Gilded Giving 2020

How Wealth Inequality Distorts Philanthropy and Imperils Democracy

Chuck Collins & Helen Flannery

August 2020

Institute for Policy Studies

INEQUALITY.org
An Institute for Policy Studies Project

Program on Inequality and The Common Good

CO-AUTHORS

Chuck Collins directs the Program on Inequality and the Common Good at the Institute for Policy Studies, where he also co-edits Inequality.org.

Helen Flannery is an Associate Fellow at the Institute for Policy Studies. She has written extensively on charitable sector trends including direct marketing fundraising, online giving, sustainer giving, and the macroeconomic factors affecting donor behavior.

Acknowledgements: We received significant assistance in the production of this report. We would like to thank Nicola Bach, Ray Madoff, Anne Morrison, Dan Petegorsky, Carl Quesnel, Carol Rhine, Denise Santoro, Omar Ocampo, and Kalena Thomhave for their assistance and feedback during its preparation. We'd also like to thank our colleagues at the Institute for Policy Studies.

The **Institute for Policy Studies** (www.ips-dc.org) is a multi-issue research center that has been conducting path-breaking research on inequality for more than 20 years.

The **IPS Program on Inequality and the Common Good** was founded in 2006 to draw attention to the growing dangers of concentrated wealth and power, and to advocate policies and practices to reverse extreme inequalities in income, wealth, and opportunity. The program has investigated the intersection of inequality and philanthropy in the following reports:
Gilded Giving 2018: Top-Heavy Philanthropy and its Risks to the Independent Sector (November 2018)
Warehousing Wealth: Donor-Advised Funds Sequestering Billions in the Face of Growing Inequality (July 2018)
The Case for an Emergency Charity Stimulus (May 2020)

The **Inequality.org** website (http://inequality.org/) provides an online portal into all things related to the income and wealth gaps that so divide us, in the United States and throughout the world**.** Subscribe to our weekly newsletter at Inequality.org or follow us on Twitter and Facebook at @inequalityorg.

Institute for Policy Studies National Office
1301 Connecticut Ave NW, Suite 600, Washington, DC 20036 | Web: www.ips-dc.org
Twitter: @ips_dc | Facebook: http://www.facebook.com/InstituteforPolicyStudies

Institute for Policy Studies New England Office
30 Germania Street, Building L, Jamaica Plain, MA 02130

Email: chuck@ips-dc.org

Contents

Summary

The growing concentration of wealth and power is distorting philanthropy and imperiling our democratic institutions. Top-heavy philanthropy—small-dollar donor declines combined with increasing numbers of ultra-wealthy mega-donors— poses growing risks to the independence of the nonprofit sector, the integrity of the tax system, and the health of our democracy. The giving sector is increasingly becoming a tax-subsidized province of the wealthy, who exercise considerable private power over the nonprofit sector and civic life as a whole.

Private philanthropy is on a collision course with democracy. Without intervention, billionaire philanthropists will soon be shaping public policy in competition with local and state governments, which will be facing austerity conditions in the wake of a resurgent Covid-19 pandemic.

The first edition of this periodic report, *Gilded Giving 2016*, drew attention to the risks posed to the autonomy of the nonprofit sector—not to mention our democracy—by the growing concentration of wealth and philanthropic power being held in fewer hands.

At that time, charitable revenue in the United States was already growing at a rapid pace. By the release of *Gilded Giving 2018*, giving had been on a strong upward trajectory for nine years, since the end of the 2007-2009 recession. In both reports we raised concerns that these unprecedented levels of giving masked a troubling trend: that charity was becoming increasingly undemocratic, with organizations relying more and more on larger donations from smaller numbers of wealthy donors while receiving shrinking amounts of revenue from donors at lower-and middle-income levels. And we wrote that these trends did not bode well for the sustainability of the charitable sector.

Since 2018, philanthropic giving has only become even more top-heavy. Ever-greater proportions of charitable dollars are being diverted into wealth-warehousing vehicles such as private foundations and donor-advised funds, rather than going to active nonprofits serving immediate needs. A tiny group of mega-philanthropists have been exercising increasingly outsized influence over the nonprofit sector, setting up funds worth hundreds of millions or even billions of dollars dedicated to the causes that matter most to them. And, all the while, broad-based charitable giving from low- and middle-income households has continued to shrink.

Into this already precarious situation have entered two new existential threats to the nonprofit sector. The first of these was a sweeping tax reform bill which was passed by the U.S. Congress in late 2017 and took effect in 2018. The second is the twin crisis of the COVID-19 pandemic and economic recession that we are grappling with now.

Although we don't have long-term data, it is evident that the tax changes and, in particular, the pandemic have already significantly reduced charitable giving. It is true that nonprofits with missions directly related to pandemic relief have received increased support over the past several months. And groups focused on racial justice have seen significant influxes of giving following the killing of George Floyd in May and the activism it has precipitated. But many more nonprofits are struggling to stay afloat.

Diminished giving threatens to exacerbate philanthropic inequity even further—at a time when the demand on charities is increasing. This is not the time to discourage broad philanthropic participation, or to hoard charitable revenue in wealth-preservation vehicles. Fortunately, however, there is a growing awareness—in the media, among legislators, and in the population at large—of the dangers that this situation poses, not only to nonprofits themselves, but to the nation as a whole.

Gilded Giving 2020 focuses on the continued impact of increasing income and wealth inequality on the philanthropic sector, and how that has been amplified by both the current pandemic and the 2018 tax reform package. It puts forward several possible implications of these conditions and suggests some solutions.

Key Findings and Recommendations

- **In the past two decades, the proportion of U.S. households that give to charity has declined significantly.** From 2000 to 2016, the most recent data now available, the proportion of households giving to charity dropped from 66 percent to 53 percent. As our report shows, this tracks indicators of economic insecurity such as employment, wages, and homeownership rates.

- **The proportion of charitable contributions coming from donors at the top of the income and wealth ladder has increased significantly over the past two decades.** In the early 2000s, households earning $200,000 or more made up only 30 percent of all charitable deductions. By 2017, the most recent year available, this group accounted for 52 percent. And the percent of total charitable deductions claimed by households making over one million dollars grew from 12

percent in 1995 to 33 percent in 2017. Between 1995 and 2015, top 1 percent of income-earners went from claiming one eighth to a third of all charitable deductions.

- **There has been a marked increase in mega-gifting.** *Giving USA* defines a mega-gift as one that accounts for at least one-tenth of one percentage point of all giving nationwide. In 2012, the threshold for mega-gifts was $50 million or more; gifts of that size amounted to $1.2 billion and accounted for 0.5 percent of all individual giving in the U.S. that year. By 2019, just seven years later, the threshold for mega-gifts had jumped to $300 million; gifts of that size totaled $3.2 billion and accounted for about one percent of all individual giving that year.

- **Private foundations and donor-advised funds have both seen dramatic growth in recent years.** Both of these giving intermediaries are favored by wealthy donors because of the significant tax advantages they offer. The assets of private foundations grew 118 percent over the fifteen years between 2005 and 2019, from $551 billion to $1.2 trillion. Over the same period, the number of private foundations increased by 68 percent, from 71,097 to 119,791. Donations to DAFs have increased even more rapidly, from $20 billion in 2014 to more than $37 billion in 2018—86 percent growth over just five years.

- **The proportion of all charitable dollars going into foundations has tripled over the past 30 years.** In 1989, just 4 percent of all charitable donations in the United States were given to foundations, rather than into direct working charities. By 2019, foundations were receiving 12 percent of all donations.

- **Donor-advised funds are receiving an increasingly larger share of giving.** In 2010, 4.4 percent of all individual giving went to DAFs, rather than to working charities. By 2018, that proportion had nearly tripled to 12.7 percent. The largest DAF sponsor in the country, the Fidelity Charitable Gift Fund, has been the largest single recipient of charitable giving in the United States for the past four years. And, for the past three years, six of the top ten charities have been DAF sponsors.

Risks of Top-Heavy Philanthropy

The charitable sector continues to experience a transition from broad-based support across a wide range of donors to top-heavy philanthropy increasingly dominated by a small number of very wealthy individuals and foundations. For most nonprofits, the one-two punch of the 2017 tax law changes and the COVID-19 crisis have only served to

accelerate this shift. Increasing inequality in giving poses significant implications for the practice of fundraising, the role of the independent nonprofit sector, and the health of our larger democratic civil society.

- Risks to the public include the warehousing of wealth in the face of urgent needs; an increasingly unaccountable and undemocratic philanthropic sector; the rise of tax avoidance philanthropy; self-dealing philanthropy; and the increasing use of philanthropy as an extension of power and privilege.

- Risks to charitable independent sector organizations include increased volatility and unpredictability in funding, making it more difficult to budget and forecast income into the future; an increased need to shift toward major donor cultivation; and an increased bias toward funding boutique organizations and projects heavily directed by major donors. The increasing power of a small number of donors also greatly increases the potential for mission distortion.

Policy Recommendations

For Immediate Action: An Emergency Charity Stimulus

We call on Congress to enact a **three-year emergency mandate** to:

- Require private foundations to double their payout from 5 percent to 10 percent.
- Establish a temporary 10 percent payout requirement for donor-advised funds.

Donors have already taken tax deductions for these donations, so mandating an increased payout will move an estimated $200 billion off the sidelines and into working charities without increasing taxes or adding to the deficit. In the parlance of tax and budget policy, they are already paid for.

To avoid abuses, we propose excluding from the emergency payout calculation private foundation donations to donor-advised funds (DAFs); impact and program-related investments; and more than a modest percentage of overhead expenses.[1] We propose that these payout restrictions also apply to DAFs, and that DAF-to-DAF donations be excluded from payout calculations as well.

Structural Charity Reform Recommendations

Congress last overhauled the legal framework for the philanthropic sector in 1969, a time when wealth was less concentrated than at any other time in the last century. Now, more than 50 years later, it is time to modernize the rules governing philanthropy to:

- Protect the independent sector from undue influence of wealthy donors.
- Protect democracy and civil society, of which philanthropy is one aspect, from the undue influence of private power.
- Prevent abuse of the tax system from charitable-giving vehicles primarily used for aggressive tax avoidance or as a means to maintain indefinite control over donated dollars.

To further these larger goals, the rules governing philanthropy should be overhauled to maximize the public good in these ways:

- Preserve a vibrant, independent charitable sector outside of private, state, and corporate control.
- Modernize incentives to encourage broad-based giving across all segments of society, particularly the non-wealthy.
- Ensure the timely flow of funds out of charitable giving instruments to the public benefit, thereby discouraging the warehousing of wealth.
- Reform tax deductibility rules to align them with the public interest and to protect the integrity of our tax system.

Public policy should restore the connection between the deductibility of gifts to foundations—which is entirely subsidized by the U.S. taxpayer—and the donor surrendering dominion and control over donated funds. Donors should only receive a tax reduction if funds are deployed to serve the public interest in a timely way. Taxpayers should not be required to subsidize donor-controlled foundations in perpetuity, since they receive no commensurate benefit from them.

We propose a number of charity-related reforms in conjunction with changes in the larger tax system to reduce concentrated wealth and power and the perils it poses.

Reforms to protect society from concentrated wealth

- Levy a wealth tax on closely held private foundations.
- Establish a lifetime cap on charitable deductions.

Reforms to foundations

- Reform foundation payout exclusions, including limiting the amount of overhead that counts toward payout and excluding grants to donor-advised funds and investments from payout.
- Increase the annual foundation payout requirement to 7 to 10 percent.
- Eliminate the perpetual foundation.

Reforms to donor-advised funds

- Require a donor-advised funds payout.
- Allow the tax deduction to be taken only after the distribution of funds to an active charity, not to another DAF or impact investment.
- Exclude impact investments from DAF payout.
- Tighten requirements around donations of non-cash assets.
- Increase DAF transparency and reporting.

Reforms to broaden giving and reverse top-heavy philanthropy

- Address underlying issues of wage stagnation which depress broader giving.
- Create a universal giving tax credit.

Prevent Abuses and Encourage Transparency

- Require foundation board independence.
- Impose a ban on compensating family members for foundation services.
- Prevent the politicization of charities.
- Shine a light on dark money by requiring disclosure of 501(c)4 contributions.

Reform Fiduciary Rules

- Reform state laws governing foundations to allow for increased payout.
- Expand definitions of fiduciary duties to include mission alignment.

Create a New Oversight System for Foundations and Charities

- Use excise tax revenue from foundations to fund a new independent watchdog organization for charities.
- Provide block grants to state oversight offices.

Preview: The "Giving Pledge" and Top-Heavy Philanthropy

August 2020 is the tenth anniversary of the Giving Pledge, an effort cofounded by Bill Gates and Warren Buffet to boost giving by America's billionaire class.

On August 4, 2010, the Giving Pledge went public with an initial 40 U.S. billionaires pledging to give at least half of their net worth to charity while alive or upon their death.[2]

Since that time, the number of billionaires in the U.S. has increased from 403 to 648.[3] Dozens of them have taken the Giving Pledge. Over the decade a total of 210 individuals and couples have signed on, and the group has expanded to include international Pledgers.

The Giving Pledge is a textbook case of top-heavy philanthropy in action. What was intended to be a civic-minded initiative to encourage generosity is, instead, continuing the concentration of taxpayer-subsidized private charitable power.

Based on our ongoing analysis, the majority of Giving Pledge donations will be sequestered in private foundations controlled by wealthy families, which will slow the flow of funds to active working charities.[4] And instead of giving up dominion over funds in exchange for a tax reduction, these wealthy donors and their heirs will retain significant power and control over assets that are philanthropic in name, but not in deed.

The Giving Pledge is entirely voluntary, and its administrators are understandably not in the business of sharing data about which Pledgers have given what. But based on public records and announcements, we have assembled pieces of the picture.

Of the 62 living U.S. Pledgers who were billionaires in 2010, their combined wealth has increased from $376 billion in 2010 to $734 billion as of July 18, 2020, an increase of 95 percent, in 2020 dollars.

Of these 62, 11 have seen their wealth go down either because of aggressive charitable giving or market changes. But the remaining 51 have seen significant increases in their net worth. Nine of the billionaires have seen their wealth increase over 200 percent over the decade, adjusted for inflation. These include Mark Zuckerberg (1783 percent), John Doerr (416 percent), Marc Benioff (400 percent), Ken Langone (288 percent), and Stephen Schwarzman (245 percent),

The 100 living U.S. Pledgers who were billionaires on March 18, 2020 had a combined wealth of $758.3 billion at that time. This is the date of both the beginning of the pandemic lockdowns in the U.S. and the publication of Forbes' annual global billionaire survey. By July 17, 2020, their assets had surged to $971.9 billion. This means that over the four worst months of the pandemic in the United States to date, their collective wealth increased by $213.6 billion—an increase of 28 percent.

If the 100 living U.S. Pledgers gave away half of their wealth–an estimated $485.8 billion—*today*, the loss of tax revenue to the U.S. Treasury would be as high as $360 billion in reduced income, estate, and capital gains taxes. This is based on a conservative assessment of the taxpayer subsidy for households in the top 0.1 percent.[5]

It is difficult to calculate the exact amount of taxpayer subsidies for these donations, since it depends on gift timing, asset classes, appreciated value, and the use of trusts or other devices to reduce estate and gift taxes. But we do know that these billionaires are using them to reduce the size of their taxable estates by many millions and, in some cases, billions of dollars.

What are taxpayers getting for their estimated $360 billion tax subsidy if most of the funds go into private family foundations that will exist in perpetuity?

Our analysis reveals two troubling concerns related to the Giving Pledge.

First, the Giving Pledge is a positive statement by several hundred U.S. billionaires that they intend to share their wealth. But the wealth of the U.S. billionaire class is growing so fast, even during the current pandemic, that it has outstripped billionaires' capacity to give it away. **If they want to make their promises real, Pledgers will have to dramatically accelerate their giving just to keep up with their asset growth.**

This leads to the second problem: **most of these funds will end up in family foundations and donor-advised funds that could exist in perpetuity.** Based on our analysis of Giving Pledge members who have died, as well as current giving patterns by living Pledgers, most will fulfill their Pledges by donating to a private foundation controlled by family members.

Instead of giving up dominion over donated assets, these families retain control over them—including the power to direct funds to particular causes and to compensate family members for governing their foundations—in perpetuity. And Pledgers can treat donor-advised funds, which have no payout requirement, as their own personal accounts with which to experiment with impact investing or pass on as part of their legacies.

This is not a criticism of the good will of the individuals involved. But it shows just how fast wealth is expanding for those at the top, even during this time of extreme inequality. And it exposes the deep design flaws and structural challenges in our philanthropic system that deter even the most well-meaning of billionaires from moving money to active working charities.

There are meaningful exceptions to this such as Chuck Feeney, who gave away $8 billion over 22 years in an effective and focused manner through The Atlantic Philanthropies. Feeney is no longer a billionaire and lives in a modest apartment in San Francisco.

But in the majority of cases, this wealth will likely end up warehoused in private family foundations or donor-advised funds with low or no payout requirements. Minimal amounts will flow to active charities. And U.S. taxpayers will subsidize perpetual charity institutions for generations, seeing little return.

Philanthropy in the 21st Century

The first edition of *Gilded Giving* in 2016 drew attention to the risks posed to the autonomy of the independent nonprofit sector—not to mention our democracy—by the growing amount of philanthropic power being concentrated in fewer and fewer hands.

At that time, charitable revenue in the United States was already growing at a remarkable pace. And by the publication of our second edition in 2018, total U.S. giving had been on a strong upward trajectory for nine years, ever since the economy emerged from the 2007-2009 recession.[6]

In both reports we raised concerns that these unprecedented levels of giving masked a troubling trend: that charity was becoming increasingly undemocratic, with organizations relying more and more on larger donations from smaller numbers of wealthy donors while receiving shrinking amounts of revenue from donors at lower- and middle-income levels. In addition, ever-greater proportions of the dollars that technically qualify as charitable contributions were being diverted into wealth-warehousing vehicles such as private foundations and donor-advised funds, rather than going to active nonprofits serving critical needs.

Philanthropic giving has only become even more top-heavy since our last report. In just the past two years, mega-philanthropists have intensified their influence over nonprofit giving with record-breaking splashes in the charitable world. Corporate titans such as Jeff Bezos, Michael Bloomberg, Bill Gates, and Mark Zuckerberg have made contributions to their own foundations worth hundreds of millions of dollars, targeted at causes of interest to them. Although the impulse to give is laudable, the increasing influence of this tiny group of donors has raised questions not only about the effectiveness of their giving, but also the effect it may have on our society.

Into this already precarious situation have entered two new formidable threats to the nonprofit sector, both of which have already reduced charitable giving overall and accelerated longer-term trends toward increasingly imbalanced giving. The first of these was a sweeping tax reform bill passed by Congress in late 2017. The second, of course, is the twin crisis of the COVID-19 pandemic and associated economic recession that the world is currently coping with.

Shock to the System: 2017 Tax Reform

In December 2017, Congress passed an extensive revision to the tax code called the Tax Cuts and Jobs Act (TCJA). The TCJA, which went into effect in 2018, doubled the standard deduction and significantly decreased top income tax rates—both of which are changes that reduce incentives for charitable giving. At the time of the bill's passage, studies from as diverse sources as the Tax Policy Center, the American Enterprise Institute, and the Wharton School of Business predicted that these changes would lead to declines in U.S. charitable revenue of anywhere from 3 to 5 percent.[7]

In 2018 the Senate Finance Committee projected that the number of taxpayers who itemized deductions overall would fall to 12 percent.[8] In 2019, the Urban-Brookings Tax Policy Center released an analysis predicting that the TCJA would "significantly reduce the number of taxpayers who claim itemized deductions," primarily because of the increase in the standard deduction. They estimated that the proportion of households that itemized would fall from 26 percent in 2017 to just 10 percent in 2018—an unprecedented decline. In their study, they forecasted that the bill would result in a total of $30 billion in reduced charitable giving deductions over the three years immediately following the change.[9]

Initial data from the IRS bore out these predictions. In 2017, 46.8 million households had itemized deductions on their tax returns, accounting for 30 percent of all returns. In 2018 that had dropped to 16.7 million households, just 11 percent of all returns.[10]

And when the Giving USA Foundation released their *Giving USA* report in 2019, with the first data on total U.S. charitable revenue for 2018, the numbers were disappointing. They reported that U.S. charities had received a total of $427.7 billion in 2018—essentially flat growth of 0.7 percent from the previous year in current dollars, and a decline of 1.7 percent when adjusted for inflation. Even more concerning was a significant decline in giving by individual donors: individual giving had declined by 1.1 percent from 2017 to 2018 in current dollars, and 3.4 percent when adjusted for inflation.[11]

Outside of recessions, it is extremely unusual for individual giving not to grow from one year to the next, particularly when the economy is strong—and 2018 had been a relatively robust year. For this reason, many journalists and industry analysts drew the conclusion that the tax reform bill was the primary reason for the reduced charitable revenue—and that the bill had particularly affected giving by middle-class taxpayers.

The *Chronicle of Philanthropy* was one of the first of the charitable sector news outlets to point out that the drop in contributions in 2018 was "due largely to average Americans donating less." In previous years, they said, major giving had compensated for continued declines in giving by ordinary Americans—but this was no longer true.[12]

It is unfortunately likely that the effects of the TCJA will last far into the future. One study by Independent Sector and the Lilly Family School of Philanthropy, for example, has projected that the reform could reduce charitable giving by as much as $19.1 billion per year from 2018 through 2025.[13]

Shock to the System: COVID-19

If tax reform was not challenge enough, charities now face perhaps their greatest test since the inception of national-scale philanthropy in the early 20th century.

It is true that some international relief and health-related charities have seen outpourings of support during the COVID-19 crisis. However, those whose missions are not directly related to pandemic aid—such as social advocacy, environmental, and cultural organizations—have been struggling. Social distancing and community lockdowns, while necessary, have nevertheless severely affected groups that rely on the physical presence of visitors and those with programs heavily based on events or street canvass fundraising.

In April, Charity Navigator and Reuters conducted a survey of nonprofits to learn how they were faring during the crisis. Of the responding organizations, 83 percent said that they were suffering financially; 64 percent of them had to cut back on their programs; and 27 percent planned to lay off staff as a result of the pandemic.[14] And organizations such as food banks and homeless shelters have been hit doubly hard, seeing the need for their programs rise dramatically even as they experience revenue shortfalls.[15]

Natural disasters, economic booms and busts, and changes in policy have all buffeted the philanthropic sector for better or for worse during its entire history. But the COVID-19 pandemic and related economic shock now pose a combined existential threat and common crisis for many nonprofits beyond any they have had to weather before.

Philanthropy in 2020 and Beyond

Philanthropy is an expression of our collective generosity and human solidarity. The nonprofits we support as a nation are both the lifeblood of a vibrant civil society and laboratories for experimentation into ways to solve our most pressing problems.

For over a decade, the Program on Inequality and the Common Good, based at the Institute for Policy Studies, has examined the impact of income and wealth inequality on civic life, opportunity, social mobility, democracy, and other aspects of U.S. society. As inequalities of income, wealth, and opportunity grow in the United States, we see the nonprofit sector being called on to ameliorate the damage and trauma that result. But the health and effectiveness of the charitable sector are deeply affected by these trends themselves. While we celebrate the generous impulse behind so much of the philanthropic activity in the United States, we recognize that growing inequity in charitable giving holds risks not only for the nonprofit sector, but for the nation.

The combined threats of the 2017 tax reform, the pandemic, and global economic crisis threaten to exacerbate this inequity still further—while simultaneously increasing the demand on charities. Nonprofits are doing everything they can, each according to their missions, to provide relief from the crisis, while at the same time many are struggling to stay afloat themselves. This is not the time to discourage broad philanthropic participation or to hoard charitable dollars in wealth-preservation vehicles.

Fortunately, however, there is also a growing awareness—in the media, among legislators, and in the population at large—of the imbalance and the dangers it presents.

This updated edition of *Gilded Giving* focuses on the continued impact of increasing financial inequality on the philanthropic sector, and how that has been amplified by both the current pandemic and the 2017 tax reform package. It puts forward several possible implications of these conditions and suggests some solutions.

A Shift to Top-Heavy Giving

This June, the Giving USA Foundation published *Giving USA 2020: The Annual Report on Philanthropy for the Year 2019*, the industry gold-standard report on charitable giving in the United States. According to the report, the total amount given to charity in 2019 was a record $449.6 billion, up 4.2 percent from the previous year.[16]

Two longer-term trends give critical context to this optimistic summary, however.

The first was that giving declined significantly in 2018 following the passage of a sweeping tax reform bill, the Tax Cuts and Jobs Act. When adjusted for inflation, total charitable giving in 2019 had actually just barely recovered to 2017 levels. It is always difficult to sort out whether specific changes in giving are directly attributable to changes in tax policy. But because giving almost never declines from one year to another outside of recessions or changes to the tax code, it is likely that the bill had a severe dampening effect on charitable giving by upper-middle-class Americans.

The second—and far more important—contextual trend is that for many years, charities have been receiving steadily shrinking amounts of revenue from donors at lower- and middle-income levels, and have instead relied more and more on larger donations from smaller numbers of high-income, high-wealth donors. The decline of individual giving in 2018 may be an alarm bell: a warning that an increased reliance on major donor giving may not make up for the loss of ordinary donors forever.

The shift from broad-based public support to narrowly focused giving by a wealthy few is a trend that reflects the escalating wealth and income inequality in our society. Over the last three decades, private wealth in the United States has become concentrated in fewer and fewer hands. Most of the gains in assets and income have flowed disproportionately to the top 0.1 percent of households in the United States. This top one-tenth of one percent—an estimated 115,000 households with net worth that starts at $20 million—now own more than 20 percent of all U.S. household wealth, up from 7 percent in the 1970s. This elite subgroup owns as much wealth as the bottom 90 percent of Americans combined.[17]

In total, the members of the U.S. billionaire class own over $3.5 trillion dollars—more than the combined wealth of the entire Latino population of the United States, over 59 million people. And three billionaires—Jeff Bezos, Bill Gates, and Warren Buffett—own as much wealth as the bottom half of all U.S. households combined.[18]

As income and wealth in the United States have become increasingly concentrated, so too has philanthropic giving. As we will explore in this report, this is evidenced not only by a steady decline in smaller-dollar donors and an increased dependence by nonprofits on donors at higher dollar levels, but also by an explosion of mega-donations, particularly to private foundations and donor-advised funds. And these shifts are only likely to become more pronounced as a result of the COVID-19 pandemic and its associated economic shock.

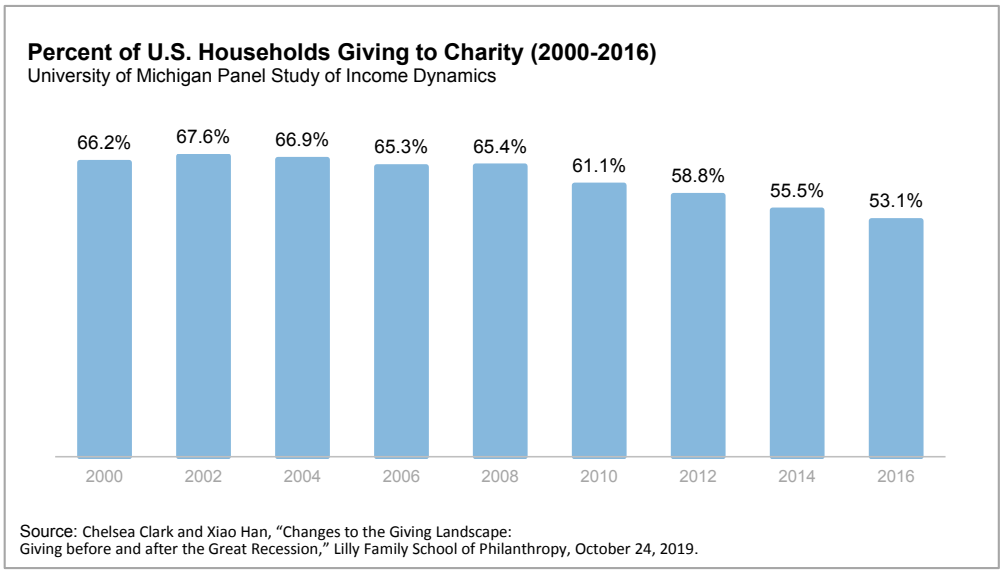
Moving Away from Small-Dollar Donors

The percentage of households in the United States that give to charity has declined significantly over the past ten years.

Since *Gilded Giving 2018* , evidence has continued to reveal a slow but steady decline in the participation of low-dollar and mid-level donors in charitable giving. This may be due in part to nonprofits deliberately acquiring fewer smaller-dollar donors, but it is also an indication of growing economic insecurity among the wide pool of donors at the lower end of the giving scale. And the two trends are self-reinforcing; charities will turn toward donors who give them greater returns.

The Giving USA Foundation has been reporting for years that individuals are giving proportionately less to charity, while foundations and corporations are accounting for an increasingly larger share of U.S. giving. Thirty years ago, in 1989, individual giving accounted for 81 percent of all charitable giving. But by 2019, according to *Giving USA 2020*, donations by individuals accounted for just 69 percent of all charitable revenue. 2018 and 2019 were the first two years in the publication's history in which individual giving made up less than 70 percent of all charitable dollars in the U.S.[19]

Researchers working on the Philanthropy Panel Study, a segment of the University of Michigan's Panel Study of Income Dynamics, reported that the proportion of households that give to charity has been steadily decreasing for more than a decade. In 2000, more than 66 percent of U.S. households gave to charity; in 2016, the most recent



year for which there is data, that had dropped to 53 percent.[20] They estimated that 20 million households have stopped giving to charity since 2000.

Giving declines are greater for households at the lower end of the income ladder.

In 2017, the *Chronicle of Philanthropy* examined giving by households who itemized charitable deductions. They found that around 30 percent of all itemizing households had given to charity from 2000 to 2006, but that that had declined to just 24 percent in 2015. The *Chronicle* wrote that this "suggests a narrowing of support in America for philanthropy. Whether running capital campaigns, annual-giving drives, or direct-marketing efforts, nonprofits are relying on fewer, more affluent supporters."[21]

Further evidence for small-dollar donor declines comes from the donorCentrics Index of Direct Marketing Fundraising, a quarterly index produced by Target Analytics, a division of Blackbaud. The index reports on giving by donors giving gifts of less than $10,000 in response to direct marketing appeals—the people who have made up the vast majority of donor files for most national nonprofits since their inception. According to Target Analytics' index for 2019, which included data from 61 national-scale nonprofits, the number of donors to these organizations has been in steady decline for most of the past fifteen years.

In fact, there were year-over-year increases in donors in just two of the seventeen years since the index began in 2001. One was 2005, a year which included unusually large disaster-related fundraising following an Indian Ocean tsunami and Hurricane Katrina. The other was 2017, following the election of Donald Trump as president, when 15 percent of the organizations in the index experienced surges in giving that were likely related to concerns about the new administration (the so-called "Trump bump").

Target Analytics calculated the cumulative effect of the ups and downs of this lower-dollar donor behavior over the long term, using a rolling twelve-month analysis to control for seasonal differences. They found that, even including the "Trump-bump" surge, donors declined a median 12.2 percent over the ten years from 2009 to 2019.[22]

Organizations participating in the index have not lost revenue at nearly the same rate as they have lost donors, primarily because they have been able to get more revenue out of the donors that remain. However, as Target Analytics reported in 2016, "this relative revenue stability may be masking the significance of the underlying trend: nonprofits are receiving roughly the same amount of money from fewer and fewer donors each year. This is a strategy that may allow organizations to meet their revenue goals in the short term, but may not be sustainable over the long term."[23]

The rate of decline in the number of low-dollar donors has an extremely strong correlation with indicators of economic insecurity in the United States.

The donor declines that the charitable sector is seeing could, of course, have non-economic contributing factors, including changing sizes of different donor age cohorts, generational differences in giving culture, and deliberate shifts in organizational strategy to cultivate higher-dollar donors. The intensity and regularity of the donor declines, however, makes it doubtful that population change, cultural differences, or organizational strategy alone are enough to explain the reductions in donor populations over the past 15 years.

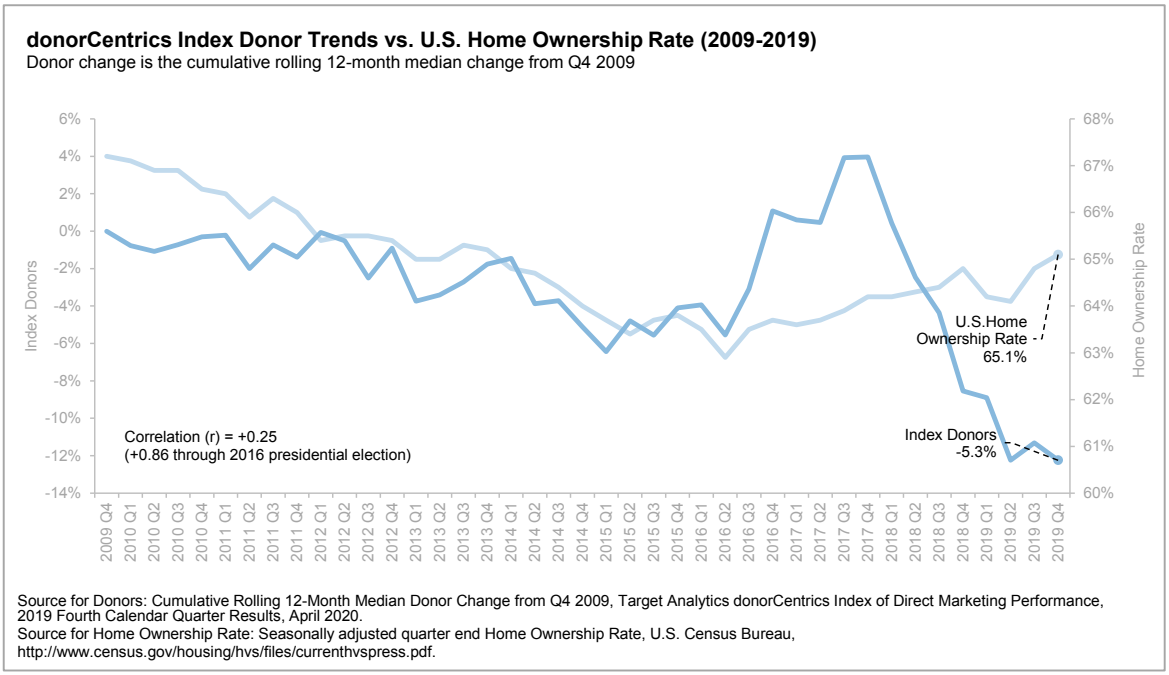
In fact, in contrast to these relatively unquantifiable demographic and strategic factors, there are high correlations between giving by lower- and middle-income households and indicators of societal economic health. The Giving USA Foundation has reported for years that personal disposable income is a "key determinant" of giving by individuals. They point out that charitable giving in the United States has remained consistently at 2 percent of personal disposable income for more than fifty years, never straying more than 0.3 percentage points above or below that mark.[24] And the

Foundation has written that disposable income is a particularly important driver of giving for households that do not itemize—households of the nonwealthy.[25]

Similarly, in previous editions of their quarterly fundraising index reports, Target Analytics has found a strong correlation between index donor declines and declines in employment. When Target Analytics plotted their donor trends against the U.S. labor force participation rate in 2015, they found that the two matched very closely, with a +0.97 degree of correlation. This is a strong indication that the decline in low-dollar donors is closely related to at least one economic factor. As Target Analytics concluded, "While we do not have enough data to say that this is causative, these trends make intuitive sense; when people are not employed, they are likely to have less disposable income, and will not be as disposed to give to charity."[26]

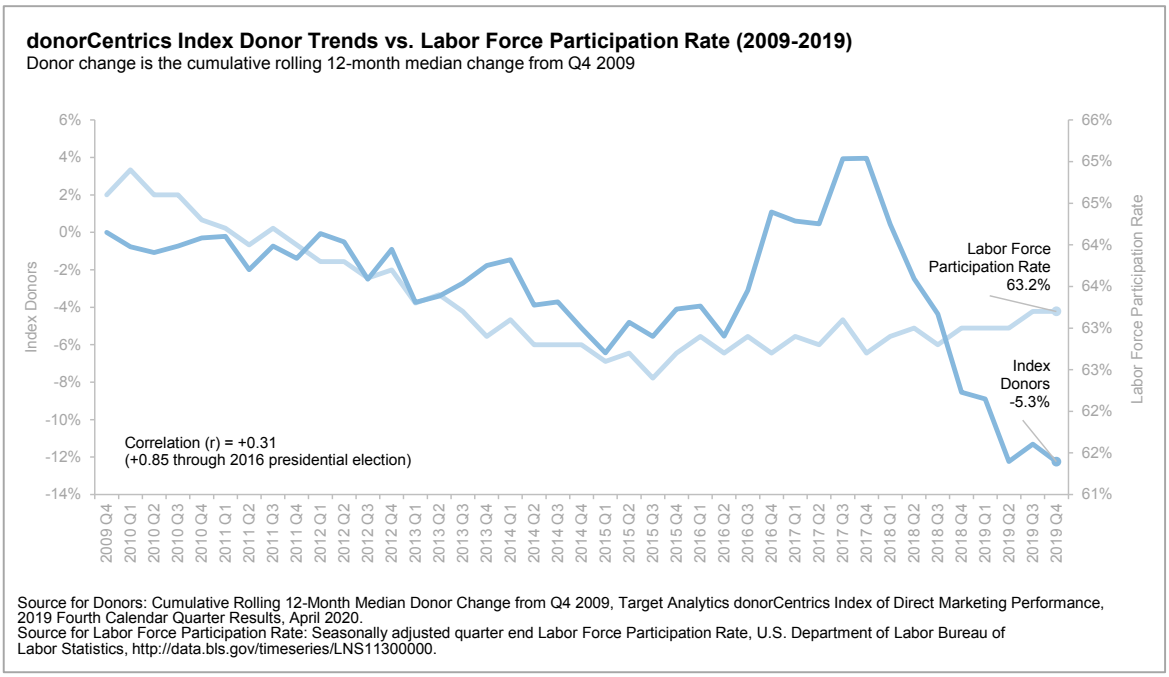
In our own updated analysis for this report, we found that Target Analytics' donor declines continued to correlate closely to the labor force participation rate, as well as homeownership—another key indicator of economic security.

Donor declines in Target Analytics' index and the labor force participation rate had a correlation of 0.31 over the past 10 years from 2009 through the end of 2019. But that correlation rockets up to 0.85 if we exclude the anomalous surge that started in late 2016 after the election of Donald Trump.



Source for Donors: Cumulative Rolling 12-Month Median Donor Change from Q4 2009, Target Analytics donorCentrics Index of Direct Marketing Performance, 2019 Fourth Calendar Quarter Results, April 2020.
Source for Home Ownership Rate: Seasonally adjusted quarter end Home Ownership Rate, U.S. Census Bureau, http://www.census.gov/housing/hvs/files/currenthvspress.pdf.

Similarly, index donor declines and declines in homeownership have a correlation of 0.86 if the Trump Bump is excluded.



Current economic conditions are undermining lower- and middle-income donors' sense of financial security—and thereby their capacity and willingness to donate to charity. If past results are any indication, these indicators will likely continue to correlate strongly with donor declines after the effects of Trump's election are behind us.

An Increasing Dependence on Major Giving

As giving by ordinary Americans has declined, charities have, by necessity, been turning to major donors to sustain their programs. The 2017 tax overhaul and the COVID-19 pandemic have both complicated the revenue picture for charities in 2020, but there is mounting evidence that these two factors will only serve to accelerate the shift toward top-heavy giving.

Since the Tax Cuts and Jobs Act went into effect in 2018, participation in charitable giving has fallen, with significantly fewer households claiming charitable deductions on their tax returns.[27] With fewer middle-class Americans giving to charity, nonprofit organizations will have to rely on their major donors to make up the shortfall.

And as the economic shock resulting from the COVID-19 crisis continues and levels of disposable income shrink, charities whose missions are not directly related to pandemic-related relief will see giving by typical Americans decline even further.

Charitable contributions from donors at the top of the income and wealth ladder have increased significantly over the past decade.

In 2017, the *Chronicle of Philanthropy* reported that donations from households earning $200,000 or more had risen from 30 percent of all itemized contributions in the early 2000s all the way up to 52 percent in 2017. This indicated, they wrote, that "nonprofit groups have become more dependent on the wealthy generally."[28]

Two years later, in 2019, the *Chronicle* released a special report on the increasing gap between the wealthiest charities and the rest of the nonprofit sector. In their analysis, they wrote that "one reason the biggest nonprofits are doing so well is that they have focused their efforts on the top donors—those who have gained the most as wealth inequality has grown." The *Chronicle* wrote that in recent years average donors have seen their discretionary income stagnate, leading to "large losses in giving"—and that charities are "increasingly turning to the ultrawealthy to meet their bottom-line goals."[29]

And the share of giving by households at the very top of the income scale has been increasing at an even faster rate than the share from those of merely moderate wealth. In a 2018 column for the *Nonprofit Quarterly*, economist Patrick Rooney used data from the Internal Revenue Service to show that the percentage of itemized contributions claimed by households with incomes over one million dollars had increased from 11.8 percent to 29.8 percent over the 20 years from 1995 to 2015.[30] By 2017, the most recent year for which there is data available from the IRS, million-dollar-income households were claiming a full 32.5 percent of all charitable deductions.[31]

This means that the top 1 percent of income earners in the United States went from claiming less than an eighth to a full third of all charitable deductions in just 22 years. As Rooney logically concluded in his column, if upper-income households are rapidly accounting for greater proportions of total U.S. charitable giving, households at the lower end of the scale are therefore rapidly accounting for less.

Charitable giving by donors who itemize charitable donations continues to grow at rates significantly higher than giving by those who do not itemize.

For at least the past five years, giving by households that itemize charitable giving deductions on their tax returns has been growing at much higher rates than giving by households that do not itemize. In 2018, for example, according to the Giving USA Foundation, giving by itemizing households grew by 5.6 percent over the previous year, while giving by non-itemizing households grew by just 3.3 percent.[32]

As we reported in *Gilded Giving 2016*, donors in higher tax brackets are more likely to itemize charitable deductions on their tax returns, because they stand to benefit more from those deductions. Research by the Giving Institute has found that the deductibility of charitable gifts is one of the greatest driving factors in the amount given to charity each year.[33] And it stands to reason that high-income and high-net-worth individuals would tend to increase their giving to charity as their assets increase in value—particularly when tax policy makes it advantageous for them to do so.

Private foundations and donor-advised funds have both seen dramatic growth in recent years and are taking an increasingly greater share of charitable contributions.

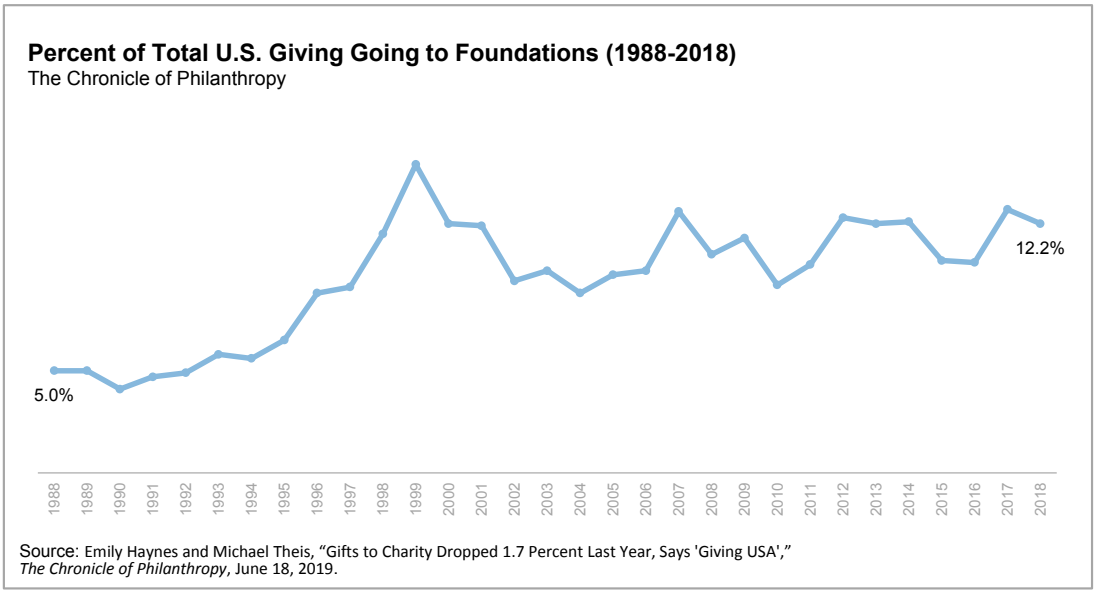
Private foundations and donor-advised funds are charitable giving vehicles that are generally available only to the affluent, and afford them significant tax reductions.[34] Over the past two decades, wealthy philanthropists have been creating foundations and donor-advised funds at a rapid pace, and endowing them with increasingly large donations. Their growth has been significantly more rapid than the growth in money flowing directly to working charities—an indicator that charitable giving by major donors is growing disproportionately faster than giving by the rest of society.

According to Candid, the number of foundations in the United States grew from 71,097 in 2005 to 119,791 in 2019—an increase of 68 percent over fifteen years. The amount of assets held in those private foundations increased 118 percent over that same period, from $551 billion to $1.2 trillion.[35]

This surge in growth is resulting in foundations taking a much larger slice of the charitable pie: the proportion of charitable dollars that goes into private foundations, rather than directly into public charities, has more than doubled over the past 20 years. The *Chronicle of Philanthropy* reported in 2019 that while just 5 percent of all charitable donations in 1988 went to foundations, that had increased to 12.2 percent by 2018.[36]

Interestingly, this growth in foundations contrasts sharply with the type of funding that nonprofits themselves say is most helpful to them. According to a report on major donors released by the Center for Effective Philanthropy in 2019, 61 percent of all

nonprofit leaders surveyed said that they would rather get funding from individual major donors than from foundations, because individual donors are more consistent,



more likely to provide multi-year commitments, and easier to communicate with about the mission and funding priorities of the organization.[37]

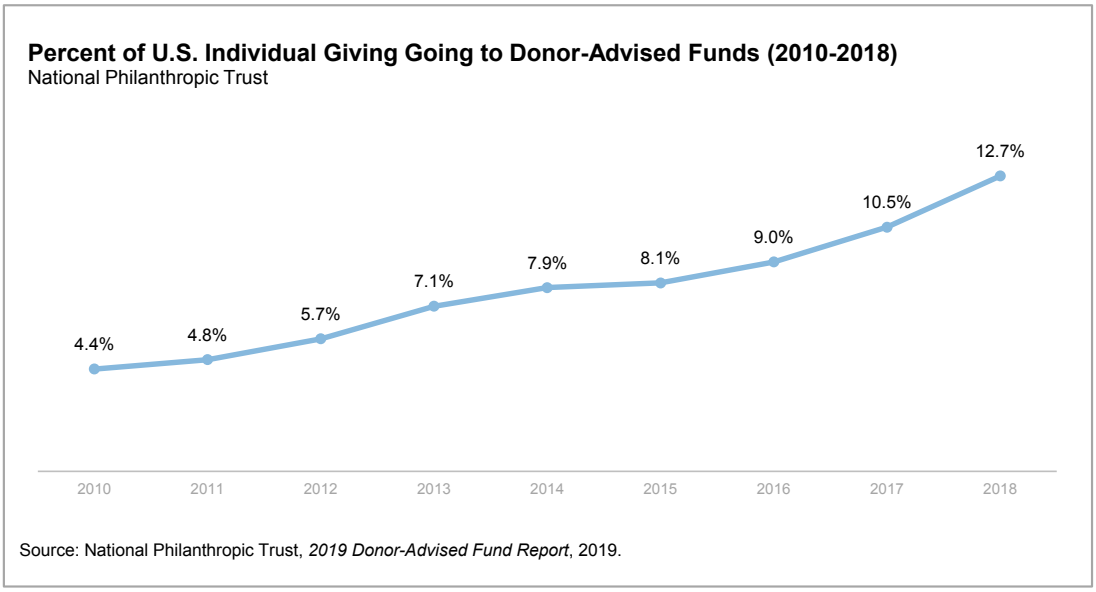
Donor-advised funds, or DAFs, which require less of a financial investment to establish than private foundations, have seen meteoric growth over the past several years, and are currently the fastest growing recipients of charitable giving in the United States. The National Philanthropic Trust (NPT) reported recently that donations to DAFs increased from just under $20 billion in 2014 to more than $37 billion in 2018—86 percent growth over five years.[38]

Of even more consequence to working charities is the fact that contributions to DAFs grew from just 4.4 percent of all individual giving in 2010 to 12.7 percent in 2018. In other words, the share of charitable dollars going to DAFs, rather than to active nonprofits, almost tripled over nine years.

And even within the world of DAFs, there is further inequity in giving. According to an analysis by the *Chronicle of Philanthropy*, more than half of the contributions to DAFs in 2018 went to the ten largest national DAF sponsors in the United States. These sponsors, most of which are affiliated with for-profit financial investment firms or corporations, received almost $22 billion of the $37 billion given to DAFs in 2018.[39]

In fact, the biggest DAF sponsor in the country, the Fidelity Charitable Gift Fund, has been the largest single recipient of charitable giving in the United States for the past

four years; Fidelity edged the United Way out of the top spot in 2016. Since 2017, six of



the top ten recipients of charitable giving have been DAFs sponsors.[40]

Payout rates for donor-advised funds are steadily declining.

The phenomenal increase in DAF giving would not be nearly as much of a concern for the nonprofit sector if revenue flowed out of DAFs at least as quickly as it flowed in.

However, even as the amount of funds going to donor-advised funds has increased, DAF payout rates have been steadily declining. This leads to a growing concern that donor-advised funds are increasingly serving not as vehicles for charitable giving, but as instruments for preserving private wealth within a donor's dominion.

The DAF payout rate is a slippery critter. Analysts, economists, the IRS, and DAF sponsors themselves calculate it a number of different ways, and the results can vary quite a bit depending on the formula used.[41] Regardless of the calculation used, however, DAF payout rates have generally been declining over the past decade.

According to the National Philanthropic Trust's calculations, for example, payout rates fell from a high of 24.7 percent in 2010 to 20.9 percent in 2018.[42] An earlier study by the *Chronicle of Philanthropy*, using a different rate calculation, found even steeper declines in payout, from 20 percent in 2008 to 14 percent in 2013.[43]

For decades, the community foundations and single-issue organizations who originally developed donor-advised funds as a giving vehicle have been using them to channel millions of dollars to public charities. The rapid growth of DAFs, particularly those affiliated with corporate entities, has raised questions about their nature as public charities and the degree to which the public is being served by their activities.

There is a basic design flaw in the DAF incentive system. Donors are able to take a tax deduction for the entire value of their donation as soon as that donation goes into a DAF. But, as law professor Ray Madoff and the late philanthropist Lewis Cullman have pointed out, the "public value of DAFs does not occur until such time as funds come out of the DAF sponsor and make their way to active charities."[44] In other words, the donor's interests are served immediately when their donation goes into a DAF. But society's interests are only served when the funds come out of the DAF and go into charities working directly toward the public good.

As Columbus School of Law professor Roger Colinvaux writes, any gift to a DAF is, by definition, a postponement of the distribution of that gift to active charities—and that has opportunity costs. When a contribution is made directly to a working charity instead, the charity has "discretion about how best to use the funds, discretion that is deferred by the DAF intermediary."[45]

Declining payout rates mean that the dollars going into many DAFs remain undistributed for years—warehousing funds that otherwise often would have gone directly to active nonprofits—and may indicate that DAFs are being used largely to secure preferential tax treatment, with charitable purpose as a secondary concern.

Right now, we face a global pandemic and economic recession on top of long-term declines in giving by middle-class and lower-income Americans. It is more important than ever to ensure that DAFs provide an adequate return to the taxpayers subsidizing them; that charitable contributions serve the public good with all deliberate speed; and that DAFs are not pulling an undue amount of philanthropic dollars away from active charities for the gain of any individual.

For more information on DAFs, please see our report, *Warehousing Wealth: Donor-Advised Charity Funds Sequestering Billions in the Face of Growing Inequality* (July 2018).

Nonprofit organizations themselves report that they are putting an increased emphasis on the cultivation of major donors.

Well before the COVID-19 pandemic, many nonprofits had already begun shifting budgets and staffing from broad-based, lower-dollar direct marketing campaigns to major gift fundraising. In 2019, the *Chronicle of Philanthropy* wrote that "nonprofit leaders are placing a much greater focus on building stronger relationships with wealthy individual donors than in previous years, and they expect that trend to continue."[46]

The *Chronicle*'s statement was based on a recent study from the Center for Effective Philanthropy (CEP), which surveyed more than 600 nonprofit leaders about major giving efforts. The primary universal finding of the CEP study is that nonprofits intend to focus even more on major giving in the future.[47] And while nonprofits are moving toward high-end donors out of necessity, consultants specializing in major gift fundraising are certainly encouraging the shift. "The vast majority of funds your organization can raise will come from major gifts," said Jeff Schreifels, a senior partner at Veritus Group, in a recent MarketSmart study on major giving. "Prioritize your time and spend the most effort there."[48]

The largest nonprofits are experiencing more growth while smaller organizations are stagnating.

There is evidence that an increasing reliance on major giving is resulting in a corresponding shift of income from smaller nonprofits to larger, more established ones—simply because larger organizations have greater capacity to cultivate and maintain relationships with major donors.

The *Chronicle of Philanthropy* reported that the largest charities in the United States received 8.7 percent of all giving in 2018, even though they made up just 1.5 percent of all registered nonprofits. And contributions to the very largest charities grew significantly that year, even while giving to the nonprofit sector as a whole dropped. According to the *Chronicle*, contributions to the 100 largest nonprofits in the country grew 11.3 percent from 2017 to 2018, while giving overall fell 1.7 percent.[49]

In their report, the *Chronicle* attributed this difference directly to major donor fundraising. "One reason the biggest nonprofits are doing so well," the *Chronicle* wrote, "is that they have focused their efforts on the top donors—those who have gained the most as wealth inequality has grown."

The Rise of Mega-Giving

As income inequality increases in the United States, those at lower income levels are losing ground, while those at higher income levels are gaining steadily—and those at the very top of the income scale are gaining enormously.

This has not changed during the current economic crisis. Over the first 15 weeks since the COVID-19 pandemic began, while earnings froze and unemployment claims shot up for the population as a whole, America's billionaires saw their assets grow by over $600 billion—a 22 percent increase.[50]

Charitable giving has mirrored these larger economic trends. Contributions have been steadily declining for those in lower income levels; steadily growing for those in higher income brackets; and increasing by leaps and bounds for the tiny group of donors at the very pinnacle of the income and wealth ladder. In the past ten years in particular, charities—particularly universities and private foundations—have seen a significant increase in donations of enormous size.

Revenue from gifts of $1 million or more is growing rapidly

Total revenue from individual charitable donations of $1 million or more has increased significantly in recent years. According to the *Coutts Million Dollar Donor 2016 Report*, over the five years from 2011 to 2015 (the most recent data available), the number of publicly announced gifts of $1 million or more increased by only about 1 percent, from 1,797 to 1,823. But the *value* of those gifts increased by a great deal more—up 15 percent from $16.77 billion to $19.30 billion over the same five years.[51]

Extremely large mega-gifts now make up a significant portion of individual giving

On the surface, the growth in revenue from million-dollar-plus gifts that *Coutts* reported would appear to mean that the typical million-plus donor is giving more with each of their gifts. In fact, the average size of gifts of a million or more has stayed essentially constant for several years. According to Coutts, the median size of gifts over one million dollars was $2.3 million in 2011, and held steady at a similar $2.5 million in all four years from 2012 to 2015.

This means that much of the total revenue increase from 2011 to 2015 came from a very small number of extremely large mega-donations at the very top of the scale.[52] And, indeed, mega-sized gifts have become more and more frequent in recent years.

In their *Giving USA* publications, the Giving Institute defines a mega-gift as "a gift large enough to affect the rounded change in total giving by at least one-tenth of one percentage point from one year to the next in Giving USA's estimates."[53]

In 2012, the Giving Institute's threshold for mega-gifts was $50 million; they estimated that gifts of that size amounted to $1.2 billion and accounted for just 0.5 percent of all individual giving in the United States.[54] By 2019, the threshold for mega-gifts had jumped to $300 million; *Giving USA 2019* included a "conservative estimate" of $3.17 billion in mega-gifts from individuals in 2019, which accounted for more than 1 percent of all individual giving that year.[55]

Mega-gifts are disproportionately directed to causes and institutions favored by the wealthy—particularly private foundations

Mega-donations garner a great deal of media attention when they are bestowed on one or another lucky nonprofit. However, gifts of this size tend to be disproportionately directed toward certain causes—and are, increasingly, being stashed in the donors' own private foundations and donor-advised funds.

In February 2020, the *Chronicle of Philanthropy* published its annual list of the fifty top philanthropists in the United States. While the $15.8 billion donated by this group in total is impressive, it is worth noting that **42 percent of Philanthropy 50 contributions went to foundations and donor-advised funds**.[56]

This means that although these mega-donors received tax deductions commensurate with the amounts of their donations, the lion's share of the money they donated may not actually get into the hands of active public charities for years—or ever, potentially, in the case of donor-advised funds.

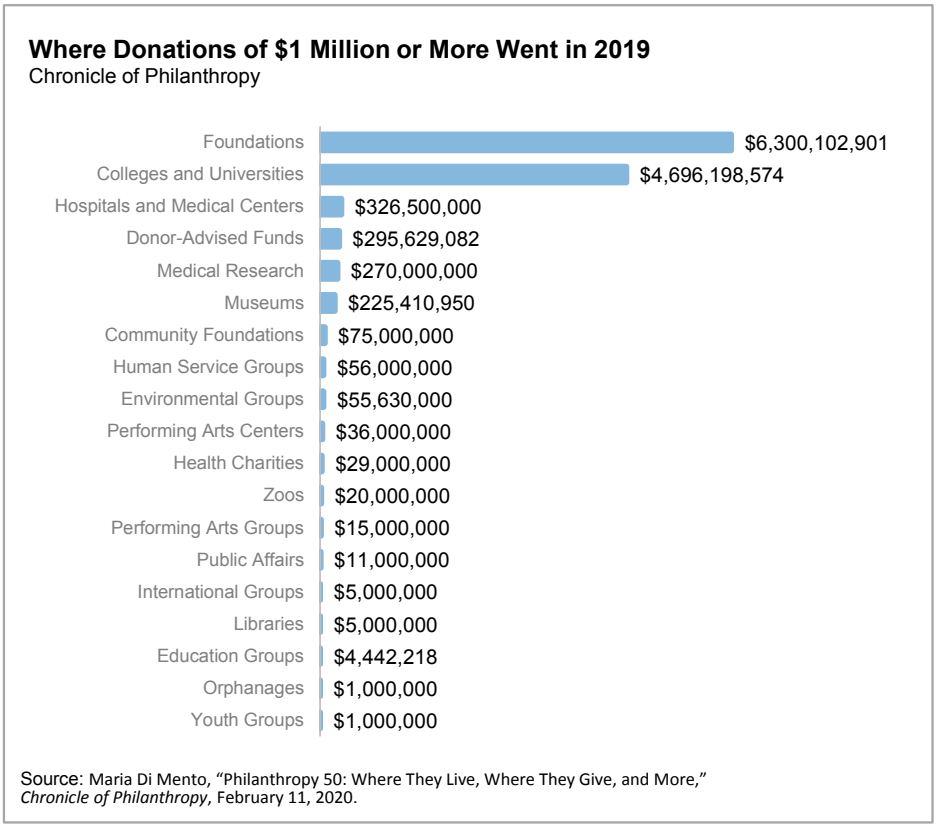
Private foundations and donor-advised funds are increasing in popularity among wealthy donors in large part because of the tax and wealth-preservation benefits that they offer. Although they fulfill the letter of the law when it comes to charitable donations, they can nevertheless serve as potential warehouses for wealth, proving advantageous to the financial advisers who manage the funds and the boards who determine their distributions, but not necessarily moving money in a timely way to public charities.

Even when mega-gifts do go to active working charities, they tend to be directed toward larger organizations, and towards causes that the wealthy prefer—in particular, higher education and medicine.[57] According to the *Chronicle of Philanthropy*'s list of the

ten largest charitable gifts and bequests in 2019, five went to universities and three went to hospitals.[58]

And while the favorite destinations of gifts for the Philanthropy 50 were the donor's own private foundations, their second favorites were colleges and universities—institutions of higher education received $4.7 billion from the top 50 donors in the United States in 2019, nearly 30 percent of the total dollars donated.

Hospitals and medical centers received the third most contributions from the group, at $326.5 million.[59]



2019 was a record year for mega-gift giving

Because of the immensity of the gifts and the small number of donors involved, mega-gift giving is highly variable and can fluctuate a great deal from year to year. But, in general, mega-gifts are making an increasing impact on the charitable world, to the point where the *Nonprofit Quarterly* felt it had to report that we are now in an age of "philanthropic plutocracy."[60]

Several mega-donors gave contributions totaling hundreds of millions of dollars each last year, primarily to foundations, institutions of higher education, and medical centers. The two largest single donations were each over $1 billion—both of which went to the donors' own private foundations.

- In 2019, Michael Bloomberg topped the list of mega-givers with $3.3 billion in donations. $1.8 billion of his giving went to his alma mater, Johns Hopkins, to fulfill a pledge to enable that university to do need-blind admissions.[61]

- Former Google CEO Eric Schmidt and his wife Wendy gave $1.3 billion, primarily to their various private grantmaking institutions, with the eventual goal of helping "young people develop into exceptional leaders."[62]

- Jim Walton, the heir to the Walmart fortune, announced a $1.2 billion charitable gift in 2019, but has not said what his gift will be funding. In the past, he has generally given the bulk of his donations to the Walton Family Foundation.[63]

Several other mega-donors gave donations in the hundreds of millions in 2019. This included Stewart and Lynda Resnick, who gave $787 million, primarily to environmental conservation. Bill and Melinda Gates continued their six-year streak on the top 50 list with a $589 million gift to their various Gates family foundations. And Denny Sanford gave $533 million, primarily to two universities in California.[64]

Undoubtedly, giving from the wealthiest in our society comes from a genuine wish on their part to do good. And when these gifts are actually directed toward public charities, they certainly make a great deal of difference for the specific organization or sector that the money is targeted to. But, as we will discuss further in this report, an increased reliance on the whims of a tiny number of donors—or just one donor—is very risky for the charities involved.

As a case in point, Amazon CEO Jeff Bezos blew all previous concepts of mega-giving out of the water in 2018 with his announcement of a charitable gift of $2 billion. Bezos' gift was used to establish his own Day One Fund foundation, which he has said will be used, in part, to help homeless families. Bezos has received criticism, however, that his philanthropic largesse stands in contradiction to the actions of Amazon, which has fought hard against policies that would reduce homelessness in the first place.[65]

Author Anand Giridharadas' book, *Winners Take All*, has been making waves throughout the philanthropic community for bringing up these very issues. He

highlights, for example, the members of the Sackler family, who routinely make the list of the top philanthropists in the United States for giving millions to causes such as the arts and higher education—but who made many of those millions by fuelling the opioid epidemic, through willfully deceptive sales of OxyContin by their family company, Purdue Pharma.[66]

This critique gets to the heart of the danger of giving wealthy donors too much control in determining the direction philanthropy takes. At best, mega-philanthropy may be a well-meaning effort by wealthy donors to give back to society. At worst, it may be a tool to maintain the status quo, while at the same time providing an inoculating cover of selflessness. "By refusing to risk its way of life, by rejecting the idea that the powerful might have to sacrifice for the common good," Giridharadas writes, today's billionaire class "clings to a set of social arrangements that allow it to monopolize progress and then give symbolic scraps to the forsaken—many of whom wouldn't need the scraps if the society were working right."[67] Charity is not a substitute for justice.

Risks of Top-Heavy Philanthropy

Top-heavy philanthropy carries significant risks not only for the practice of fundraising and the role of the independent nonprofit sector, but also for the health of our civil society at large.

Risks for Fundraising and the Independent Sector

Risks for the philanthropic sector itself include hazards such as the distortion of organizational missions; a more volatile and unpredictable revenue stream; a bias toward organizations better structured to absorb mega-gifts from the wealthy; and a shift in funding from general operating support to restricted project support.

Mission distortion. A small number of major donors gaining greater sway over an organization can create pressure to shift missions and programming toward the interests of those donors. It is easy to imagine nonprofits tweaking or adjusting the work they do, either consciously or unconsciously, to secure essential funding by meeting the wishes of a very large benefactor.

In 2019, the Center for Effective Philanthropy surveyed 600 nonprofit leaders, asking them how major donors could provide the most effective support. "Given the power imbalance between donors and nonprofits," the authors wrote, "nonprofit leaders sometimes feel obligated to modify goals and strategies based on donors' wishes or

requests." One of the most common suggestions they heard from the nonprofits they surveyed was for major donors to stop trying to "exert undue influence" on the charities they support.[68]

Increased volatility and unpredictability. Increased reliance on very large gifts from smaller numbers of donors may lead organizations to experience widely fluctuating revenue streams from year to year. A major donor may give a large gift in one year and then not make a similar-sized gift for years to come. Instead of relatively stable support from a diverse pool of small donors, major donors, foundations, corporate donations, and program revenue, organizations will be dependent on a smaller, relatively finite, and potentially more volatile number of wealthy donors and family foundations.

Increased bias toward larger or heavily major-donor-directed boutique organizations. Top-heavy philanthropy favors bigger charities that already have sophisticated major donor programs, the capacity to manage and implement gifts of enormous size, as well as the infrastructure to accommodate gifts of appreciated stock and high-value noncash assets. This may put smaller, more independent, and potentially more innovative and nimble organizations at a disadvantage.

Reduced foundation and DAF payout. U.S. law currently mandates that foundations distribute a minimum of 5 percent of their assets on an annual basis. According to research by the Foundation Center, larger foundations tend to pay out significantly less each year—much closer to the 5 percent minimum—than do smaller foundations. As more mega-donations go disproportionately into large foundations, rather than into small foundations or to traditional nonprofits, the relative payout going directly to charities is likely to shrink.[69]

Donor-advised funds (DAFs) do not have a payout requirement at all, and their distribution percentages are no more impressive. A study by Paul Arnsberger, a statistician at the Internal Revenue Service, found that the median payout rate of donor-advised funds for tax year 2012 was just 7.2 percent, smaller than that of mid-range foundations. In addition, he found that "nearly 22 percent of the sponsoring organizations reported no grants made from their DAF accounts." In other words, their payout was zero.[70]

Shift from general support to project support. Large foundations are more likely than small foundations to give for specific purposes than for general operating support. So as donations shift increasingly toward larger foundations, and as foundations themselves grow larger, donations are likely to shift more toward restricted support for specific projects, as opposed to general operating support.

According to Foundation Source, for example, in 2018, almost two-thirds of the grants made by private foundations with assets greater than $10 million went to restricted projects, while only one-third went to general operations. In contrast, private foundations with assets of less than $1 million gave almost half of their grant dollars to support general operations.[71]

It can certainly be strategically important for organizations to solicit funds for restricted projects, such as in a capital campaign. But particularly during times of economic stress it is important to prevent so much revenue being tied up for restricted purposes , that the rest of the organization is starved of needed funds.

Risks to Democracy and Our Civil Society

Perhaps the greatest risks of a top-heavy philanthropic sector are those for democracy and civil society: that charity will cease to serve society as a whole, and will be used instead as a means to protect and preserve individual private wealth and power. These risks include the warehousing of wealth in the face of urgent needs; an increasingly unaccountable and undemocratic philanthropic sector; the increasing use of philanthropy as an extension of private power and privilege; the rise of tax avoidance philanthropy; and self-dealing philanthropy.

These risks likely apply to a relatively small segment of givers and do not reflect the motivations of most mega-donors and foundations. However, when abused, philanthropy can become a tool for the self-interested defense of private privilege—and can be used to exacerbate poverty and inequality rather than alleviating it. Such abuses are only likely to grow in an increasingly unequal philanthropic environment.

Warehousing of wealth in the face of urgent needs. When tax avoidance is a significant driver of philanthropic giving, the urgency of moving funds directly to active charities on the ground becomes a secondary consideration. When giving to private foundations, donors receive immediate tax deductions for their donations, but the foundations are not required to distribute any more than 5 percent of the principal each year to public charities. Large portions of the 5 percent minimum payout at foundations also can be eaten up by management costs, legal fees, and other foundation overhead expenses, reducing the net charitable payout and potential impact still further. And with donations to donor-advised funds, there is no deadline at all for donating those assets to public charity once they are in the fund.

The result is that this charitable funds can be warehoused, sitting for years or decades after a charitable deduction has been taken, before any significant payout is made to public nonprofits. In 2016, CharityWatch estimated that the growth of donor-advised funds had so far delayed an estimated $15 billion in donations to public charities.[72] This is particularly troubling during this pandemic and recession, when charities themselves are in more need than ever.

An increasingly unaccountable and undemocratic philanthropic sector. We discussed earlier how an overreliance on a small group of very wealthy donors or foundations could, consciously or not, shift an organization's focus away from its original mission. On a large scale, it could do the same for the nonprofit sector as a whole, shifting charitable work away from popular priorities and toward a more elite agenda.

Eileen Heisman, the CEO of the National Philanthropic Trust, spoke about this issue in an interview with the *New York Times*. "This isn't the government collecting taxes and deciding which social problems it wants to solve through a democratic process," she said. "This is a small group of people, who have made way more money than they need, deciding what issues they care about."[73] Misused, top-heavy philanthropy has the potential to divert charitable attention from work that provides the greatest benefit to society as a whole—the legal rationale for which charitable deductions were established in the first place.

This is particularly concerning at a time when our social safety net is being gradually dismantled, and charities are already struggling to provide services that would in the past have been provided by governmental agencies. Steve Dubb, writing in the *Nonprofit Quarterly* (NPQ), says that this could "undermine our democratic processes by shifting decision-making from the public to an elite-driven private realm. Our public process, flawed though it may be, allows for the resolution of different points of view and interests; with private philanthropy, a single person's voice is amplified by ungodly amounts of money, a phenomenon that NPQ has described before as philanthropic plutocracy."[74]

Philanthropy as an extension of power and privilege. As David Callahan writes in his book *The Givers,* giving can be "yet another tool to advance partisan goals and class interests. In effect, it can be another way of taking."[75] In a troubling number of cases, private foundations and high-profile gifts have become tools for the defense of personal power and privilege. Through strategic use of charitable giving, wealthy families of all political persuasions have been able to deploy private assets to advance a narrow set of interests under the guise of philanthropy. For example:

- **Benefitting from legacy admissions**. Donors can use large donations to universities to secure legacy admissions for their relatives. Daniel Golden, a *Wall Street Journal* reporter and author of *The Price of Admission: How America's Ruling Class Buys Its Way into Elite Colleges—and Who Gets Left Outside the Gates*, chronicles the "wealth effect" on college admissions and how charitable donations open doors for affluent family members to gain admission.[76]

- **Increasing inequity between public school districts**. Foundations in affluent districts allow parents to make tax-deductible contributions to support their children's schools, compounding inequalities between school districts.[77]

- **Promoting personal policy agendas**. Wealthy donors can fund nonprofit think tanks that themselves further a wealth-protection agenda in the political arena. As journalist Jane Mayer has documented in her book, *Dark Money: The Hidden History of the Billionaires Behind the Rise of the Radical Right,* a segment of multi-millionaire donors has "weaponized philanthropy" to advance a narrow self-interested public policy agenda.[78] Charles Koch and his late brother David have poured millions into purportedly philanthropic entities such as the Heritage Foundation and used them to promote right-wing public policies; they may be the most prominent example of this, but they are by no means alone.

"How can there be anything wrong with trying to do good?" Anand Giridharadas asked in his 2018 book, *Winners Take All*. The answer may be, as he writes,

> "When the good is an accomplice to even greater, if more invisible, harm. In our era that harm is the concentration of money and power among a small few, who reap from that concentration a near monopoly on the benefits of change. And do-gooding pursued by elites tends not only to leave this concentration untouched, but actually to shore it up. For when elites assume leadership of social change, they are able to reshape what social change is—above all, to present it as something that should never threaten winners."[79]

Increasing shifts toward tax-avoidance philanthropy. While the increased giving to private foundations in recent years can be seen as an outpouring of generosity, it can also be seen, at least in part, as a protection of wealth through strategic tax-avoidance measures. Over the last two decades, wealthy donors have been steadily expanding their use of many kinds of tax-avoidance vehicles, such as offshore shell companies in tax havens and trusts.

Strategic tax-deductible giving is also increasingly appearing in the form of donations of appreciated high-value non-cash property primarily available to the wealthy, such as real estate and artwork. This not only removes a sizeable liability from a donor's tax burden, but gives them a deduction for it as well. And this appreciated property may have a significantly inflated value, allowing donors to claim a large deduction for something that may have cost them much less, or for which the actual sale value may turn out to be much lower.[80]

This is a concern for ordinary taxpayers because they effectively subsidize deductions taken by wealthy donors. This subsidy can range from 37 to as much as 74 percent for each dollar donated to charity depending on how much the donor's income, capital gains, and estate taxes were reduced by the donation. In other words, for every dollar a billionaire gives to charity, the rest of us chip in as much as 74 cents to make up for the lost revenue.[81]

And the wealthier the donor, the greater the tax advantages. Donors in the top one percent of income are more likely to be subject to capital gains taxes, and they are more likely to be able to avoid those taxes by donating appreciated stock or non-cash assets. DAFs, in particular, make it easy to donate non-cash assets that are hard to value, such as artwork, real estate, or privately-held company stock. Unlike gifts to private foundations, DAF gifts through public foundations can be deducted based on the appreciated value, not the cost basis. As evidence that this feature of DAFs is an appealing one to donors, the *Economist* magazine reported that in 2013, roughly 28 percent of all donations to DAFs were of non-cash assets.[82] And Fidelity Charitable said in their *2016 Giving Report* that fully two-thirds of their 2015 contributions were in the form of non-cash assets.[83]

In fact, according to an analysis by economist James Andreoni, the *primary* financial benefit that DAFs offer to their donors is that of capital gains tax savings. Andreoni showed that DAF donors' contributions consist of about 15 percent more in capital gains assets than do the contributions of donors giving directly to charity. He also found "clear evidence of a surge of demand for DAF accounts when there is a greater value to escaping capital gains taxation."[84]

Most U.S. taxpayers do not incur capital gains each year, much less earn enough to pay capital gains taxes if they do incur them. It makes sense, then, that the typical DAF donor is likely to be someone in a position to benefit from mergers or IPOs, or who holds assets in the form of appreciated equities, artwork, or real estate. And the tax benefit from DAF giving increases significantly with the amount of capital gains one has to avoid; the higher the donor's adjusted gross income is, the greater their

deduction for their charitable DAF gift will be.[85] Similarly, only those with wealth in excess of $22 milllion are in a position to reduce their taxable estate by donating money to charity.

Self-dealing within foundations. While most foundations adhere to voluntary governance guidelines and are prudent stewards of resources, there are unfortunate abuses of the philanthropic system. The trustees of private foundations are legally able to use foundation funds to reimburse themselves, family members, and other associates for their work managing the foundation's assets and distributions. And these overhead expenses are counted toward the 5 percent of assets that foundations are required to pay out each year to charitable causes.

According to their 2018 tax return, the latest available, the Conrad N. Hilton Foundation had total assets of $2.8 billion and spent a whopping $51 million in overhead to give out $101.1 million in grants in 2018. This overhead included $5.6 million in compensation of officers, directors and trustees; $9 million in other employee salaries and wages; $3.6 million in pensions and employee benefits; and $1.9 million in travel. Compensation included $1.56 million in salary to each of two vice-presidents/co-CFOs and over $693,000 to the foundation's president and CEO. Annual board compensation of $35,000 was paid out to each of six Hilton family members on the board.[86]

Increasing personal wealth under the guise of philanthropy. Charitable giving vehicles such as private foundations and DAFs may be used, whether consciously or not, as vehicles for the defense of wealth. They allow wealthy families to receive tax advantages from their donations while still retaining a significant amount of control over, and benefit from, donated assets. Lost is the notion of giving up dominion over wealth, which was the intent of charity laws.

In perhaps the most craven extension of this, individuals and families may attempt to use their own charitable institutions as a way to actually increase their own personal wealth. The Trump Foundation, for example, was dissolved in 2018 after an investigation by the New York Attorney General discovered "a shocking pattern of illegality…including unlawful coordination with the Trump presidential campaign, repeated and willful self-dealing, and much more."[87]

Policy Recommendations

Private philanthropy is on a collision course with democratic institutions. It is increasingly becoming a tax-subsidized province of the wealthy, exercising considerable private power over the nonprofit sector and civic life as a whole.

Without intervention, billionaire philanthropy will soon be in competition with local and state government institutions facing austerity conditions in the wake of a resurgent Covid-19 pandemic and corresponding economic shocks. And top-heavy philanthropy—small donor-declines combined with rising wealthy mega-donors—will only grow as a threat to the independence of the nonprofit sector.

The last time Congress overhauled the legal framework for the philanthropic sector was in 1969, a period when wealth was considerably less concentrated than at any other time in the last century. Now, more than 50 years later, it is time to modernize the rules governing philanthropy to:

- Protect the independent sector from undue influence of wealthy donors.
- Protect democracy and civil society, of which philanthropy is one aspect, from the undue influence of private power.
- Prevent abuse of the tax system from charitable-giving vehicles primarily used for aggressive tax avoidance or as a means to maintain indefinite control over donated dollars.

To further these larger goals, the rules governing philanthropy should be overhauled to maximize the public good in these ways:

- Promote a vibrant independent sector outside of political, state, and corporate control.
- Modernize incentives to encourage broad-based giving across all segments of society, particularly the non-wealthy.
- Ensure the timely flow of funds out of charitable giving instruments to the public benefit while discouraging the warehousing of wealth.
- Reform tax deductibility rules to align with the public interest and to protect the integrity of our tax system.

What follows is a menu of reforms, formed in consultation with policy experts in the philanthropic and civic space. We do not view our role as final arbiters of policy recommendations and, in some cases, offer multiple policy solutions.

In addition, it is our position that charity reform is interconnected with tax reform. Without closing the loopholes that allow charitable giving vehicles to be used primarily for tax avoidance without a commensurate return to the public, meaningful tax reform will be compromised.

An Emergency Charity Stimulus: Moving Resources off the Sidelines

The 2020 Covid-19 pandemic is an unprecedented crisis with staggering implications for our health, economy, democracy, and civic cohesion. The U.S. government is in the process of spending trillions in economic stimulus and financial assistance to families, businesses and nonprofits in distress.

Private philanthropy is stepping up, pledging to be more engaged and supportive of grantees. The Council on Foundations has sponsored a pledge, signed by over 700 funders, to respond boldly to the COVID-19 crisis. A smaller group has pledged to increase their payouts voluntarily and spend out funds at a faster pace.

We believe that a portion of the charity reform agenda described in this proposal should be advanced more quickly in the current pandemic moment, with the goal of mobilizing hundreds of billions in wealth that is presently sidelined in private foundations and donor-advised funds.

We call on Congress to pass an emergency charity stimulus to inject more than $200 billion over three years into the economy, protect jobs in the nonprofit sector, and help fight the COVID-19 disaster.

To this end, we propose that Congress enact a **three-year emergency mandate** requiring that private foundations double their payout from 5 percent to 10 percent. We also propose establishing a temporary 10 percent payout requirement for donor-advised funds (DAFs). Currently, an estimated $1 trillion is held by private foundations with the requirement that they pay out just 5 percent of their assets each year.[88] Another estimated $120 billion is warehoused in DAFs with no payout requirement at all.[89]

Foundation and DAF donors have already taken tax deductions for their donations, so

mandating an increased payout will move billions of dollars off the sidelines without increasing taxes or adding to the deficit. In the parlance of tax and budget policy, they are already paid for.

To avoid abuses, we propose excluding from the emergency payout calculation: private foundation donations to DAFs; impact and program-related investments; and more than a modest percentage of overhead expenses.[90] We propose that the payout restrictions above also apply to DAFs, and that DAF-to-DAF donations be excluded from payout calculations as well.

For each 1 percent increase in foundation payout, an estimated $11 billion to $12.6 billion will flow to charities annually.[91] The estimated total $200 billion resulting from this three-year charity stimulus package will flow to support active charities. And it will save jobs: nonprofits employ more than 12 million people, over 10 percent of the private sector workforce. Moving billions off the charity sidelines will help sustain charitable organizations, those who work for them, and all of us who benefit from their missions.

Reforms to Protect Society from Concentrated Wealth and Power

Philanthropic reform alone is insufficient to remedy the anti-democratic effects of concentrated private wealth and power. For this, we need to tackle the broader ecosystem of wealth management practices of which strategic charitable giving is one aspect. We propose two reforms that would directly address the problem of concentrated wealth and power in the charitable sector.

A. Reforms to protect society from concentrated wealth

A1. Levy a wealth tax on closely held private foundations. A wealth tax, such as Senator Elizabeth Warren's proposal to levy a 2 percent annual tax on wealth over $50 million, should also apply both to private foundations that are closely controlled by donors (see our later discussion of independent governing boards) and to donor-advised funds. As Emmanuel Saez and Gabriel Zucman wrote in a 2019 paper on wealth taxation:

> To prevent abuse, donor advised funds or funds in private foundations controlled by funders should be subject to the wealth tax until the time that such funds have been spent or moved fully out of the control of the donor. For example, assets in the Bill and Melinda Gates' foundation should be counted as part of the wealth of Bill and Melinda Gates.[92]

Subjecting private foundation and donor-advised fund assets to wealth taxation would encourage the transfer of charitable funds to nonprofits, public foundations, and community foundations' general funds that are not controlled by wealthy donors.

A2. Establish a lifetime cap on charitable deductions. A fundamental design flaw in the philanthropic system allows unlimited tax reductions to donors who have private foundations. As Bill Gates, Sr., pointed out to IPS scholar Chuck Collins, Microsoft founder Bill Gates will never pay taxes on the more than $100 billion he will donate to his tax-exempt foundation. A lifetime cap of $500 million would not discourage billionaires whose giving is genuinely motivated by generosity. But it would limit the extent to which charitable giving can reduce a donor's taxes to zero—especially when it comes to estate or inheritance taxes.

Reforms to Ensure Timely Grants and Protect Integrity of Tax System

Several other charity reform proposals are necessary to increase the flow of charitable dollars, ensure greater accountability, and curb abuse by the indirect giving vehicles of foundations and donor-advised funds.

B. Reforms to foundations

Private foundations must currently distribute a minimum of 5 percent of their asset value to charity each year. Failure to do so results in an increased excise tax penalty. The most basic first steps toward reforming our philanthropic system are to increase the minimum distribution requirement and to ensure that excessive administrative expenses do not count towards that minimum.

B1. Reform foundation payout exclusions. Fixes should include:

a) Reducing or eliminating overhead from counting towards the minimum payout requirement. This would reduce incentives for exorbitant internal spending on salaries, travel, and accommodations for board members; internal programs; and other administrative costs—and would move more funds to active charities.

b) Prohibiting grants to DAFs from qualifying toward the payout requirement, since such grants fail to move money to active charities.

c) Closing loopholes that allow program-related and impact investments to be considered part of the payout allocation. Using tax-advantaged vehicles such as foundations for socially-oriented investing may have public benefits, but these activities undermine the principle of moving funds out of donor dominion in a timely way. In other words, *no* form of investment should be considered a charitable gift. Such activities can be continued, and even encouraged, but should not count toward payout.

B2. Increase the annual foundation payout requirement. We propose increasing the requirement to 7 to 10 percent of assets.

One alternative to this would be to *base payout requirement on asset value*, with the highest payout requirements for foundations with assets over $100 million. As discussed earlier, smaller foundations already typically have higher payout rates than larger foundations.

A third alternative would be to *link the excise tax on foundation investment income to payout*. Foundations currently pay an annual 1.39 percent federal excise tax on income their net investment earnings. The excise tax could be restructured to encourage larger annual disbursements; for example, foundations that paid out over 7 percent of their assets could be exempted from the excise tax.

B3. Eliminate the perpetual foundation. This would require the charters of all future private foundations to include a limited lifespan provision. The idea that foundations should exist in perpetuity is in fundamental conflict with their tax-deductible status. The deductibility of gifts to foundations—which is entirely subsidized by the American public—is predicated on donors surrendering dominion and control over their donated funds, and the use of those funds to serve the public interest in a timely way. Taxpayers should not be required to subsidize privately-controlled foundations in perpetuity, since they receive no commensurate benefit from them.

An alternative to this would be to *create a Limited Lifespan Foundation status* that is subject to a lower excise tax rate. These limited-lifespan foundations would be chartered to exist for less than 25 years.

C. Reforms to donor-advised funds

Donor-advised funds (DAFs) have been able to take advantage of rules governing public foundations to establish private giving accounts with no payout requirement,

few transparency and reporting provisions, and other abuses of the public trust. The "donor-advised" descriptor is essentially a fictional notion, since the donor continues to control the destination of their gifts and, often, the investment practices of the fund. To protect the interests of the taxpaying public, Congress must address the fundamental design flaws in the DAF system as follows:

C1. Require a donor-advised funds payout. Require that donor-advised funds pay out donations within three years after donations have gone into the fund. DAF sponsors would set up sub-accounts under each fund for each calendar year, and monitor the payout schedule on each sub-account.

C2. Allow the tax deduction to be taken only after the distribution of funds to an active charity, not to another DAF or impact investment. Currently, donors take their tax deductions when their donations go into the DAF, giving them no incentive to move funds out to working charities.

C3. Exclude impact investments from DAF payout. DAFs should be used as short-term intermediaries for transferring funds to charities; to ensure that these tax-deductible donations serve the public interest, revenue should not be warehoused in the DAF for more than a few years. And DAFs should not become vehicles for tax-advantaged investment decisions by their donor-advisers, no matter how socially beneficial. Individuals who wish to engage in social impact investments should either make alternative investments using their personal funds, without taking the charitable deduction, or make equity contributions to impact funds, giving up dominion and control over the destination of those funds when they do so.

There are existing DAFs that have assets tied up in multi-year impact investments and are not able, in the short-term, to pay out funds. These DAFs could be exempted from the new rules.

C4. Tighten requirements around donations of non-cash assets. In order to prevent abuses of the charitable deduction, we need to revise the rules for donations of certain forms of non-cash appreciated property such as art, jewelry, real estate, and cryptocurrency to DAFs. A deduction could still be allowed based on the asset's appreciated value rather than its cost basis, but the value would be calculated upon the exit of funds from the DAF rather than on entry—and so might even result in a value lower than the cost of the asset.

C5. Increase DAF transparency and reporting. Donations to and from DAFs should be required to be publicly disclosed and reported on an account-by-account basis, along with payout rate. This could be done in such a way to protect anonymous givers.

D. Reforms to broaden giving and reverse top-heavy philanthropy

As our report argues, long-term declines in charitable giving by lower-dollar givers are less a result of tax policy and more a reflection of growing income inequality and declining economic security. The only real way to broaden charitable support is to foster an economy that supports a stable and secure middle class, and to ensure that they have disposable income to donate to charity. For this reason, policies to increase donor tax incentives should be carefully structured so that they do not further subsidize households in the top 10 to 20 percent of income and assets. And they must balance private incentives for private charitable giving with the need for public revenues to support public services.

D1. Create a universal giving tax credit. Encourage giving by all with a tax credit for any households that dig deep and give more than 2 percent of their adjusted gross income. Extending the charitable deduction to non-itemizers could bring in up to $36.9 billion in charitable giving in 2021 and add an additional 10.6 million U.S. households to charitable giving rolls.[93]

E. Reforms to prevent abuse and encourage transparency

A number of actions should also be taken to restore public trust in foundations and the charitable giving sector as a whole after decades of opaque activities. This would include reducing the politicization of charities and increasing transparency into the "dark money" world.

E1. Require board independence. Reduce the risk of self-dealing by eliminating compensation for foundation board members and trustees and requiring independent boards. If a charity is truly a public interest organization by virtue of its advantaged tax status, it should not have a board composed entirely of family members and paid staff. Charitable foundation boards should have independent boards with rules similar to those governing public corporation boards in many states.

E2. Impose a ban on compensating family members. There should be an outright ban on compensation to family members for foundation services.

E3. Prevent the politicization of charities. Ensure that Congress doesn't eliminate the Johnson Amendment, which would overturn the rule that prohibits charities from supporting or opposing candidates for public office.

E4. Shine a light on dark money. Require the disclosure of donors to 501(c)4 corporations, which serve as a key mechanism for dark money donations from both the right and the left. While donors to 501(c)4 corporations don't claim a tax deduction, they can anonymously use them to give unlimited funds to influence issue work and campaigns.

F. Reforms to fiduciary rules

F1. Reform state laws governing endowments and charities to allow for more flexible payout. Federal and state laws may need to be revised to allow for increased payout of charitable funds independent of economic conditions (expanding on the Uniform Prudent Management of Institutional Funds Act).

F2. Expand definitions of fiduciary duties to include mission alignment considerations. Foundations should have latitude in their investment policies and practices to exclude investments in socially injurious companies and enterprises that are not aligned with their missions. Again, per our earlier recommendation, no investment programs could count toward payout.

G. Creation of a New Oversight System for Foundations and Charities

The charitable nonprofit sector is a large segment of the U.S. economy. It accounts for over 10 percent of the private workforce and contributes 5 percent to the gross domestic product. Yet public oversight of the sector is severely lacking. The offices of state attorneys general typically have small charity divisions with few resources devoted to oversight. As a result, they are ill-equipped to oversee charities registered in their states.

The U.S. Treasury Department and the Internal Revenue Service are charged with certifying tax exemption and overseeing charitable giving, but they are also constrained in the resources allocated to enforcement, especially with severe cutbacks to the IRS.[94] From their vantage point, investigating charitable abuses is a resource-intensive sideline with little revenue payoff.

The good news is that the foundation sector provides substantial federal revenue itself with which to fund an oversight body. Revenue from the excise tax on the net

investment income of foundations was $581.6 million in 2016, the most recent data available.[95]

> **G1. Create a new Office of Charity Oversight.** Use excise tax revenue from foundations to fund a new independent watchdog organization, removing that responsibility from the IRS. This new regulatory body would have broad authority to not only to support the nonprofit sector and increase its effectiveness, but also to hold it accountable.
>
> **G2. Provide block grants to state oversight offices.** The new Office of Charity Oversight could allocate a portion of excise tax revenue to state level oversight offices. Funds could be block-granted to states depending on the size of their philanthropy and charity systems.

It is time for bold measures to reform philanthropy. Congress should convene hearings and advance related legislation. One helpful step could include the formation of an independent Charity Reform Commission to review the menu of proposals above. This Commission should include participants who understand the perils of the current direction of philanthropy and represent the wider public interest.

The Commission would enlist leaders within the philanthropic sector, but also draw from those concerned about democracy, the health of civil society, racial equity, economic inequality, and the integrity of the tax system and public sector investments. The Commission members should thoughtfully debate the various pathways to reform philanthropy. This assembly of the willing should avoid being paralyzed by defenders of the status quo: those benefiting significantly from tax-avoidance vehicles and self-interested legacy institutions that have historically blocked reform.

Based on the Commission's recommendations, advocates for charitable reform should press to advance related legislation.

Conclusion

Even before the Covid-19 pandemic began, growing inequities in income, wealth, and opportunity posed considerable perils to our economy, democracy, and civic life. They were already disrupting the philanthropic sector, corroding our existing systems of charitable rules, policies, and practices.

As wealth has become concentrated in fewer hands, dynastically wealthy families have gained massive and unaccountable philanthropic power. They have stockpiled ever more billions into private foundations and donor-advised funds while bestowing news-worthy mega-donations on a few fortunate organizations. They are moving away from unfettered, no-strings-attached giving and toward increased donor control over organizations, and are blurring the lines between private investment and public benefit. And, all the while, broad-based charitable giving from low- and middle-income households has continued to shrink.

It is too early to take the full measure of the effects of the COVID-19 pandemic, both on our society at large and on the charitable sector in particular. But, so far, it appears to be adding fuel to these existing trends.

In the first months of 2020, some nonprofits with missions related to pandemic relief received outpourings of increased support. But the vast majority of others are struggling to maintain revenue, often while simultaneously seeing increased need for their services.

While average Americans have been hit hard by the economic shock associated with the pandemic, those at the top of the wealth ladder are surviving in style. During the first three months of the pandemic, 43 million Americans filed for unemployment, while U.S. billionaires saw their assets grow by $565 billion.[96] The *Chronicle of Philanthropy* reported in March that "millionaires and middle-class donors are likely to face such serious financial blows from the pandemic that charities may only be able to count on the ultrawealthy—and that will leave many organizations in the lurch."[97]

As working-class, middle-class, and even moderately-high-net-worth donors find themselves less able to donate, charities will inevitably lean even harder on their most wealthy donors. Those donors will exercise ever-increasing influence over nonprofit projects, missions, and governance. And those donors will continue to benefit from significant charitable deductions, with little to no requirement that their taxpayer-subsidized contributions provide commensurate benefit to the American public.

These trends are alarming for the health of a republic that aspires to widely held prosperity and opportunity. Although it is beyond the scope of this report, we believe the long-term trajectory of these trends will result in a shift from adequate taxation of high income and wealth to the expansion of mega-philanthropy as a method to protect private assets and interests. Government budget cuts and austerity measures will grow along with multibillion-dollar foundations. The warehousing of private fortunes will threaten equality of opportunity and basic standards of environmental protection, human dignity, and human rights.

We now stand at a critical moment of decision, and it is unlikely that past crises will offer us much guidance. As economist and philanthropic expert Patrick Rooney says, “this is not just another hurricane or another tornado or another earthquake."[98] So we must now be more creative and at the same time more expansive and inclusive than ever before. We can choose to continue along our current path, drifting further toward an oligarchy of wealth and power, with charitable institutions becoming an extension of this power. Or we can choose to move in a new direction: to rein in the negative aspects of top-heavy philanthropy, to improve the health of the charitable sector, and to reward the natural positive impulse of individuals and families to share the wealth.

End Notes

[1] National Philanthropic Trust, "2019 Donor-Advised Fund Report," 2019. Online.
[2] Press Release, "Forty U.S. Families Take Giving Pledge," August 4, 2010. https://givingpledge.org/PressRelease.aspx?date=08.04.2010
[3] Sources: Forbes Global Billionaire, March 2010 and July 17, 2020. Online. The number of billionaires has increased to 648 as of July 23, 2020
[4] See our forthcoming Inequality Brief, "The Giving Pledge at 10," Institute for Policy Studies, August 4, 2020. This data is a preview of that briefing.
[5] Roger Colinvaux and Ray D. Madoff, "Charitable Tax Reform For the 21st Century," *Tax Notes*, No. 164 1867, September 16, 2019. Online.
[6] *Giving USA: The Annual Report on Philanthropy for the year 2017 (2018)*. Chicago: Giving USA Foundation, p. 40.
[7] *Giving USA: The Annual Report on Philanthropy for the year 2018 (2019)*. Chicago: Giving USA Foundation, pp. 79-80.
[8] Joint Committee on Taxation, "Tables Related to the Federal Tax System as in Effect 2017 through 2026," Senate Finance Committee, April 24, 2018, p. 6. Online.
[9] Tax Policy Center, "Key Elements of the U.S. Tax System," Urban Institute and Brookings Institution, 2020, Accessed May 29, 2020. Online.
[10] IPS Analysis of Filing Season Statistics, "Mid-November Filing Season Statistics by AGI," Internal Revenue Service. Accessed June 19, 2020. Online.
[11] "*Giving USA 2019*: Americans gave $427.71 billion to charity in 2018 amid complex year for charitable giving," Giving USA Foundation, June 18, 2019. Online.
[12] Emily Haynes and Michael Theis, "Gifts to Charity Dropped 1.7 Percent Last Year, says 'Giving USA'," *Chronicle of Philanthropy*, June 19, 2019. Online.
[13] Michael Theis, "Tax Law Could Slash Giving by $19 Billion a Year, Report Says," *Chronicle of Philanthropy*, June 7, 2019. Online.
[14] "Impact of the Pandemic & Economic Shutdown on the Nonprofit Sector," Charity Navigator, April 17, 2020. Online.
[15] Jaimi Dowdell and Benjamin Lesser, "COVID-19 crisis strains needy and groups that help them," Reuters, April 16, 2020. Online.
[16] "*Giving USA 2020*: Charitable giving showed solid growth, climbing to $449.64 billion in 2019, one of the highest years for giving on record," Giving USA Foundation, June 16, 2020. Online.
[17] Emanuel Saez and Gabriel Zucman, "Wealth Inequality in the United States since 1913: Evidence from Capitalized Income Tax Data," *Quarterly Journal of Economics*, May 2016. Online.
[18] Chuck Collins, Omar Ocampo, and Sophia Paslaski, "Billionaire Bonanza 2020: Wealth Windfalls, Tumbling Taxes, and Pandemic Profiteers," *Institute for Policy Studies*, April 23, 2020. Online.
[19] 1989 and 2018 percentages from *Giving USA: The Annual Report on Philanthropy for the year 2018 (2019)*. Chicago: Giving USA Foundation, pp. 21 and 342. 2019 percentage from *Giving USA: The Annual Report on Philanthropy for the year 2019 (2020) Key Findings*. Chicago: Giving USA Foundation, p. 22.
[20] Public data prepared by Xiao Han using survey data from the Philanthropy Panel Study, a project of the Indiana University Lilly Family School of Philanthropy, and a module of the University of Michigan's Panel Study of Income Dynamics (PSID). The PSID is a biennial survey of the same 9,000 households over time. Chelsea Clark and Xiao Han, "Changes to the Giving Landscape: Giving before and after the Great Recession," Lilly Family School of Philanthropy, October 24, 2019. Online.
[21] Drew Lindsay, "How America Gives Special Report: Breaking the Charity Habit," *The Chronicle of Philanthropy,* October 3, 2017. Online.
[22] Deb Ashmore and Paige Grainger, *donorCentrics Index of Direct Marketing Fundraising: 2019 Fourth Calendar Quarter Results*, Target Analytics, April 2020. https://hello.blackbaud.com/rs/053-MXJ-131/images/Q4-19%20DM%20Index.pdf
[23] Helen Flannery and Carol Rhine, *donorCentrics Index of Direct Marketing Fundraising: 2015 Fourth Calendar Quarter Results*, Target Analytics, April 2016.
[24] *Giving USA: The Annual Report on Philanthropy for the year 2018 (2019)*. Chicago: Giving USA Foundation, pp. 56.
[25] Ibid., pp. 73-74.
[26] Helen Flannery and Carol Rhine, *donorCentrics Index of Direct Marketing Fundraising: 2015 Fourth Calendar Quarter Results*, Target Analytics, April 2016.
[27] Tax Policy Center, "Key Elements of the U.S. Tax System," Urban Institute and Brookings Institution, 2020, Accessed May 29, 2020. Online.
[28] Drew Lindsay, "How America Gives Special Report: Breaking the Charity Habit," *The Chronicle of Philanthropy,* October 3, 2017. Online.
[29] Eden Stiffman and Emily Haynes, with data by Michael Theis, Brian O'Leary, and Tyler Davis, "Can the Boom Times Last?" Chronicle of Philanthropy, November 5, 2019. Online.
[30] Patrick Rooney, "The Growth in Total Household Giving Is Camouflaging a Decline in Giving by Small and Medium Donors: What Can We Do About It?" *Nonprofit Quarterly,* September 13, 2018. Online.
[31] IPS Analysis of SOI Tax Stats - Individual Statistical Tables by Size of Adjusted Gross Income, "Individual Income Tax Returns with Itemized Deductions: Sources of Income, Adjustments, Itemized Deductions by Type, Exemptions, and Tax Items," Internal Revenue Service. Accessed June 9, 2020. Online.
[32] *Giving USA: The Annual Report on Philanthropy for the year 2018 (2019)*. Chicago: Giving USA Foundation, p. 72.
[33] Partha Deb, et al., "Estimating Charitable Deductions in Giving USA," *Nonprofit and Voluntary Sector Quarterly*, 32 (2003), p. 553. Online.
[34] James Andreoni, "The Benefits and Costs of Donor-Advised Funds," October 29, 2017, p. 7. Online.
[35] 2005 data from Foundation Center, *Foundation Stats*. October 8, 2018. Accessed June 1, 2020. Online. 2020 data from Candid (formerly Foundation Center), *Key Facts on U.S. Nonprofits and Foundations*, April 2020, p.3. Online.
[36] Emily Haynes and Michael Theis, "Gifts to Charity Dropped 1.7 Percent Last Year, Says 'Giving USA'," *The Chronicle of Philanthropy*, June 18, 2019. Online.

[37] Ellie Buteau, Hannah Martin, and Charis Loh, "Crucial Donors: How Major Individual Givers Can Best Support Nonprofits," The Center for Effective Philanthropy, 2019, p. 22-24. Online.
[38] National Philanthropic Trust, *2019 Donor-Advised Fund Report*, 2019, p. 17. Online.
[39] Michael Theis, "10 Largest Donor-Advised Funds Grew Sharply in 2018," *Chronicle of Philanthropy*, December 10, 2019. Online.
[40] Peter Olsen-Phillips and Brian O'Leary, "How Much America's Biggest Charities Raise: 27 Years of Data," *Chronicle of Philanthropy*, October 31, 2017. Online.
[41] Chuck Collins, Helen Flannery, and Josh Hoxie, "Warehousing Wealth: Donor-Advised Charity Funds Sequestering Billions in the Face of Growing Inequality," The Institute for Policy Studies, July 2018, p. 17. Online.
[42] 2010 rates from National Philanthropic Trust, *2016 Donor-Advised Fund Report*, 2016, p. 6. 2018 rates from National Philanthropic Trust, *2019 Donor-Advised Fund Report*, 2019, p. 17. Online.
[43] Alex Daniels and Drew Lindsay, "Flush with $51 Billion, Donor-Advised Funds Face Questions about Payouts," Chronicle of Philanthropy, October 27, 2016. Online.
[44] Lewis B. Cullman and Ray Madoff, "The Undermining of American Charity," *The New York Times Review of Books*, July 14, 2016. Accessed April 7, 2018. Online.
[45] Roger Colinvaux, "Donor-Advised Funds: Charitable Spending Vehicles for 21st Century Philanthropy," *Washington Law Review* 39 (2017), April 14, 2017, p. 45. Accessed March 23, 2018. Online.
[46] Maria Di Mento, "Cultivating Major Donors is Growing More Important, Study Suggests," *Chronicle of Philanthropy*, September 24, 2019. Online.
[47] Ellie Buteau, Hannah Martin, and Charis Loh, "Crucial Donors: How Major Individual Givers Can Best Support Nonprofits," The Center for Effective Philanthropy, 2019, p. 4. Online.
[48] Association of Philanthropic Counsel and Melissa S. Brown & Associates, LLC, "2017 Major Gifts Fundraising Benchmark Study: How Does Your Organization Compare?" MarketSmart, 2017, p. 15. Online.
[49] Eden Stiffman and Emily Haynes, with data by Michael Theis, Brian O'Leary, and Tyler Davis, "Can the Boom Times Last?" Chronicle of Philanthropy, November 5, 2019. Online.
[50] Institute for Policy Studies, "Updates: Billionaire Wealth, U.S. Job Losses and Pandemic Profiteers", Accessed May 15, 2020. Online. See weekly updates at www.inequality.org.
[51] Coutts, *Coutts Million Dollar Donor 2016 Report*, University of Kent Center on Philanthropy, 2016. Online.
[52] Ibid.
[53] *Giving USA: The Annual Report on Philanthropy for the year 2018 (2019)*. Chicago: Giving USA Foundation, p. 368.
[54] *Giving USA: The Annual Report on Philanthropy for the year 2012 (2013)*. Chicago: Giving USA Foundation, p. 257.
[55] *Giving USA 2020: The Annual Report on Philanthropy for the year 2018 (2019) Key Findings*. Chicago: Giving USA Foundation, pp. 63-64.
[56] Maria Di Mento, "Philanthropy 50: Where They Live, Where They Give, and More." *Chronicle of Philanthropy*. February 11, 2020. Online.
[57] U.S. Trust and the IUPUI Lilly Family School of Philanthropy, "The 2014 U.S. Trust Study of High Net Worth Donors," October 2014, p. 7. Accessed March 21, 2018. https://philanthropy.iupui.edu/files/research/2014ustrustfinalreport.pdf.
[58] Maria Di Mento, "A Banner Year for Big Gifts in 2019, With Jim Walton and Eric and Wendy Schmidt Leading the Way," *Chronicle of Philanthropy*. December 30, 2019. Online.
[59] Maria Di Mento, "Philanthropy 50: Where They Live, Where They Give, and More," *Chronicle of Philanthropy*. February 11, 2020. Online.
[60] Steve Dubb, "Can Only the Super-Rich Save Us? If We Believe That, Our Democratic Experiment is Doomed" *Nonprofit Quarterly*, October 24, 2017. Online.
[61] Maria Di Mento, "In a Year of Record Breaking Giving, Bloomberg Tops Philanthropy 50 Rankings," Chronicle of Philanthropy. February 11, 2020. Online.
[62] "The Philanthropy 50," searchable reference of the top 50 donors in the United States, provided by the *Chronicle of Philanthropy*. Accessed May 15, 2020. Online.
[63] Ibid.
[64] Ibid.
[65] Gaby Del Valle, "Jeff Bezos's philanthropic projects aren't as generous as they seem," Vox.com. November 29, 2018. Online.
[66] Nick Tabor, "Why Philanthropy Is Bad for Democracy," *New York Magazine*. August 26, 2018. Online.
[67] Anand Giridharadas, *Winners Take All: The Elite Charade of Changing the World*, Alfred A. Knopf, New York, NY, 2018, p. 5.
[68] Ellie Buteau, Hannah Martin, and Charis Loh, "Crucial Donors: How Major Individual Givers Can Best Support Nonprofits," The Center for Effective Philanthropy. Online.
[69] According to a Foundation Center study, from 2007 to 2009, the median annual distribution rate among a large sample of foundations was 5.8 percent. Distributions varied dramatically, however, depending on the size of the foundation. For example, mid-size foundations, with assets from $10 million to $50 million, distributed 11.0 percent of their assets, while the largest foundations, with assets over $500 million, distributed only 5.4 percent of their assets each year. The minimum amount distributed during that time by the mid-size foundations was 4.8 percent, while the minimum distributed by the largest foundations was just 1.7 percent. Loren Renz, *Understanding and Benchmarking Foundation Payout*, The Foundation Center Issue Lab, September 28, 2012. Online.
[70] Paul Arnsberger, "Donor-Advised Funds: An Overview Using IRS Data," Boston College Law School Forum on Philanthropy and the Public Good, October 2015. Online.
[71] Foundation Source, *2019 Annual Report on Private Foundations*, August 2019. Online.
[72] Ana Swanson, "Wall Street is sitting on billions meant for American charities." *Washington Post*. June 21, 2016. Online.
[73] David Gelles. "Giving Away Billions as Fast as They Can" *The New York Times*. October 20, 2017. Online.
[74] Steve Dubb. "Can Only the Super-Rich Save Us? If We Believe That, Our Democratic Experiment is Doomed" *Nonprofit Quarterly*, October 24, 2017. Online.
[75] David Callahan, *The Givers*, Alfred A. Knopf, New York, NY, 2017, p. 8.

[76] Daniel Golden, *The Price of Admission: How America's Ruling Class Buys Its Way into Elite Colleges—and Who Gets Left Outside the Gates.* New York: Broadway Books, 2007.
[77] Rob Reich, "A Failure of Philanthropy: American charity shortchanges the poor, and public policy is partly to blame," *Stanford Social Innovation Review*, Winter 2005. Online. See also: Rob Reich, "Not Very Giving," *The New York Times*, September 4, 2013. Online.
[78] Jane Mayer, *Dark Money: The Hidden History of the Billionaires Behind the Rise of the Radical Right*. New York: Doubleday, 2016.
[79] Anand Giridharadas, *Winners Take All: The Elite Charade of Changing the World*, Alfred A. Knopf, New York, NY, 2018, p. 8.
[80] For examples of these abuses, see Chuck Collins, *Born on Third Base: A One Percenter Makes the Case for Tackling Inequality, Bringing Wealth Home, and Committing to the Common Good* (White River Junction, VT: Chelsea Green, 2016), Chapters 10 and 11.
[81] Roger Colinvaux and Ray D. Madoff, "Charitable Tax Reform For the 21st Century," *Tax Notes*, No. 164 1867, September 16, 2019. Online.
[82] *The Economist*, "A Philanthropic Boom: 'Donor-Advised Funds,'" March 23, 2017. Accessed March 24, 2018. Online.
[83] Fidelity Charitable Gift Fund, "2016 Giving Report," 2016, p. 3. Accessed March 25, 2018. Online.
[84] James Andreoni, "The Benefits and Costs of Donor-Advised Funds," October 29, 2017, p. 38. Online.
[85] James Andreoni, "The Benefits and Costs of Donor-Advised Funds," October 29, 2017, p. 10. Online.
[86] 2018 tax return of the Conrad N. Hilton Foundation, https://projects.propublica.org/nonprofits/display_990/943100217/02_2020_prefixes_91-94%2F943100217_201812_990PF_2020021417148312
[87] David A. Fahrenthold, "Trump agrees to shut down his charity amid allegations that he used it for personal and political benefit," The Washington Post, December 18, 2018. Online.
[88] Helen Flannery and Chuck Collins, "Increasing Private Foundation Payout," Policy Brief, Institute for Policy Studies, April 2020. Online.
[89] National Philanthropic Trust, "2019 Donor-Advised Fund Report," 2019. Online.
[90] National Philanthropic Trust, "2019 Donor-Advised Fund Report," 2019. Online.
[91] Helen Flannery and Chuck Collins, "Increasing Private Foundation Payout," Policy Brief, Institute for Policy Studies, April 2020. Online.
[92] Emmanuel Saez and Gabriel Zucman, "Progressive Wealth Taxation," Brookings Papers on Economic Activity, Conference Drafts, September 5-6, 2019. Online.
[93] Indiana University Lilly Family School of Philanthropy, "Charitable giving and tax incentives: Estimating changes in charitable dollars and number of donors for five policy proposals," 2019. Online.
[94] Senator Ron Wyden quoted in a new Pro Publica report: "It's a national scandal that the wealthy are stealing tens of billions from American taxpayers," Wyden said. "Paying taxes has become increasingly voluntary for those at the top. … The IRS needs to tackle this challenge head on, and one of my top priorities if Democrats take control of the Senate will be to rebuild the IRS." Online.
[95] In 2016, domestic private foundations paid a total of $581,621,000 in excise taxes on net investment income. Internal Revenue Service, "Domestic Private Foundations" in "Number and Selected Financial Data." Link for 2016, cell V11, "Excise tax on net investment income, Total." Online.
[96] Matt Egan, "US billionaires have regained $565 billion in wealth since the pit of the crisis," CNN Business, June 5, 2020. Online.
[97] Maria Di Mento and Eden Stiffman, "Charities will rely More Heavily Than Ever on the Superrich," *Chronicle of Philanthropy*, March 31, 2020. Online.
[98] Eden Stiffman, "What Happened to Giving After Past Disasters," *Chronicle of Philanthropy*, March 24, 2020. Online.