corporation's resources, and this vote could be called a political mechanism. However, this "political" act takes places under the umbrella of a market mechanism – the formation and continuation of a business corporation. And, as noted above, this arrangement should not prompt Friedman's concern regarding coercion in economic matters – if a particular shareholder does not wish to be bound by a vote for a corporation to engage in altruistic corporate philanthropy, that shareholder has the freedom to sell shares and invest elsewhere.

VI.2.7 Hayek's "Centers of Power" Argument

Hayek makes the following argument for why corporations should not be allowed to engage in corporate philanthropy: "To allow the management to be guided in the use of funds, entrusted to them for the purpose of putting them to the materially most productive use, by what they regard as their social responsibility, would create centers

of uncontrollable power, never intended by those who provided the capital."[174] However, Hayek's argument is flawed in two ways. First, he assumes that management would work in a vacuum, not being influenced by shareholders. Tim Mulligan responds to a similar claim made by Friedman. Mulligan claims that while it is possible for a corporate executive engaging in socially-responsible actions to be a "lone ranger," there is no reason to expect this to be the case.[175] Instead, when it comes to philanthropic decisions, most executives cannot act "without the counsel or participation of the other stakeholders in the business."[176] So, managers would not become an isolated power center.

Second, Hayek assumes that permitting corporate philanthropy will allow corporations to become the type of power centers that only governments should be. This claim is empirically false. Corporations are enormous power centers in today's world. But, the reason for this concentration of power has nothing to do with their engagement in philanthropy; it has to do with their enormous size and vast resources, and their ability to use those resources to effect government and policy.[177]

VI.2.8 Concluding Remarks on the Permissibility of Corporate Philanthropy

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174. von Hayek, "The Corporation in a Democratic Society," 305.

175. Thomas Mulligan, "A Critique of Milton Friedman's Essay 'The Social Responsibility of Business Is to Increase Its Profits,'" *Journal of Business Ethics* 5, no. 4 (1986): 266.

176. Ibid.

177. In 2010, Exxon had revenue of three-hundred-and-seventy billion dollars (http://www.exxonmobil.com/Corporate/Files/news_pubs_sar_2010.pdf). According to figures from the World Bank and the International Monetary Fund (http://en.wikipedia.org/wiki/List_of_countries_by_GDP_(nominal)), this is larger than the gross domestic product of all but twenty-five of the over one-hundred-and-eighty countries in the world.

I have considered seven arguments that have been raised against the permissibility of altruistic corporate philanthropy and rejected them all. It is interesting to note that although Friedman and Hayek argue against activities such as altruistic corporate philanthropy, they both provide an interesting caveat. Friedman claims that the corporate manager should "make as much money as possible while conforming to the basic rules of society, both those embodied in law and those embodied in ethical custom."[178] Hayek acknowledges that in their pursuit of profits, corporations can be "restrained by general legal and moral rules."[179] [emphases mine] So, we see that both Friedman and Hayek acknowledge that the pursuit of profit must, at least in some sense, be subordinated not only to the letter of the law, but to ethical rules.

I have argued that those with significant resources should contribute to the public good, and this principle is, at least to some extent, considered an "ethical custom" or "moral rule" of our society. I have advocated for individuals participating in both obligatory and supererogatory philanthropy. I see no reason why, in this case, the considerations that inform an individual's moral choices would not also guide corporations. To put it as Hayek or Friedman do, it is moral custom is to allow corporations to engage in altruistic corporate philanthropy.

As Friedman and Hayek acknowledge, profit maximization requires obeying the law and moral custom. They seem to consider altruistic corporate philanthropy at the expense of profits as something that moral custom would never condone, but the empirical evidence of the behavior of most corporations refutes this. So, the arguments

178. Friedman, "The Social Responsibility of Business Is to Increase Its Profits," 51.

179. von Hayek, "The Corporation in a Democratic Society," 301.

against corporate philanthropy do not work, and it is certainly an ethically-permissible activity.

VI.3 How Much Should Corporations Give, and to Whom?

In V.2.4, I addressed the question of how much corporations should donate, and took the approach that this is the type of question that will ultimately be decided by a majority of the shareholders. Earlier, I mentioned perpetuity as a characteristic of a corporation. One of my primary arguments regarding individuals has centered on obligations to give upon death. Since corporations do not die, that concept simply doesn't apply here.

However, I think the concept of a minimal sacrifice does apply here. Many of the criticisms leveled by Friedman and Hayek might be legitimately aimed at corporate philanthropy that seriously detracts from a corporation's ability to be profitable. But, this is not the case for most corporate philanthropy. Contributions to philanthropy generally represent a very small percentage of corporate profits, and I believe this is because both shareholders and other stakeholders see this as a minimal sacrifice worth making for the public good.

In Chapter IV I argued for the importance of life-saving philanthropy and other harm-prevention philanthropy in the allocation of philanthropic donations. So, one question I should ask is, does this apply to corporate philanthropy? I think the answer is that it is just as relevant; but, given current donating patterns, it is unlikely that corporations will readily adopt this harm-prevention approach as an integral part of their grant-making process at any time in the near future. Corporations are an unlikely place

to see headway in a more ethical approach to philanthropic allocations. As long as individuals do not prioritize harm prevention, it is unlikely that corporations will do anything other than reflect what is important to individuals.

The fact that corporate allocations for philanthropy will tend to follow the pattern of society at large colors my overall approach to the question of how corporations choose grant recipients. Broadly speaking, I think there are three important criteria. The first two – doing good and synergy – are present in philanthropic decisions by individuals, and the third – profit maximization – seems to be an unavoidable feature of corporate philanthropy.

In any philanthropic decision, the first consideration should be where the greatest need exists, where the most good can be accomplished, and so on. Ideally, this might be the only consideration. One potential benefit that a corporation with a large number of employees has is a wide pool of input in finding and choosing recipients.

Corporations should and do also look for "synergistic" recipients where the company's specific expertise can help others. One excellent example is Merck's development of a medicine to cure river blindness. The company's scientists stumbled upon a cure for the disease, but the only people contracting the illness were a poor, relatively-small population. The company developed the drug and then provided the funds for widespread distribution despite there being no commercial market for it.[180]

Finally, as I have discussed, corporate philanthropy always has the potential to provide secondary benefits to the corporation, especially reputational benefits. So, it is not surprising that a standard practice when corporate managers think about

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180. Tom L. Beauchamp, Norman E. Bowie, and Denis Gordon Arnold, *Ethical Theory and Business* (Upper Saddle River, NJ: Pearson/Prentice Hall, 2008), 101-2.

philanthropy is try to select recipients that will enhance the profit-maximization of the donation. It is important when considering these three criteria that this profit-maximization goal not entirely overshadow the importance of donations that make a genuine contribution to the public good.

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