Syllabus

PPS 280S.01; LAW 585

Philanthropy, Voluntarism, and Not-for-Profit Management

Department of Public Policy Studies and the School of Law
Duke University

Spring Semester, 2011
Wednesdays, 8:30 a.m. until 11:00 a.m.
Sanford 003

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

BOOKS TO PURCHASE:

Most required readings, except for Fishman/Schwarz, O'Connell, and Collins, will be available on the course Blackboard site. The items listed “for further reading” are not assigned; they are available either in the files in my office or on the library electronic databases. As new articles of importance are published during the semester, they will appear on the Blackboard site or be circulated in class; please check the Blackboard site regularly for announcements regarding additions or changes to the reading assignments. I will also distribute additional clippings or readings every week, not intended to be assignments but to be illustrations that will inform class discussions. I encourage members of the class to communicate with one another and with me via e-mail in between class sessions so as to enrich class discussion and participation. My e-mail address is joel.fleishman@duke.edu. Patrick Sabol and Jamie Attard, the teaching assistants for the class, will be available throughout the semester to answer questions about locating the course materials. Pat can be reached at patrick.sabol@duke.edu or at 216-469-0258. Jamie can be reached at jamie.attard@duke.edu or at 919-949-1925. If you wish to make an appointment with me, please call Pam Ladd, my assistant, at 613-7376. I am usually available in my office at Duke, Room 239 of the Sanford Institute, on Wednesdays only.

The World Wide Web is a rich source for information concerning philanthropy. In addition to the occasional reading additions that will appear on the course Blackboard site mentioned above, the site also has a collection of numerous links to websites important in the nonprofit sector. Please take time to explore these websites throughout the semester.

Also, the Chronicle of Philanthropy will be distributed throughout the semester for you to browse. During class, I will identify articles of primary importance, identifying trends or major events occurring in the philanthropic world.
GENERAL RECOMMENDED READINGS (not required)


Tom Tierney and Joel Fleishman, Give Smart: Philanthropy that Gets Results, Public Affairs, 2011.

FOUNDATION IMPACT RESEARCH GROUP

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

COURSE OVERVIEW

The scope of this seminar is as broad as the idea of the voluntary society itself, with particular attention to the American version thereof. The central question to be addressed is the extent to which, and how, a large number of people of varying ethnic, racial, religious, and cultural backgrounds, living together in a country, state, or city, governed by democratically elected officials, can or should rely on organized or unorganized voluntary action by citizens to fulfill both their own individual needs and the needs of their respective communities. In the wake of the September 11th challenges to American society, as well as in the midst of the most serious downturn in the nation’s economy since the Great Depression of the late 20s and early 30s, the role of the not-for-profit sector in bringing Americans together across the lines that divide us is all the more important.

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

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

**No laptop computers will be permitted for use in class.** Laptops are distracting and impede the quality of the seminar, which relies heavily on class discussion.

The principal reason this course is a seminar rather than a lecture stems from my hope to help enable you to learn better writing through careful analysis of good ideas about public policy. Five weekly papers, of not more than five pages double-spaced, are required, beginning with the second class. Please note that no paper is required for either the January 19 or February 9 class. As your paper is intended to help you frame the readings of the week, it must be submitted in time for me to correct it and return it to you at the class in which the readings you write about are discussed. To meet that schedule, each week's papers must be e-mailed to me at joel.fleishman@duke.edu by 4:00 p.m. on the Sunday before class as Word attachments only. I will correct them and return them to you, graded, at class the following Wednesday, with detailed comments on grammar, syntax, style, and usage.

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

**In addition, a term paper of approximately 25 pages will take the place of a final examination. It must be e-mailed to me at joel.fleishman@duke.edu by 4:00 p.m. on or before Monday, May 2nd.** It is my practice to keep clean copies of student papers, so you will be asked to resubmit a corrected version of your paper after I have returned it to you corrected and graded.

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

You may review the case studies as published on the Duke Foundation Research Program’s website (http://cspcs.sanford.duke.edu/) for brief analyses of historic foundation initiatives to spark your thinking. Among the relatively recent themes and approaches you might consider are donor experimentation with for-profit entities to carry out their philanthropic endeavors fashioned as social entrepreneurship and alliances between foundations and governments, foundations and business, or foundations and public charities or other foundations to achieve shared objectives.
One of the topics of which I am currently working on relates to foundation spend-down. To date I have identified 50 such foundations in spend-down mode. A potential area of focus for your term paper could be to select one of these foundations and to detail from your own perspective and that of the foundation, the intended legacy of the spend-down initiative.

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

IT IS ESSENTIAL THAT YOU THINK ABOUT POSSIBLE TOPICS AS SOON AS POSSIBLE AND CLEAR TOPICS WITH ME BEFORE BEGINNING RESEARCH. FOR YOUR OWN BENEFIT, I NEED TO BE CERTAIN THAT YOU ARE NOT TAKING ON MORE THAN YOU CAN DO AND ARE FRAMING YOUR TOPIC IN A WAY THAT MAKES SENSE IN THE CONTEXT OF THIS SEMINAR. Think about your term paper topic now and plan to start researching it before spring break. That means that you should clear your topic with me no later than March 2nd.

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

I. WEDNESDAY, JANUARY 19, 2011 -- INTRODUCTORY SESSION: AN OVERVIEW OF THE COURSE

Study Questions (Topical Issues Recurring Throughout the Course):

1. Should not-for-profit organizations, including foundations, be made more accountable to the public, and, if so, why and how? What are the arguments against too great an increase in accountability to government? From what source, if any, do foundations derive their legitimacy in general, as well as in efforts to effect change in public policy in particular?

2. Consider the pros and cons of the charge that foundations, which are substantially unaccountable to the public, improperly shape public policy. To what extent should the public encourage or discourage initiatives in policy-related fields by foundations, given their lack of accountability to the public? What are the arguments for and against? Are foundations viewed as more or less legitimate than other kinds of non-for-profit organizations? From what source, if any, do foundations derive their legitimacy in general, as well as in efforts to effect change in public policy in particular?

3. How effectively do not-for-profit organizations, including foundations, perform their responsibilities? How can they or we measure their impact? Can metrics of impact be developed, and, if so, how? Are there ways of increasing the effectiveness of foundations without adversely affecting their freedom to benefit society according to their own views of the public interest?

4. Should the minimum private foundation five-percent annual pay-out requirement be increased, and, if so, to what level?

5. Should financial services companies be restricted in creating public charities that compete with community foundations?

6. What are the arguments for and against placing a ceiling on endowments? Should universities, foundations, and other endowed entities be permitted to increase their endowment in perpetuity with no limitation on size?

7. What are the relevant standards of propriety for the amount of compensation to be given to not-for-profit executives? What are the appropriate comparison groups for the salaries of large foundation, hospital, and university presidents? When is it appropriate to use for-profit salaries as comparisons? When are such salaries excessive?

8. How is the Internet changing the ways in which charities raise, maintain and deploy money and volunteers? Does the Internet offer better means of improving the accountability of foundations and other not-for-profits to the public?

9. By what decision rule can America decide which social functions should be performed by which sectors—public, for-profit, not-for-profit...either separately or in some combination of two or three?

10. What do we know about percentage of giving by income group? What might be done to increase giving by the wealthier?

11. What are the pros and cons for extending income tax charitable deductions for non-itemizers?

12. In humanitarian crises, as in Haiti, there have been repeated conflicts between humanitarian organizations and governments. How does one decide on the proper roles of non-governmental organizations in countries governed by reportedly corrupt, inefficient or disabled governments?

Main Questions To Be Discussed During The First Class Session:

1. Why are you interested in taking this course?

2. How does each of you perceive the role of the not-for-profit sector?

3. Why are you interested in learning more about the not-for-profit sector?

4. What kinds of experience have you had in working or volunteering for nonprofit organizations?

Required Reading: (10 Readings - 97 Total Pages)

- Fishman/Schwarz, 1-45.
II. WEDNESDAY, JANUARY 26, 2011 – GOVERNANCE STANDARDS, PERFORMANCE SHORTCOMINGS, AND SCANDALS IN THE NOT-FOR-PROFIT SECTOR

CLASS AND FIRG GUEST: CAREN YANIS, EXECUTIVE DIRECTOR, THE CROWN FAMILY PHILANTHROPIES
For More Information: http://www.crownmemorial.org/

Topic for Paper Due on Sunday, January 23, 4:00 p.m.: Discuss the major cases included in the assigned casebook readings (Fitzgerald v. NRA, Pepperdine, Lynch v. John M. Redfield Foundation, Stem v. Lucy Webb Hayes, Nixon v. Lichtenstein, Adelphi v. Diamandopoulos, Northeast Harbor Golf Club, Inc. v. Nancy Harris, and Herzog Foundation v. University of Bridgeport), and criticize and synthesize their holdings.

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

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

Required Readings: (19 Readings - 190 Total Pages)
- Fishman/Schwarz, 123-240.

For Further Reading

Disaster Response

September 11 Response

• Emily Thornton, “The Sorry and the Purse Strings,” *Business Week*, 1/21/02.
• Harvy Lipman, "71% of Americans Trust September 11 Charities," *Chronicle of Philanthropy*, 8/22/02, 75-85.
• Stephanie Strom, "Policy Change on Donations to Red Cross," *New York Times*, 6/6/02, A27.
• Katharine Q. Seelye and Diana B. Henriques, "Red Cross President Quits, Saying That the Board Had Left Her No Choice," *New York Times*, 10/27/01, B9.
• "Tracking the Disaster Relief Charities," *Forbes*, 10/29/01, 64.
• Lena H. Sun, "Red Cross To Give All Funds to Victims: Contrite Charity Changes Course on September 11 Donations," *Washington Post*, 11/15/01, A1.
• Nanette Byrne, et. al., "Too Big a Helping Hand?" *Business Week*, 10/29/01, 58-60.
• David R. Jones, “Philanthropy and 9/11: How Did We Do?” *NCRP Quarterly*, Fall 2002.

Hurricane Katrina Response:

• David Crary, “Red Cross Under Fire; President Steps Down,” *Raleigh News and Observer*, 12/14/2005, 5A

Improper Private Inurement

Public Officials Direction of Public Funds to Activities From Which They Benefit


James Beard Foundation

• Julia Moskin, “Ex-President of Beard Foundation Receives 1- to 3-Year Term,” *New York Times*, 6/14/05, B2.

The Bishop’s Estate


*United Way*

"United Way Official Pleads Guilty in Theft," *News and Observer*, 2/7/03, 3A.


John Murawski, "Former United Way Chief Gets 7 Years in Jail; Sentence Praised by Charities," *Chronicle of Philanthropy*, 7/13/95, 37.

*Adelphi University*


*Nature Conservancy*


*Other Cases:*


Joshua Fisher, "Father Fad Admits It," *Darien Times*


*Payment to Trustees*


**General:**

- Stephanie Strom, "Donors Sweetened Director’s Pay at MoMA," *New York Times*, 2/16/07.
- Staff, "CEO’s Profit from Nonprofits," *Charlotte Observer*, 12/20/09.

**Cases:**

- Steve Myers, "Director Quits During Probe," *News & Observer*, 5/27/00, 3B.
- Holly Hall, "2 Fund-Raising Groups Denounce Commission Payments to Gift-Annuit"...
Excessive Overhead
• Nathaniel Popper, "Watchdogs: Zionist Charity Shortchanging Programs," Forward, 3/25/05, 3.

Fraud on the Public
• David O'Reilly, "Embezzlement Is Widespread," Raleigh News and Observer, 1/6/2007, 18A
• "Tearful Baptist Leader is Given 5½ Year Term in Graft Case," New York Times, 4/1/99.
• Richard C. Morais, "Charity Fraudsters," Forbes, 6/22/07.
• Elizabeth Schwinn, "Nonprofit Abuse Sleuths, Chronicle of Philanthropy, 11/15/07.

Hale House
• Terry Pristin, "Former Head of Harlem Charity Pleads Guilty to Theft," New York Times, 7/4/03, A13
• Terry Pristin, "Facing Scrutiny, President of Hale House Will Resign," New York Times, B3

Baptist Foundation of Arizona

Marine Toys for Tots Foundation
• Thomas Ricks, "Founder Pleads Guilty to Stealing $1.8 Million from Toys for Tots," Washington Post, 3/25/00, A9.

National Capital United Way
• Grant Williams, "D.C. United Way Faces New Scrutiny," Chronicle of Philanthropy, 9/5/02, 41.

Other Cases:
• Staff, "S.F. Charity Official’s Spending Examined," Chronicle of Philanthropy, 7/13/00, 52.

Not-for-Profit Investment Policy

Unwise Asset Investment Strategies
• Ralph Blumenthal, "Institutions Finally Gain Control of Large Reader's Digest Bequest," New York Times, 5/4/01, A1, A23

**Questionable Financial Activities by Legitimate Not-for-profit Organizations**
• Laurie McFadden, "Travel Tours—Final Regulations Clarify When Tours Are Subject to UBIT," Exempt Organizations (Patterson, Belknap, Webb & Tyler, LLP, Newsletter), Summer 2000, 1-3.
• *Thompson v. Glenmede Trust Co.*, complaint filed in U.S. District Court, E.D. Pa., 9/10/92.

**Managerial Incompetence**
• Harvy Lipman and Grant Williams, "N.Y. Orders Officers to Repay Loans from Their Charities," *Chronicle of Philanthropy*, 7/22/04.
• Alison Leigh Cowan, "How a Venerable Hospital Helped Undermine its Own Fiscal Health," *New York Times*, 4/7/03, A19.
• Justin Blum, "Vanished Scholarships Ruin Dreams," *News & Observer*, 12/21/00, 1A, 20A.

**Pipevine**
• Stephanie Strom, "Charities Worry About Fall of Their Donation Collection," *New York Times*, 6/5/03, A27.

**Use of Not-for-profit Organizations as Shelters by Terrorist Organizations**
• Shelley Murphy, "3 to be tried; US says men aided militants," *Boston Globe*, 11/13/07.
• Mark R. Schuman, "Civil Society's Response to the Challenges of Terrorism," Conference Report, EastWest Institute, presented 6/7/04, 1-12, i-xiii.

**Terrorist Funding Prevention**

**Ford Foundation**
• Susan V. Berresford, Letter to Congressman Jerrold Nadler, 11/17/03, (5 pages).
• Susan V. Berresford, Letter to Joel Fleishman, Attachment, 10/30/03, (6 pages).
• Nacha Cattan, “Probe Demanded of Ford Foundation Funding,” Forward, 10/24/03, 5.
• Edwin Black, “Ford Foundation Aided Groups Behind Biased Durban Parley,” Forward, 10/17/03, 1, 8.

Political Use of Not-for-profit Organizations

Questionable Fundraising Techniques:

Tainted Donations
• Wire Report, “Charity Sends Back Lotto Player’s Gift,” News & Observer, 2/2/03, 3A.
• Sheridan Prasso, “Seton Hall’s Hall of Shame,” Business Week, 9/30/02, 14.

Other
• Mike Allen, “Law on Disclosure May Apply to PACs,” Washington Post, 7/20/00, A4.
• Debra Blum, “Probe Threatens Charity Status of Olympic Group,” Chronicle of Philanthropy, 1/14/99, 45.

Miscellaneous Questionable Decisions

Fannie Mae
Getty Trust

Baptist Foundation
III. WEDNESDAY, FEBRUARY 2, 2011 -- DONOR MOTIVATION AND DONOR INTENT: THE GREAT
PHILANTHROPISTS IN THEIR MAKING AND GIVING OF MONEY, AND THE AVERAGE AMERICAN

Topic for Paper Due on Sunday, January 30, 4:00 p.m.: Analyze and assess Andrew Carnegie’s “Gospel of Wealth.” Compare and contrast the views, motivations and practices of Carnegie with those of any one of the living philanthropists—such as Warren Buffett, George Soros, Richard Mellon Scaife, Eli Broad, Ted Turner and Bill Gates—as described in the “further readings” above. You may browse http://www.businessweek.com/bwdaily/philanthropy/ for Business Week’s annual survey of articles on the nation’s biggest donors for an additional reference.

Study Questions:
1. Carnegie, Rockefeller, Duke, Mellon, Scaife, Turner, Gates, Soros, Buffett: Why did they give away such large amounts of money? What were their motivations for doing so? What ideas influenced them to do so? Who influenced them to do so? Their parents? What role, if any, did their education play in motivating them to do so? What role did their religion play? What did their critics say about their intentions?
2. What is your reaction to the Gates and Buffett Giving Pledge?
3. Do wealthy people give a larger percentage of their income to charity than poor people do? Do founders of foundations give from income or from capital? Do they usually get a tax benefit from doing so? What is the nature of that tax benefit, if any?
4. Do large donors seek to make money in order to give it away, or do they accumulate wealth because of greed or ambition as an end in itself? How does the motivation of the wealthy towards giving differ, if at all, from that of people of lesser means?
5. Do the motivations of donors for their giving make any difference to you so long as their deeds accomplish good for others? If so, what difference do the motivations make? If they are scoundrels or crooks in the making of their money, does that affect how you view their giving?
6. As a wealthy parent, how should you think about the question of whether and how much to give of your wealth to your children?
7. As the creator of a foundation, how would you think about the question of whether to establish your philanthropy in perpetuity as opposed to one with a limited time-span?
8. What are the arguments for and against anonymous giving?
9. As the president of a university which is offered a large gift by someone known to have been convicted of securities fraud, would you accept the gift even if you know it was motivated by the donor's wish to gain or regain respectability? How does the motivation of such a donor differ from that of other donors who give similar gifts?
10. Is the virtue of donors that arises from their giving mitigated by the fact that they receive a tax deduction for making donations?
11. Is the purpose of making available tax deductions in any way undermined by donors’ decisions to make gifts consonant with their tastes, substantive interests and backgrounds, rather than with those social ills thought to be more pressing?
12. Consider the different styles of giving by different foundations and individuals. Some prefer to think of themselves as social venture capitalists who prefer to start new initiatives. Others prefer to assist efforts already under way. Some choose to support those with greatest material needs. Others concentrate on helping scholars and artists. Some foundations prefer to avoid both politics and criticism, while others see their role as activating political criticism. Some foundations prefer to cooperate on grants (indeed, seek to draw in partners), while others prefer to go it alone. Some donors seek to gain legitimacy for themselves by giving to institutions or organizations which already enjoy high public regard, while other donors are oblivious to such concerns, and still others seek to put their money and prestige behind thoroughly controversial recipients. Some donors prefer to give to many different objectives, while some choose to concentrate on one field of need. Some prefer to give only in their own community while others choose to reach out nationally.
13. To what extent are projects that greatly benefit a few individuals as worthy as other projects that benefit many more people but diffusely?
14. Are there any objective criteria of worthiness that donors can use to choose among the many competing potential recipients, or are such choices ultimately always subjective? How do individuals make these choices? How do foundations make these choices?
15. To what extent do donors’ religious, philosophical, economic or political views determine how and what they give?
16. How do donors choose between giving to a rich, well-endowed university, and giving to a struggling community organization striving to help the indigent?
17. Venture philanthropy—the new philanthropy of the twenty-first century: what does it mean?
Required Readings: (57 Readings - 213 Total Pages)

Giving Pledge

International Givers
• Judith H Dobrzynski, “Philanthropy,” Carnegie Reporter, Fall 2007, p.35-43

Big Ideas and Big Givers

Celebrities

Philanthropists
• Andrew Carnegie, Carnegie Corporation of New York biographical (will be provided in class).
• Andrew Carnegie: Special Features. Please browse the special features section of the PBS website on American Experience: Andrew Carnegie, including “Meet Andrew Carnegie” and “Philanthropy 101,” available at http://www.pbs.org/wgbh/amex/carnegie/sfeature/index.html.
• "Looking for Andrew Carnegie," Worth, 11/96, p.69-78.
• Myron Magnet, "Old Money, Old Virtues," Forbes, 10/8/01, p.97-98.
• “To Give, Divine,” Time, 7/2/06, p.1.
• Cartoon, New Yorker, 8/9/07, p.1.

Respecting Donor’s Intent


For Further Reading
• Jerry Harkavy, “South Gives Most to Charity,” News and Observer, 11/21/05, 3A.
• Caroline Preston, “Forbes: Giving by the Superrich,” Chronicle of Philanthropy, 10/14/04.
• William P. Barrett, “How the Other Half Gives” Forbes, 10/30/00, 104-106.

Great Historic Philanthropist Biographies

High-Tech Donors

Accumulating Assets With The Specific Goal Of Giving Them To Charity:

**Leaving Money To Children Versus Giving It Away:**
• Dana Linden and Dyan Machan, "The Disinheritors," *Forbes*, 5/19/97, 152, 156-160.

**Involvement of Next Generation Members in Family Foundations:**

**Philanthropy of Wealthy Sports Figures and Entertainers:**
• Nancy Gibbs, "Persons of the Year," *Time*, 12/26/05, 38.

**Conflicts Between Donors and Recipient Organizations:**
• "Princeton Fights Donors' Heirs for Control of $500 Million Gift," *Bloomberg*, 8/20/03, (4 pages).

**Great Contemporary Philanthropists:**
• Susan Patton, "Landmark Gift for Community," *Cleveland Plain Dealer*, 9/5/03, (2 pages).

19

**International Philanthropists**
• Elli Wohlgelehrter, “Israel’s Richest Woman Packs Her Bags,” *Forward*, 10/3/03, 22.
• Kate Linebaugh and Jane Spencer, “The Revolution of Chairman Li,” *Wall Street Journal*, 11/2/07, W1

**Case Study: Paul Mellon**

**Case Study: Richard Mellon Scaife**

**Case Study: George Soros**
• Vance Serchuk, “Soros Pulls the Plug on Russia’s Open Society Institute,” *Forward*, 7/4/03, 5.

**Case Study: Ted Turner**

**Case Study: Bill Gates**
• Amy Waldman, “Gates Charity Pledges $200 Million to Combat AIDS in India” *New York Times*, 10/13/03.
• “The New Powers in Giving / Billanthropy,” *Economist*, 7/1/06.

**Case Study: Joan Kroc**

**Case Study: Charles Feeney**
• “Giving it All Away,” *Business Week Online*, 9/24/07.

**Donor Intent**
• Tyler Green, “Giver’s Remorse,” *Fortune*, 3/12/07
• Rebecca Gardyn, “A Seasoned Perspective on Giving,” *Chronicle of Philanthropy*, 6/10/04
• Jon Sanders, “Open a Present, and the Past,” *News and Observer*, 12/10/04
• Neal Freeman, “Foundation Follies,” Forbes, 9/5/05, 42.
• Jonathan Fanton, “Letter to the Editor” Forbes, 8/30/05.
• Stephanie Strom, “Uproar in Kansas City Over Foundation Chief,” New York Times, 10/20/03.
• Karl Greenfeld, “A New Way Of Giving,” Time, 7/24/00, 49-55.
• Paul Johnson, "Doing Good by Theft and Doing Evil by Debauching Charity," The Spectator, 10/3/98, 30.
• Sharon Jayson, "Benefactor Builds on a Dream,” Austin American-Statesman, 8/25/00, A1.
• Ernest Tucker, ”Mystery Donor Aids St. Ben’s School,” Chicago Sun-Times, 4/18/00, Reprint, 1-2.
• Kate Shatzkin, “Generosity, Stealth Mode,” Baltimore Sun, 10/12/00, 1A.
• Edward Cone, "Is Anonymous Giving More Noble than Open Benefaction? Or Just Different?" Forbes, 5/18/98, 60.
• Rick Hampson, ”W.Va. Town’s $1,000 Mystery,” USA Today, 12/4-6/98, 1A-3A.
• Marina Dundjerski, "Another Soros Plans to Give It All Away," Chronicle of Philanthropy, 6/18/98, 9-10, 12.
• "Simon Said to Help Others, and His 7 Children Have Done So," Chronicle of Philanthropy, 6/18/98, 14.
IV. WEDNESDAY, FEBRUARY 9, 2011 – AN OVERVIEW OF THE NOT-FOR-PROFIT SECTOR

Note that there is no paper assignment due for the third class session: However, please consider the following question for discussion in class.

What do you see as the proper role for not-for-profits compared to government in addressing problems that affect society? Should the not-for-profit sector focus on societal problems that the government already addresses? Or should it target whatever issues their managers and founders choose? Should tax exempt status by limited only to organizations that serve critical needs, such as food and shelter, or should tax exempt status be available to a wide range of organizations, as it is today? Consider the costs and benefits of your opinion.

Study Questions:
1. What is the essential nature of the Not-for-Profit Sector, Independent Sector or Third Sector? What different connotations does each of those descriptors of the sector have?
2. How does it differ from, as well as most effectively relate to, the for-profit and public sectors?
3. What roles do philanthropy and volunteerism properly play in it?
4. What do we mean by “civil society,” and how, if at all, does it differ from what we mean by “not-for-profit sector”?
5. What are the most pressing challenges facing the not-for-profit sector today?
6. What is the meaning of civic engagement and what role does the not-for-profit sector play in facilitating it?
7. How do the events of September 11 complicate or motivate the achievement of civic engagement?
8. How much emphasis should charitable donors give to charities for the needy as compared with other charities?

Required Readings: (50 Readings - 187 Total Pages)

- “Philanthropy’s Awareness Deficit,” PAI Digest on Harris Interactive survey findings, 4/22/08, p.1-12.

Identity of William J. Clinton Foundation Donors


Nonprofit Capital Markets
• Elizabeth Keating, “Creating an Electronic Nonprofit Funding Marketplace,” Hauser Center, Harvard University, p.1-10.

Giving While Living

IRS Oversight

The Economy’s Impact on the NFP Sector

Warren Buffett Gift to the Bill and Melinda Gates Foundation

Former Soviet Union Regulation of Non-Government Organizations
• “Lukashenko to Shut Down NGOs Funded by the US,” St. Petersburg Times, 7/20/07, p.1.

For Further Reading:
• “US Foundation Giving for International Purposes Reaches Record Level According to New Foundation Center Report,” Foundation Center, 12/4/08.
• Harvy Lipman, “Tax Data Shows Utah Donors are Most Generous to Charitable Groups,” Chronicle of Philanthropy, 8/8/02, 11-12.
• Steven Lee Myers, “Putin Hits Hard at Plots,” Raleigh News and Observer, 1/26/2006, 10A.
• Giving USA, 2004.
• America’s Top Givers, Special Report, Business Week, 12/1/03, 78-96.

Disaster Response and Charitable Giving
• “Donors Get a Second Wind After a Tough Year, Pumping Up Holiday Giving,” Raleigh News and Observer, 12/15/2005, 7A.
• Alan Abramson, “Responding to the Tsunami Disaster: Challenges for Charities and Donors,” The Aspen Institute: Snapshots, May 2005, 1-5.
• Tony Pipa, “Weathering the Storm: The Role of Local Nonprofits in the Hurricane Katrina Relief Efforts, Summary,” The Aspen Institute, 1-3.
Faith Based Giving

- Mike Allen "Bush Presses 'Faith-Based' Agenda; President Proposes Regulations to Ease Federal Funding" Washington Post, 9/23/03, A10 (2 pages).
- Alan Cooperman "Faith-Based Charities May Not Be Better, Study Indicates" Washington Post, 5/25/03, A7 (2 pages).
- David Nather, "Faith Initiative Backer Backs Away from GOP," CQ Weekly, 6/7/03, 1355.

Source Material for Consultation:

V. WEDNESDAY, FEBRUARY 16, 2011– INDIVIDUAL GIVERS AND JOINERS: HUMAN AND SOCIAL IMPULSES TO CHARITY, PHILANTHROPY AND VOLUNTEERISM

CLASS GUEST: DANIEL LURIE CEO AND FOUNDER, TIPPING POINT COMMUNITY (DUKE ALUMNUS)
For More Information: http://www.tippingpoint.org/joomla/

FIRG GUEST: SALLY OSBERG, PRESIDENT AND CEO, THE SKOLL FOUNDATION
For More Information: http://www.skollfoundation.org/

Topic for Paper Due on Sunday, February 13, 4:00 p.m.: Describe any of your activities that you regard as philanthropic, and analyze your motives for undertaking them. Describe how, at what age and at whose initiative you decided to get started doing them? Be precise about what you do, have done, or plan to do and why. Do you have any rules for your own guidance about whether to donate funds or volunteer time, and, if so, how do you decide how much? If not, how do you decide? Do you wait for someone to ask you, or do you seek out opportunities? Do you prefer to be asked? Describe the ways in which you think you have benefited by engaging in such giving and volunteering activities.

Study Questions:
1. What does "philanthropy" mean?
2. What does the public response to the September 11 terrorism say about philanthropic motivation?
3. Why do we become involved in the lives of others, in mutual help activities, in altruistic community undertakings?
4. How do giving and volunteering vary with respect to racial, religious, ethnic and socioeconomic status? How might you account for the differences?
5. Why do people give money or donate time? Why do they say that they give? Why should they give? What justifications do non-givers use, and how persuasive are they? What do religion, philosophy, and psychology have to say about these questions?
6. How do different classes, races, ethnic and religious groups benefit differentially from different sub-sectors of the not-for-profit sector?
7. Consider how life events such as one’s illness or the illness of a loved one attract individuals to give or raise money for various causes (e.g., disease research). Similarly, consider the notion of “give back,” which attracts alumni to give to their institutions. What other such circumstances are particularly powerful incentives to give and raise money? Why?
8. What instinctive and learned motivations exist for giving? From where do these motivations come? To what extent, if any, can such activities reasonably be regarded as self-interested?
9. How much should someone give -- a minimum percentage of income or of accumulated wealth, or only as the spirit moves them?
10. What is your framework for thinking about whether or not to give to beggars who approach you on the street?
11. Do you utilize social media in your philanthropic pursuits? If so, how and how successful have they been?

Required Readings: (34 Readings - 194 Total Pages)
- Brian O'Connell, ed., America's Voluntary Spirit. The Foundation Center, 1983. 1-4, 11-95:
  Minkin, "Our Religious Heritage"
  Cass and Manser, "Roots of Volunteerism"
  Thomas, "Altruism: Self-Sacrifice for Others"
  Bombeck, "Without Volunteers"
  Winthrop, "A Model of Christian Charity"
  Bremner, "Doing Good in the New World"
  Mather, "Bonifacius"
  Emerson, "Man the Reformer"
  de Tocqueville, "Of the Use Which the Americans Make of Public Associations in Civil Life"
  McGuffey's Reader, "True and False Philanthropy"
  Washington, "Raising Money"
  Addams, "Charitable Effort"
  Lerner, "The Joiners"
  Thoreau, "Philanthropy"


• "Miami’s Vice is Lack of Volunteerism," CNN.com, 7/27/08, p.1-3.


• Dan Seligman, "Is Philanthropy Irrational?" Forbes, 6/1/98, 94-103.
• Caryle Murphy, “Salvation Army: A Church Known As A Charity,” News & Observer, 12/25/00, 21A.
• Bill Shore, “Newark nonprofits creating a crucial new kind of wealth,” Newark Star-Ledger, 8/4/97.
• Bill Shore, Chapter 5, Revolution of the Heart, Riverhead Trade, 1996, 75-97.

How to Give Intelligently:

Directed Charitable Giving Ideas

Volunteering:
• Gallup Organization, “Church Attendance Closely Related to Community Involvement,” 2/3/00, 4-5.
• Heather MacDonald, "What Good is Pro Bono?" City Journal, Spring 2000, 1-10.
• Amy Goldstein, “Civic Involvement Tied to Education; High School Dropouts Unlikely to Vote,” Washington Post.

Giving by Women, Ethnic and Racial Minorities, Seniors and Religious Groups:
• Nacha Cattan, “Few Large Donations Go to Jewish Causes,” Forward, 4/4/03, 4.
• Toddi Gutner, “Philanthropy with a Woman’s Touch,” Business Week, 10/30/00, 200.

Corporation Philanthropy

Giving Back
• Joel Stein, “Be Cruel to Your School,” Time, 5/29/00, 24.

Educating Children for Charitable Giving
• Jeff D. Opdyke, “How Not to Teach Charity to Our Kids,” News & Observer, 9/28/03, 5E.

Charitable Giving and Social Capital
• Marty Michaels, “Midwestern Cities Fare Best in Luring Volunteers,” Chronicle of Philanthropy, 7/26/07.

Giving to Beggars:
• Dennis Rogers, “Brother, If You Care, Don’t Spare Panhandlers A Dime,” News & Observer, 6/17/94, 2B.
• Matt Dees, “To Give or Not To Give?” News and Observer, 11/27/05, A21.
• Toby Coleman, “Beggars Beware: Don’t Be Rude,” Raleigh News & Observer, 4/12/2006, 3B.

Other Topics
VI. WEDNESDAY, FEBRUARY 23, 2011 –RATIONALES FOR TAX EXEMPTION OF FOUNDATIONS AND VOLUNTARY ORGANIZATIONS; GOVERNMENT EXACTIONS IN EXCHANGE FOR TAX EXEMPTION

Topic for Paper Due on Sunday, February 20, 4:00 p.m.: Analyze the required readings in Fishman/Schwarz. In particular, consider the theories that justify tax exemption and how those theories apply to hospitals, institutions of higher education, the National Collegiate Athletic Association, Bob Jones University, and other organizations. Should “charity” be construed more narrowly to aid the poor or, alternatively, should organizations aiding the poor enjoy more favorable tax treatment? Should charity be construed as broadly as it is to include gifts such as the maintenance of pets or other non-human benefiting purposes? And, if so, where would you draw the line between appropriate and inappropriate purposes of tax-exemption?

TERM PAPER: If you have not yet obtained approval for the topic of your term paper, please do so this week. The last date when Professor Fleishman will authorize term paper topics is March 2nd.

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

Required Readings: (28 Readings - 186 Total Pages)
- Bill Batt, “Comment on Your Book TV Interview,” 01/20/07, p.1-2

Private Benefit

Recent IRS Reforms

Investment Constraints on Tax-Exempt Organizations

Appropriate Charitable Purposes for Tax-Exempt Organizations


**Exemption for the NCAA:**


**Exemption of Political Organizations:**


**Exemption of Credit-Counseling Organizations**


**For Further Reading:**

*Hospital Tax Exemption:*


**Taxation Reform:**


Bonnie S. Brier et al., “The Appropriate Role of the Internal Revenue Service With Respect to Tax-Exempt Organization Good Governance Issues," Advisory Committee on Tax-Exempt and Government Entities (ACT),

Property Tax Exemption:

Other Tax Exemptions:
- Staff, "University Medical Center Loses Its Tax Break," AGB, 5-6/98, 33.
- David Schulman, “More to Get Tax Break for Contributions in N.C.,” News & Observer, 10/16/98, 3B.
VII. WEDNESDAY, MARCH 2, 2011 – THE NITTY GRITTY OF TAX EXEMPTIONS AND DEDUCTIBILITY; EFFECTIVENESS OF TAX POLICY IN INCREASING/DECREASING DONATIONS

FIRG GUEST: JAMIE COOPER-HOHN, PRESIDENT AND CEO, CHILDREN’S INVESTMENT FUND FOUNDATION
For More Information: http://www.ciff.org/

Topic for Paper Due on Sunday, February 27, 4:00 p.m.: Analyze and synthesize the required readings in Fishman/Schwarz, especially the major cases (Hernandez, Skylar, Blake, Winokur, Church of Scientology, and United Cancer Council).

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

Required Readings:
- Fishman/Schwarz 828-950; 445-474.
- "Gift of Violins Strikes a Sour Note," News and Observer, 5/2/04.
- Sharon Reier, "When Establishing Charities, a Warm Heart Calls for a Cool Head," The Herald International Tribune, 5/26/01, 15.
- Diana Aviv, Memorandum Re: Congressional Reform, 11/18/05.
- Mary Engel, Hospital’s Charity Work Hard to Assess,” Los Angeles Times, 12/14/07.
- Anne Tergesen, “Tapping a School’s Investment Savvy,” Business Week, 7/23/07

Private Benefit
• "Philanthropy, Fannie Mae Style," Business Week, 4/2/07.

Estate Tax Debate

Unrelated Business Income Tax
• Evelyn Brody and Joseph Cordes, "The Unrelated Business Income Tax: All Bark and No Bite?" Urban Institute, 4/20/01.

For Further Reading: (112 Total Pages)

Current Legislative Activity
• Steve Levin, "Foundations Contend Proposal to Increase Giving is too Costly," Pittsburgh Post-Gazette, 6/9/03, (4 pages).
• Stephanie Strom, "Foundations Roiled by Measure to Spur Increase in Charity," New York Times, 6/19/03, (3 pages).
• Editorial Staff, "How Expensive Should Philanthropy Be?" San Jose Mercury News, 6/2/03, (2 pages).
• Memo to Members, Independent Sector, June 2002.
• Memo to Members, Independent Sector, December 2002.

Pension Protection Act of 2006

History of Estate Tax Repeal

Gifts of Property (Including Stock) Rather Than Cash


### Charitable Deduction

- David Cay Johnson, “Tax Study: The Richer, the Stingier” *News and Observer*, 12/19/05, 5A.

### Tax-Savvy Charitable Strategies and Proposals

- Ashlea Ebeling, "Going, Going, Deducted!" *Forbes*, 9/7/98, 228-229.

### Supporting Organizations


### Restrictions on Foundation International Grant-Making


### IRS-Related Issues

Other Tax-Related Issues

- "Memorandum: Disaster Tax Relief for Individuals and Charities," Ropes & Gray, 1/24/02.
VIII. WEDNESDAY, MARCH 16, 2011– DEFINING THE NOT-FOR-PROFIT SECTOR: SIMILARITIES, DIFFERENCES, FUZZY BOUNDARIES AND COMPARATIVE ADVANTAGES AMONG THE SECTORS

CLASS GUEST: JOHN RICE, FOUNDER AND CEO, MANAGEMENT LEADERSHIP FOR TOMORROW
For More Information: http://www.ml4t.org

FIRG GUEST: MARGE TABANKIN, EXECUTIVE DIRECTOR, STEVEN SPEILBERG'S RIGHTEOUS PERSONS FOUNDATION AND THE STREISAND FOUNDATION

Study Questions:
1. Assess society’s allocation of functional missions to one sector, another sector, or several sectors jointly. Give reasons for your views.
2. How do the component fields of the not-for-profit sector differ from one another in the social and individual needs they fill, in their forms of organization and governance, and in their means of support?
3. What characteristics define the separate sectors, and distinguish one from another?
4. To what extent is it possible to identify a form of activity which is peculiarly appropriate to one or another sector?
5. Can you develop a theory that explains why particular kinds of activity are better located in the not-for-profit sector as opposed to the public sector? The for-profit sector?
6. Do differential salary levels among the not-for-profit, for-profit and public sectors help to illuminate the appropriate boundaries among the sectors?

Required Readings: (172 Total Pages)
- William C. Symonds, “Leaving Harvard Greener,” Business Week, 1/24/05. 44.

Nonprofit-Public Sector Relations
- Elizabeth Boris, “Contracts and Grants Between Human Service Nonprofits and Governments,” The Urban Institute, 10/1/2010.

Case Studies:

Social Entrepreneurship
- Ryan J. Donmoyer and Alison Fitzgerald, “Robin Hood Nest Egg Draws Scrutiny From Congress,” Bloomberg, 7/15/07.

Nonprofit Capital Markets

Nonprofit—For-Profit Sector Relations
• Burton Weisbrod, To Profit or Not to Profit. Cambridge University Press, 1998, 1-22.
• Andrew Jack, “Corporate Citizenship: More Than the Sum of the Parts,” Financial Times, 7/5/07.

Profit-Oriented Behavior by Nonprofits
• Ben Gose, “Supporters Say Venture Philanthropy Still Thrives, Even If Reach is Limited,” Chronicle of Philanthropy, 10/14/04.

For Further Reading:

Privatization of Human Services
• Jacques Steinberg, “For-Profit School Venture Has Yet to Turn a Profit,” New York Times, 4/8/02, A16.

For-Profit Conduct By Not-for-Profit Organizations
• Vicki Lee Parker, “Nonprofit Buys Room to Expand,” News & Observer, 8/7/02, 3D.
• Reed Abelson, “Demand, but No Capital, at Nonprofit Hospitals,” New York Times, 6/21/02, C1, C12.
• Reed Abelson, “Demand, but No Capital, at Nonprofit Hospitals,” New York Times, 6/21/02, C1, C12.

Venture Philanthropy and Social Enterprise

• Buzzy Gordon, “Hi-Tech Philanthropy,” Jerusalem Post, 5/24/00, 8.
• Todd Shapera, “Fame and Fortune,” Foundation News & Commentary, 11-12/00, 30-35.
• S.L. Wykes, “Millions To Benefit Schools; New Schools Fund: Group Hopes to Distribute $20 Million for Education and to Provide Other Support,” San Jose Mercury News, 7/25/99, 1B.
• Thomas Jaffe, “Putting Miracle-Gro on Kids,” Forbes, 2/8/99, 70, 72.
• Linda Seebach, “Crafting A Philanthropic Legacy Takes Hard Work Now,” Rocky Mountain News, 9/26/00, 2B.
• Quentin Hardy, “The Radical Philanthropist,” Forbes, 5/1/00, 114-121.
• Karl Greenfeld, “A New Way of Giving,” Time, 7/24/00, 49-59.
• Domenica Marchetti, “The Richest Link,” The Chronicle of Philanthropy, 6/14/01, 20, 22.

For-Profit Consulting for Not-for-profit Organizations


Not-for-Profit Activity by For-Profit Entities

Private Funding Of Not-for-profit Organizations


Public Sector Support of Not-for-Profit Organizations


Public-Private Partnerships And Hybrids


For Profit and Not-for-Profit Partnerships

- Burton Weisbrod, To Profit or Not to Profit. Cambridge University Press, 1998.

Nonprofit-Public Sector Relations:

• Peter Dobkin Hall, “Re: Literature Sector Blurring,” Email to NonProfit and Voluntary Action Discussion Group, 2/22/98.

Nonprofit-Private Sector Relations

Privatization of Human Services
• Grant Williams, “Groups Sue N.Y. Officials Over Blue Cross Conversion,” Chronicle of Philanthropy, 9/5/02, 43.
• J. Adam Abram, “Blue Cross Owes Public a Strong Duty,” News & Observer, 11/30/02, 27A.
• John Morris and Suzanne Helburn, "Child Care Center Quality Differences: The Role of Profit Status, Client Preferences, and Trust," NVSQ, 9/00, 377-399.
• Bradford Gray, “Conversion of HMOs and Hospitals: What’s at Stake?” Paper from Conference on Conversions of Nonprofit Health Care Organizations, 10/30-31/96, 1-54.
• Robert Clark, "Does the Nonprofit Form Fit the Hospital Industry?" 93 Harvard Law Review 1416-1489 (1980).
Study Questions for both Hybridization I & II:
1. Consider the many examples of hybrid for profit/not-for-profit institutions formed in the last 10 years. For example, the Omidyar Network makes grants to not-for-profits and supports for profit organizations that have socially orientated missions. Google also set up a billion dollar fund promoting social change, of which only 10% is allocated for not-for-profits. How far should this hybridization movement go? Are there any real boundaries between sectors?
2. Consider the many different forms of giving philanthropy: individual giving; giving to institutions such as churches, universities, United Ways, establishing private foundations; establishing family foundations; establishing donor-advised funds at financial institutions such as Fidelity; corporate giving either directly or through corporate foundations; “corporate social investments,” which are profit-oriented but are aimed to solve social problems; and community foundations. How do community foundations differ from private foundations and from United Ways?
3. How does corporate philanthropy differ from individual and foundation philanthropy?
4. Should corporations be permitted to make charitable contributions with what is essentially stockholder’s money? Consider the differences, if any, between corporate foundations, philanthropic foundations, community foundations, and individual donors in this regard.
5. What are the arguments supporting and opposing the increase of foundation pay-out rates?
6. What right do unelectable, unaccountable foundations have to finance politically charged authors? What difference does it make whether or not foundations are accountable? Must foundations be accountable to justify supporting radical ideas of the political right- or left- wings?
7. Are there reasons why the Pew Charitable Trusts should not be permitted to transform itself from a group of charitable trusts, operating like a private foundation, into a public charity? What are the social consequences of its being permitted to do so?

Required Readings: (211 Total Pages)
- John Boudreau, ”Pouring Profits into Non-profits,” San Jose Mercury News, 8/2/03.
- Nanette Byrnes, ”Smarter Corporate Giving,” Business Week, 11/28/05, 68-76.
- Douglas K. Smith, ”Fantasy Philanthropy Baseball,” Slate Magazine, 10/19/07.

For-Profit Initiatives to Solve Social Problems / Corporate Social Responsibility
• Manny Fernandez and Kate Hammer, “Twist in Eviction Fight; Charity as Landlord,” New York Times, 9/16/07.
• “Designing Change,” Business Week, 3/12/07.
• Ian Wilhelm, “Clinton Effort to Fight Global Ills Tallies $7.3-Billion in Pledges From Donors,” Chronicle of Philanthropy, 10/12/2006, 12.
• Tara Kalwarski, “Do Good Investments Are Holding Up Better,” Business Week, 7/14/08.

Social Entrepreneurship
• Connie Bruck, “Millions for Millions,” New Yorker, 10/30/2006, 62-73
• Grace Wong, “Private Equity: Scrooge No Longer,” CNNMoney.com, 7/10/07.

Venture Philanthropy

Incentivizing Prizes to Solve Social Problems
• Rick Wartzman, “Landing X Prize in Earthly Endeavors,” Los Angeles Times, 2/16/07.
• Cornelia Dean, “If You Have a Problem, Ask Everyone,” New York Times, 7/22/08.

Foundation-Owned Institutions

For Further Reading:
• Brian O’Connell, ed., America’s Voluntary Spirit, 345-362, 377-405:
  Yarmolinsky, “The Foundation as an Expression of a Democratic Society”
  Rockefeller, “The Third Sector”
  Karl, "Corporate Philanthropy: Historical Background"
  Business Roundtable, "Corporate Philanthropy"
  Haas, "Corporate Social Responsibility"
Filer, “The Social Goals of a Corporation”


Community Foundations
- Ben Gose, “Pioneering a New Direction,” Chronicle of Philanthropy, 10/12/06.

Corporate Giving/Corporate Social Responsibility
- Lauren Gard, “We’re the Good Guys, Buy from Us,” Business Week, 11/22/04, 72-74.
- Christopher Schmitt, “Corporate Charity: Why It’s Slowing,” Business Week, 12/18/00, 164, 166.
- Debra Blum, “Corporate Giving Rises Again,” Chronicle of Philanthropy, 7/13/00, 1, 9, 14-16, 18.

Foundation/Corporation Partnerships

Motivations for Corporate Giving and Other Forms of Socially Responsible Business Practices
- “Hugging the Tree-Huggers,” BusinessWeek, 3/12/07.

Regulation of Corporate Giving
• Susan Gray, "Charities Urged to Demand that Corporate Donors Follow Standards," Chronicle of Philanthropy, 11/28/96, 12.

Foundations
• Theda Skocpol, “Associations Without Members,” The American Prospect, 7-8/99, 1-8.
• Marina Dundjerski, "Big Changes At Big Foundations," Chronicle of Philanthropy, 1/14/99, 23.

Foundation Social Investment Policy
• Susan Scherer, “A Conscience Doesn’t Have to Make You Poor: Funds With Heart Are Racking Up Dandy Returns,” Business Week, 5/1/00, 204-208.
• Kent Allen, “From Queen Noor, A Nudge For Foundations,” Washington Post, 5/2/00, A21.

Foundation Pay-out:
• Private Foundations Crying Foul Over Move to Force More Giving,” CQ Weekly, 8/9/03.
• Alexandra Starr, “The Senate’s Gift to Charity,” Business Week, 5/5/03, 70.
• Daniel Gross, “The 5.4 Percent Solution,” Slate, 7/3/03.

*Family Foundations*

*Community Foundations*

*Foundation Accountability (Including Public Disclosure)*
• Allan Parachini, “Communication Key To Foundations’ Prosperity,” *Chronicle of Philanthropy*, 9/21/00, 55-56.

*Charitable Gift Funds*
• Ashlea Ebeling, "The Charitable Load," Forbes, 10/2/00, 196-197.
• Amy Anderson, “Charity Looks Like Growth Area For Banks,” American Banker, 12/7/00, 9.
• Alan Cantor, "Defining Moments," Foundation News & Commentary, 5-6/00, 24-25.
• Mary Williams Walsh, “Philanthropy Is Good Business For Gifts Fund,” Los Angeles Times, 12/30/99, 1A.
• Monica Langley, "Charities Decry Invasion of For-Profit Concerns," Wall Street Journal, 4/1/98, A3.
• Susan Berresford, "Keeping Up With The 'Fat Boy': A Look Inside The Ford Foundation," Philanthropy, 9-10/00, 11-17.
Corporate Philanthropy
- Dwight Burlingame and Dennis Young, eds., Corporate Philanthropy at the Crossroads, Indiana University Press, 1996.

Foundations
- Steven Lawrence, Carlos Camposeco, and John Kendzior, Foundation Giving Trends, The Foundation Center, 2000.
- Steven Lawrence, Carlos Camposeco, and John Kendzior, Foundation Yearbook, The Foundation Center, 2000.

Incentivizing Prizes
Required Readings: (145 Total Pages)


Spreading Technologies as Accountability Mechanisms


For Further Reading:

- VPP and Year Up Enter $4.5 Million Partnership: Growth Capital to Create Career Pathways for DC Area Disconnected Youth, Venture Philanthropy Partners, November 2009.
XI. WEDNESDAY, APRIL 6, 2011 – STRATEGY, IMPACT MEASUREMENT, BENCHMARKING, EVALUATING, AND
PUBLICIZING RESULTS OF FOUNDATION GRANTMAKING

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

Required Readings: (227) NOT INCLUDING ED’S BOOK

• Paul Brest and Hal Harvey. Money Well Spent, Bloomberg PR, Ch. 1-2, 2008.
No. 3 (Fall 2005), 69-71.
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• Tom Paulson, “Gates Foundation Follows New Paths,” Seattle Post-Intelligencer, 6/24/08
• “Rockefeller Revolutionary,” Economist, 12/16/2006, 68.
• Paul Brest, “Strategic Philanthropy: In Good Times and Bad,” The Center on Philanthropy & Public Policy, 2008-

Perpetuity, Spending-Down, and Paying Out More than the Minimum

• Vincent Stehle, “Considering the Question of Perpetuity,” excerpt from Investment Issues for Family Funds:
• Deanne Stone, “Alternatives to Perpetuity: A Conversation Every Foundation Should Have,” National Center for
Family Philanthropy, 2005.
• Vincent McGee, “Spending Out as a Philanthropic Strategy,” Foundation Center, 1/10/07.

Tactical Issues in Grant Making

• Jamie Smith Hopkins, “Faster Grants Set For Charities,” Baltimore Sun, 11/15/07.
• John Hechinger, “Big-Money Donor’s Move to Curb Colleges’ Discretion to Spend Gifts,” Wall Street Journal,
9/18/07.


**Piloting New Initiatives v. Replicating Other Foundations’ Pilots**


**The Challenge of Achieving Reform in Particular Fields**

- Celia Dugger, “Clinton Helps Broker Deal for medicine to Treat AIDS,” *New York Times*, 12/1/06.

**Conservative Foundations**


**International Grantmaking and Foreign Aid**


**Foundation Investment Policy and Mission Investing as Related to Foundation Mission and Programs**


**For Further Reading:**

• The Foundation Incubator Update, www.foundationincubator.org.

Foundations and Social Media
• “Are Foundation Leaders Using Social Media?” The Foundation Center, September 2010.

Perpetuity

Evaluation, Monitoring and Benchmarking

New Practices
• Kyla Wahlstrom, “Investigating the Links to Improved Student Learning,” Learning from Leadership Project, 2010.

Perpetuity
• David Bank, “Giving While Living – Charles Feeney,” Wall Street Journal, 9/10/02.
• “Spend Down Literature Review” 5/24/07.
• Heidi Waleson, “Beyond 5%,” Northern California Grantmakers, 5/25/07.

Particular Foundation Strategies
• “Alfond Foundation will donate $500 to every child born at MaineGeneral,” Portland Press Herald, 12/11/07.
XII.  WEDNESDAY, APRIL 13, 2011 – ACCOUNTABILITY: CHOICE-MAKING AND MANAGEMENT IN FOUNDATIONS AND NOT-FOR-PROFIT ORGANIZATIONS

Study Questions:
1. How well-founded is the charge that most not-for-profit organizations are not accountable to anyone?
2. Are there accountability differences among subsectors in the not-for-profit sector, as well as different kinds of organizations?
3. Are foundations more or less accountable than is the press? If so, to whom are they accountable?
4. What are the mechanisms that maintain accountability in the not-for-profit sector?
5. How effective are boards of directors of not-for-profit organizations in maintaining accountability?
6. What accountability mechanisms exist for decisions about where to focus not-for-profit resources and on grants awarded to particular grantees?
7. What criteria would you use to determine whether a decision to make a grant is wise or not? Suppose the decision is not wise: what would you do about it?
8. Should the government second-guess donor decisions as to whether tax-exempt funds are spent in accordance with some public interest or public purpose requirement?
9. What, if any, ought to be the role of government with respect to ensuring accountability?
10. What other conceivable accountability-enhancing mechanisms can be invented?
11. Which organization is more easily held accountable: “donor organizations” which give away money to other non-profits or “recipient organizations” which receive those moneys?
12. What role do trustees play in ensuring accountability in universities, art museums, hospitals, local dance companies, soup kitchens, church boards?
13. What motivates one to accept (seek?) a role as a trustee? What can one say about the best and worst kinds of motivations to such ends?
14. How do the accountability responsibilities of trustees and executives differ?
15. What are the differences between general accountability questions and major criticisms of foundation behavior (e.g., the allegedly “excessive” directors’ fees of the Duke Endowment and the Keck Foundation, the use of foundations as instruments to control privately held corporations, the taxation of unrelated business income, and the use of tax-exempt funds for political purposes)?
16. Can we formulate any appropriate rules for establishing salary levels for not-for-profit executives?
17. What can be done to facilitate the combination of organizations trying to achieve the same purposes? Are there lessons to be learned from the for-profit sector with respect to the encouragement of mergers as well as the discouragement of continued operations of organizations which are inefficient, ineffective or have outlived their usefulness?

* Pick a not-for-profit organization. Use the Internet to find its 990 form and Guidestar page. Be prepared to discuss the differences and shortcomings of each.

Required Readings: (234 Total Pages)
- Fishman/Schwarz 567-635
- Michael Anft and Grant Williams, “Redefining Good Governance,” Chronicle of Philanthropy, 8/19/04.
- Michael Anft and Grant Williams, “Internal-Controls System May Prove Costly,” Chronicle of Philanthropy, 10/19/04.
- Lester M. Salamon and Stephanie L. Geller, “Executive Summary: Nonprofit Governance and Accountability,” Johns Hopkins University, 2005, i-ii.
Reform

Transparency Initiatives by Foundations and Nonprofits

Media, Watchdogs, and Ratings Services as Means of Not-for-Profit Accountability

**Media Criticisms of the Gates Foundation**

Self Regulation

Government Regulation of Foundations and Nonprofits
• Rob Perez, “Hawaii’s Rules Lax on Oversight of Charities,” Honolulu Advertiser, 9/16/07.
• Frank Sommerville, “Lessons Learned from the King Foundation Case,” Association of Small Foundations, Fall 2004, 4-5.
• Grant Williams, “Calif. Passes New Law on Charity Accountability,” Chronicle of Philanthropy, 10/14/04.
• Susan R. Miller, “Nonprofits’ Requests to Draw Scrutiny,” Palm Beach Post, 10/30/2006, 1B.

Citizen Litigation Against Not-for-Profit Organizations

For Further Reading:
• Leonard Jacobs, “Foundation Execs Slap Spitzer Stance,” Backstage.com, 8/6/03, (3 pages).
• Francie Ostrower, “Nonprofit Governance In the United States,” Urban Institute, Center of Nonprofits and Philanthropy, 2007.
• Peter Shiras, “What Role Should the Government Play in Regulating Charities?” Chronicle of Philanthropy, 6/1/00, 47.
• Martin Morse Wooster, Great Philanthropic Mistakes. The Bradley Center for Philanthropy and Civic Renewal, Hudson Institute, 2006.
• Marion Fremont-Smith, “Improving the Law and Regulation of Charities,” Governing Nonprofit Organizations, 428-69.
• Phil Buchanan, et. al., Beyond Compliance: The Trustee Viewpoint on Effective Foundation Governance, The Center for Effective Philanthropy, 2-21.

Using Investment Assets and Proxies to Prompt Reform
• “Proxy Season Preview” Spring 2006, 1-14.

Management Strategy of Not-for-profit Organizations and Foundations
• Jeffrey Spivak, "Three Members Quit Kauffman Foundation," Kansas City Star, 9/5/03, (2 pages).
• Tom Reis and Beth Bubis, "Building an Organization to Last: Reflections and Lessons Learned from SeaChange," W.K. Kellogg Foundation, July 2003, 1-10.
• Caroline Hartnell, "Focusing on a Limited Future: Strategy in Practice?" Allavida, 5/1/03, (3 pages).
• Laurie Goodstein, "Church-Based Projects Lack Data on Results," New York Times, 4/24/01, A12.

Foundation Use of Customer Surveys

Foundation Support: Grants or Loans?
• Grant Williams, "Foundation Study Finds Big Rise in 1999 in Charitable Loans and Investments," Chronicle of Philanthropy, 5/17/01, 12.

Antiterrorism Guidelines
• Grant Williams, “Civil-Liberties Group Rejects Grants with Antiterror Clauses,” Chronicle of Philanthropy, 10/28/04.
• “Safeguarding Charity in the War on Terror,” Washington: Panel Discussion, Center for Public & Nonprofit Leadership, 6/14/05,1-31.

Public Disclosure
• Marion Fremont-Smith, "Government Regulation of the Independent Sector," Speech, 12/7/98 1-32.

Form 990
• Peter Swords, *Inside Form 990*, Grantsmanship Ctr. Mag., Fall 2003.

Codes of Conduct

Principles of Self-Regulation
• Brad Wolverton, “Fighting Charity Fraud,” *Chronicle of Philanthropy*, 8/7/03, 29.
Responsibility of Not-For-Profit Directors For Ensuring Accountability

• Joel Fleishman, “What Foundations Can Learn about Accountability from America’s Corporate Governance Crisis,” speech, Boston: Center for Effective Philanthropy, 11/14/02.

Accountability-Enforcing Organizations

• “Charity Navigator Newsletter - December,” Email Newsletter, Charity Navigator, 12/3/03, (2 pages).
• Tim Gamory, “Charity Navigator Newsletter - December,” Email Newsletter, Charity Navigator, 12/16/02, (2 pages).
• “Giving Advice for this Giving Season,” Charity Navigator, 11/25/02, (2 pages).
• Staff, “Pre-eminent Charity Watchdogs To Merge,” PR Newswire, 8/31/00, 1-2.
• Brigid McMenamin, "Donor's Intent," Forbes, 5/15/00, 78.

Governance Codes in Other Countries

• Ian Dawson and Alison Dunn, “Governance Codes of Practice in the Not-for-Profit Sector,” Corporate Governance An International Review, 14, 1, 33-42, January 2006
XIII. WEDNESDAY, APRIL 20, 2011 (FINAL CLASS) – ATTAINING WIDER IMPACT ON SOCIETY THROUGH LOBBYING, ADVOCACY AND EDUCATION BY TAX-EXEMPT ORGANIZATIONS

Study Questions:
1. What is the rationale for limiting or barring lobbying and advocacy by tax-exempt organizations?
2. What are the similarities and differences between the treatment of lobbying expenses by organizations subject to taxes and that by tax-exempt organizations.
3. Is there a difference between advocacy by private foundations and public charities, between foundation and grant-receiving money, between donor institutions and recipient institutions?
4. What’s the rationale for forbidding non-profit organizations from participating in elections involving candidates for public office?
5. In view of the Citizens United case, which allows corporations to fund and support individual candidates, is there a good reason to change the law that forbids non-profits and foundations from using their assets in a similar way? If not, why not?

Required Readings: (257 Total Pages)
- Fishman/Schwarz 474-545
- Jeffrey M. Berry, “The Lobbying Law is More Charitable Than They Think,” Washington Post, 11/29/03.
- “Foundation Philanthropy Enhanced by Charities’ Public Policy Action,” Draft, Charity Lobbying in the Public Interest, 1/6/03.
- “Questions and Suggested Responses on Lobbying,” Draft, Charity Lobbying in the Public Interest, 10/31/02.
- Mark Rosenman, “Involvement in Election Politics is Good for Charities,” Letter to the Editor, Chronicle of Philanthropy, 6/10/04.


Nikki Ortolani, “Foundation Giving and Nonprofit Advocacy,” *student paper written for* Law and Nonprofit Organizations: Regulation & Governance, Baruch College, The City University of New York, School of Public Affairs, 3/7/06.


For Further Reading:

- Timothy E. Wirth, “Mobilizing for Social Change: Impacting Policy, Politics and the Legislative Agenda,” Remarks at the University of Southern California, 3/22/05, 1-8.
- Elizabeth J. Reid, ed., *In the States, Across the Nation, and Beyond*, Urban Institute, 2003, 1-89:
- Evelyn Brody, "Defining the Constitutional Bounds of the Right of Association"
- Mark Tushnet, "How the Constitution Shapes Civil Society's Contribution to Policymaking"
- William A. Galston, "The Theory and Practice of Free Association in a Pluralist Liberal Democracy"
- Delba Winthrop, "How to Profit from Nonprofits: Tocqueville on Associations"
- Frances R. Hill, "Nonprofit Organizations and Democratic Theory: Toward a Theory of Continuing Mediated Consent"
- Charles Storch, “Public Firms Face Host of Social and Environmental Concerns,” *Chicago Tribune*, 4/17/08.
- “Funding Health Advocacy,” Grant Makers in Health Issue Brief, No. 21, February 2005.

Lobbying

Direct Lobbying

• Mark Rosenman, “Why Social-Service Groups Must Mobilize,” Chronicle of Philanthropy, 10/16/03, (6 pages).
• Thomas A. Troyer, “U.S. House of Representatives Passes Charity Grassroots Lobbying Provision,” Charity Lobbying in the Public Interest, 9/17/03.
• Bob Smucker, “Charity Grassroots Lobbying Rules Simplified by Senate Finance Committee,” Charity Lobbying in the Public Interest, 6/18/02.

Indirect Lobbying

• Bob Smucker and David Arons, “Important Facts About Lobbying With Foundation Grant Funds” and “Opportunities For Charities Involved in Initiatives And Referenda,” Charity Lobbying in the Public Interest Newsletter, 4/6/00, 1-4.

Electronic Lobbying


Political Activity

• Joe Stephens and David B. Ottaway, “Charity Hiring Lawyers to Try to Prevent Hill Probe,” Washington Post, 5/16/03, A27.
• Charles Lane, “High Court to Weigh Nonprofits’ Political Contributions,” Washington Post, 11/19/02, A13.
• Staff, “Revocation of Exemption of Church That Ran Anti-Clinton Ads Upheld,” Tax Notes Today, 5/22/00, 1-6.
• Larry Margasak and John Solomon, “Documents Show Tax-Exempt NEA’s Political Side,” News & Observer, 6/23/00, 6A.
• J. Andrew Curliss, "Political Announcement Puts Nonprofit at Risk," *The News and Observer*, 7/14/01, 6B.
• Burt Neuborne, "The First Amendment and Access to Congress: The Right of Nonprofit Organizations to Lobby"
• Laura Brown Chisolm, "Political Advocacy Meets the Internal Revenue Code: 'There's Got to be a Better Way"
• Catherine Rudder, "Beyond the Tax Code: Federal Restrictions on Lobbying by Nonprofit Organizations"

Undergraduates please note:

**NO CLASS WEDNESDAY, APRIL 27**

**TERM PAPERS DUE NO LATER THAN MONDAY, MAY 2, 2011, 5:00 P.M. IN PROFESSOR FLEISHMAN’S OFFICE OR BY WORD ATTACHMENT TO EMAIL. SEE PAGES TWO AND THREE OF THE SYLLABUS FOR TERM PAPER INSTRUCTIONS.**