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Charity Begins in Washington, D.C.

EDWARD L. RUBIN†

Why is it, I've been wondering, that proposals by various political figures to encourage private philanthropy get me so annoyed? After all, I'm a firm believer in the value of philanthropy, and would adamantly oppose any suggestion that the current level of encouragement—that is, the tax deduction—be decreased. To begin at the crassest, but, perhaps for that very reason, the most important level, private philanthropy pays a significant portion of my salary. Penn Law School, like virtually every other division of a private university these days, can't survive on its tuition receipts, and depends on contributions to meet its expenses. Boalt Hall, where I used to teach, is part of a public university, but like most major public universities, it relies on private contributions as well. Moreover, I make modest but regular contributions to environmental organizations, human rights organizations, and other organizations that advance my political commitments, and I realize that these organizations are completely dependent, on other, less modest contributions. I think that I've even gotten over some of my irritation at my alma mater for not going coed until after I left, and I give them some modest contributions as well, although (it's Princeton) they don't exactly need the money. I don't give to cultural organizations like the symphony and the opera, I admit, but I like to go, and I like the idea that they exist even more. I recognize that they too, despite their sky-high ticket prices, depend upon private giving for their continued existence. So why is it that when I hear George Bush and other politicians of his ilk extol the virtue of private philanthropy, I want to stomp on their faces?

One possible answer lies in Bush's Faith-Based Initiatives program, an obvious effort to play the religion card in

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politics.¹ As a member of a religious minority group, and an extensively persecuted one over the course of history (Jews, in case you're still wondering), I'm a firm believer in the wisdom of separating church and state. In addition, I don't like Bush. But Bush's program is a small and recent blot on a large subject matter, and cannot really be responsible for my general aversion to calls for increased reliance upon private giving. The program's managerial vicissitudes, from the wounded innocence of its first director, John DiIulio, who resigned when he made the amazing discovery that it was actually being used for political purposes,² to the doctored evaluations that proclaim its success, to its failure to devise any accountability mechanism that isn't either overly lax or excessively intrusive, suggest that it may not survive under a more responsible administration.³ But private philanthropy gives every indication of continuing forever. Besides, Faith-Based Initiatives don't encourage private giving in the direct sense that the tax deduction does; rather, they simply remove some of the controls on granting public funds to religious organizations for programs that were already in existence. Thus, their main effect is to allow a church to hand out religious tracts with the soup, or to restrict the soup-serving jobs to members of its own denomination.

The real explanation for my reaction, I've concluded, is a question of morality, a subject that, like violence, is a very productive source of anger. More specifically, the explanation lies in the moral status of private philanthropy. As I will discuss in this Essay, it seems to me that an exploration of this question tells us some very basic things about

1. See Exec. Order No. 13,199, 3 C.F.R. 752 (2001) (Establishment of White House Office of Faith-Based and Community Initiatives); Exec. Order No. 13,279, 67 Fed. Reg. 77,141 (Dec. 16, 2002) (Equal Protection of the Laws for Faith-Based and Community Organizationa). For a description of the programs funded, see *White House Office of Faith Based and Community Initiatives*, available at <http://www.whitehouse.gov/government/fbci/grants-catalog-index.html> (last visited Aug. 1, 2004).

2. See Ron Suskind, *Why Are These Men Laughing*, ESQUIRE, Jan., 2003, at 96; Joe Conasono, *Shutting Down A Truth Teller*, NEW YORK OBSERVER, Dec. 9, 2002.

3. See JO RENEE FORMICOLA, MARY C. SEGERS & PAUL WEBER, FAITH-BASED INITIATIVES AND THE BUSH ADMINISTRATION: THE GOOD, THE BAD, AND THE UGLY (2003); Mark A.R. Kleiman, *Faith-Based Fudging: How a Bush-Promoted Christian Prison Program Fakes Success by Massaging Data*, available at <http://slate.msn.com/id/2086617/> (last visited Aug. 1, 2004).

the complex and crucial interaction between the administrative state and private morality. With respect to philanthropy itself, my conclusion is that our moral obligations, as reflected in the prevailing belief system of people in the Western world, once required us to engage in private philanthropy of certain kinds, but no longer impose any such requirement. Our current moral obligation, as citizens of an administrative state, is to vote for expansive public welfare and foreign aid programs, and for those who would advance them. Thus, it seems to me that the reason why political exhortations to rely on private charity seem so irritating is that they are basically immoral. Conservative politicians these days have taken to using WWJD, What Would Jesus Do, as both a slogan and a decision-making guide. My argument in this Essay is what Jesus would want us to do is vote these politicians out of office.

I. THE NATURE OF PHILANTHROPY

I will not attempt any elaborate definition of philanthropy, since this Essay is about the basic idea of philanthropy, not its precise boundaries. The standard view is that philanthropy involves a voluntary donation, that is, transferring something of value without either receiving a direct benefit for giving it, or suffering a direct sanction for failing to do so. Both components of this definition are subject to innumerable complexities, of course. When a person relinquishes possession of his car in return for its market value in cash, the donative element is absent, and the transaction is regarded as exchange, not philanthropy. But there is often an element of exchange in philanthropic actions; every year, I get a calendar from the environmental groups I contribute to, and when I increase my contribution, I get a T-shirt. People who give a lot of money to these organizations get invited to a fancy dinner. The philanthropic contribution in these circumstances is not the amount paid but the total amount less the value of the dinner, a principle recognized in so mundane a source as the U.S. Tax Code.⁴ In addition, those who make significant donations are often rewarded with non-material benefits of various kinds; they receive an award, or an event is held in their honor. It is well known that most universities have barely-

4. See 26 C.F.R. §§ 1.170A-1(h), 1.170A-13(f)(6) (2003).

concealed price lists for their honorific appellations—for ten million dollars, you can have a building named after you, while five hundred thousands gets you a classroom, and ten thousand gets you in a little bench in some badly illuminated hallway. Given the marginal utility of money, these architectonic recognitions may generate more benefit, more utiles, for the donor than cash in the bank or securities in an account. But we still recognize the contribution as a form of philanthropy.

The idea that the donation must be voluntary raises further complexities, as the notion of voluntariness generally does. Clearly, employees who are threatened with termination unless they spend one weekend day working without pay at their employer's favorite charity are not contributing voluntarily, and would typically be regarded as victims, not philanthropists. The liturgies of ancient Athens, which consisted of equipping a trireme or producing the plays at a festival, began as philanthropy, but by the late fifth century had become obligatory—a type of tax on wealthy citizens.⁵ In contrast, the subtle social pressures that are often brought to bear on potential donors (87% of your classmates contributed; your mother said, before she died, that she wanted to support the opera) are not usually regarded as sufficiently coercive to deprive a contribution of its philanthropic character. For many years, the Catholic Church threatened its members with perdition if they failed to contribute, but this threat, like the converse enticement that a contribution would ensure one's place in heaven, are too dependent upon personal belief to constitute either coercion or exchange. Thus, if you are promised eternal bliss in exchange for your contribution, you are still regarded as engaging in philanthropy, but if you are promised the food concession at the church cafeteria, you are engaged in bribery.

While these general criteria for philanthropy may be sufficient for analytic philosophy, they are only the starting point for social theory. For this latter purpose, it is important to identify different types, or objectives, of philanthropy. In our modern world, private giving tends to fall into three basic categories: institutional, ideological, and charitable. While there are certainly exceptions, the identi-

5. JOINT ASS'N OF CLASSICAL TEACHERS, *THE WORLD OF ATHENS: AN INTRODUCTION TO CLASSICAL ATHENIAN CULTURE* 228-30 (1984).

fication of the major categories will be useful for further discussion.

Institutional giving is motivated by the desire to support an institution itself, rather than some more general or abstract social purpose. At present, it can be further divided into donations to educational, religious, and cultural institutions. People contribute to these institutions because they want a particular institution to prosper; the commitment is specific in nature, and often based on affective bonds to one's past or present experience or locality. A person who contributes to the University of Pennsylvania will typically feel a commitment to the institution because she attended it, or because it is the leading university in Philadelphia. Of course, Penn's basic purpose is education, and a donation to Penn will necessarily further that goal, even if it is restricted to some ancillary function such as the student center or the basketball team (which, by the way, regularly beats Princeton). Very often, the appeal will be buttressed by referring to such goals. But the donor intends to support Penn as an institution, rather than education in general. One common basis of the University's appeal to the donor, for example, might be that her gift will help Penn surpass its rival institutions (Princeton, let's say) in some particular academic field. That would be good for Penn, or for Philadelphia, but it would not provide any general benefit for American higher education.

Ideological giving is based on an opposite motivation. The donor is committed to a particular issue and her contribution is primarily designed to move public policy in a direction that her commitment indicates. Of course, she will typically give her contribution to an institution of some sort—a political party, a lobbying group, or some other kind of social action organization—but she chooses these institutions because she considers them the most effective way of advancing the issue, not because she values for their own sake. To be sure, an ideological contributor may give regularly, and even loyally, to a specific institution, but her loyalty will generally be based on its past achievements in advancing the issue, its future promise of doing so, or its present intensity of commitment. If one accepts the familiar division of society into political, economic and social

spheres,⁶ another feature that distinguishes between these two forms of private giving is that institutional giving tends to be restricted to the social sphere, or civil society. Ideological giving begins in the social sphere, but its purpose, and the purpose of its recipient institutions, is to produce political results.

The third type of private philanthropy is charitable giving. Its purpose is to assist those in need, those people who lack things that are regarded, within a given society, as the basic necessities of a minimally acceptable existence.⁷ Such assistance is generally conceived as an act of generosity by persons who are more fortunate than the recipients. Assistance to an equal, such as a frontier barn raising, or alliance for defense against a threat, is typically not conceived as charity, perhaps because the recipient's equality creates the expectation that compensatory assistance will be provided to the donor at some future time. Thus, the donative element is absent, and the action is more typically described as mutual assistance or cooperation.

Charity is typically based on an inequality of wealth, since almost any particular need can be satisfied with money in a modern, market-based society. For this reason, most charity is provided in the form of monetary transfers these days. An exception, however, involves body parts, such as organs or blood, which cannot be supplied, or supplied as effectively, through market mechanisms.⁸ Here the inequality involves physical health, and the dominant form of charity consists of in-kind contributions. There is also a long tradition of aiding the poor through in-kind contributions, such as donating clothing, or through direct personal service, such as providing food, education, or health care. Institutional and ideological giving may also involve personal service, of course; people volunteer to be ushers or ticket takers at cultural events, or to act as fund-raisers, recruiters or demonstrators for a lobbying group. There may

6. See JEAN L. COHEN & ANDREW ARATO, *CIVIL SOCIETY AND POLITICAL THEORY* (1992); 2 JURGEN HABERMAS, *THE THEORY OF COMMUNICATIVE ACTION: LEIFEWORLD AND SYSTEM: A CRITIQUE OF FUNCTIONALIST REASON* (Thomas McCarthy trans., 1987); NIKLAS LUHMANN, *SOCIAL SYSTEMS* (John Bednarz, Jr. trans., 1995).

7. The concept of needs has been a philosophically controversial one. For a defense of this concept, and a theory of its scope, see DAVID BRAYBROOKE, *MEETING NEEDS* (1987).

8. See RICHARD M. TITMUS, *THE GIFT RELATIONSHIP: FROM HUMAN BLOOD TO SOCIAL POLICY* (Ann Oakley & John Ashton eds., The New Press 1997) (1970).

be a slight tonal difference, in that those performing charity through personal service are doing part of the essential task, whereas those volunteering for an cultural institution or ideological organization are providing supportive services so that the essential task can be carried out by paid employees. But this principle is subject to exceptions—parents who serve as classroom assistants in their child's private school, for example—and it is probably too subtle to serve as a useful distinction between different forms of philanthropy.

There are grounds on which charitable giving can be usefully distinguished from both institutional and ideological, however. While charity is typically channeled through institutions, it is distinguished from institutional giving by the motivation of the donor. The basic aim of charity is to aid the poor or the sick in some fashion, not to benefit the institutions to which the gift is initially directed. This emphasis on the objective, rather than the institution, is also true of ideological giving; what distinguishes charity from this form of philanthropy is that charity is motivated by the specific goal of helping the unfortunate, and does so by transferring the donor's monetary resources or personal services to them. Ideological giving might also be designed to aid the poor or sickly, but it would do so by trying to persuade the government to transfer public funds or services to them, not by transferring the donor's funds or services; in other words, charitable giving, like institutional giving, remains with the social sphere, or civil society, instead of crossing over into politics.

Philanthropy is a culturally-dependent mode of behavior. Analytic philosophers have expended a considerable amount of energy on efforts to develop generalized, culture-independent definitions of moral obligation,⁹ but the issue here involves the moral obligations of people in their present context, which for us is a modern administrative state. This issue can be addressed directly, without trying to decide whether the same moral obligations that apply to us would also apply to the Trobriand Islanders or the ancient

9. For some recent examples that are relevant to this discussion, see HADLEY ARKES, *FIRST THINGS: AN INQUIRY INTO THE FIRST PRINCIPLES OF MORALS AND JUSTICE* (1986); ROBERT GOODIN, *PROTECTING THE VULNERABLE* (1985); JOHN RAWLS, *A THEORY OF JUSTICE* (1971).

Harappans.¹⁰ In any event, the particular forms of philanthropy are clearly dependent on the cultural context. Even if there were some trans-cultural philanthropic instinct, its manifestations will depend upon the values and needs of each particular society

Thus, institutional giving is governed by the types of the institutions that exist in society and the mode of support that they receive. In ancient Rome, one prevalent form of private giving consisted of sponsoring lethal sporting events, animal torture and mass executions;¹¹ in early fifth century Athens, as already mentioned, philanthropy often involved provisioning a warship. Today, however, the Roman circus is rejected as a moral outrage, the consequence of a violent, debased sensibility. Warships, unfortunately, are not so regarded, but the funds for outfitting them come from the government, which obtains these funds by coercive taxation, a device that even Athens ultimately found itself required to employ. As a result, no cultural tradition exists in modern countries to make philanthropic contributions to the navy. Proceeding to more familiar cases, scientific discovery is regarded as an intellectual achievement equal to artistic creation in merit and value, but, independent research laboratories, like warships, are funded largely by the government, and thus not generally treated as an object of philanthropy. Higher education is certainly an object of philanthropy in the United States, but not in many European nations, where all major universities are government-supported.

In general, there is a complementary relationship between institutional philanthropy and government support. Some institutions are supported by the government, using funds that it collects through its coercive authority, while others are supported by private donors. The particular distribution of institutions between these two categories varies greatly among cultures, within a single culture over time,

10. Rawls retracts any implied claim to the universality of his book, see RAWLS, *supra* note 9, in a more recent work. JOHN RAWLS, *POLITICAL LIBERALISM* XIV-XVII (1993). ARKES, *supra* note 9, at 134-58, argues strongly against cultural relativism. I don't need to enter into this debate for purposes of the present discussion. My only concern is our own society; whether anything I say is capable of general application (which I doubt, by the way) is simply beyond the scope of this Essay.

11. See ROBIN LANE FOX, *PAGANS AND CHRISTIANS* 54-55 (1986); DANIEL P. MANNIX, *THE WAY OF THE GLADIATOR* (ibooks, inc. 2001) (1958).

and even within different parts of a single culture at a given time. Nor is it always the case that the two types of funding are mutually exclusive. In the present-day United States, art and performing art institutions that are heavily supported by private donations also receive government grants, while public universities, as noted above, depend increasingly on private donations to supplement the tax revenues that they receive. President Bush's Faith-Based Initiative program is designed to channel public funds to functions that are presently supported by private donations to religious institutions. Thus, the basically complementary character of public support and private giving is subject to all the complexity and particularity that characterizes the cultural panoply of a sophisticated mass society. Explanations for these variations can be found, of course. Public universities in the United States seek private funds because they are following the dominant model of private universities that have long depended on such funding, and, indeed, are often named after their donors.¹² In contrast, while public universities in most Continental European countries may experience the same vicissitudes of funding as those in the U.S., they have long been the dominant, most prestigious institutions of their kind within their country, and there is a prevailing cultural expectation that they will be funded by the government.

Ideological giving is also highly dependent on cultural context. Unlike bribery, which can almost always be found when there is a government that controls wealth or access to wealth, ideological giving is rare in many forms of government, including dictatorships and direct democracies. Dictatorships lack the open political debate to which this sort of giving is directed; direct democracies are the classic setting for such debate, but they are typically small entities where the debate can be informal, personal and unprofessional. Modern mass republics, however, feature lively, open political debate directed to elected or appointed officials, to citizens who can influence these officials by their commitment and mobilization, and to the media, which can influence both the citizens and the officials. Moreover, the pragmatic, instrumental world-view that was at least par-

12. New institutional sociologists refer to this phenomenon as institutional isomorphism. See Paul DiMaggio & Walter Powell, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*, in *THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS* 63-82 (1991).

tially responsible for the creation of our technological economic system and our administrative political system focuses this political debate on empirical issues that include data about scientific phenomena, social science phenomena, and public attitudes. Debate of this kind requires money. Only full-time professionals can effectively lobby elected and appointed officials, mobilize citizens and re-direct media coverage. Only such professionals can collect and present the data that is so crucial to the discourse of this debate. Ideological giving is thus a by-product of modern mass technological culture and an administrative republican state.¹³ The underlying instinct—we want our side to prevail—may be nearly universal, but the particular manifestation of this instinct depends on the prevailing political culture.

Charitable giving is equally dependent on culture for both its subject matter and its form. It may be directed toward the needy as a matter of definition, but need, despite its biological foundation, is a socially constructed category. To the standard triumvirate of basic necessities—food, clothing and shelter—modern society has added health care and education.¹⁴ Moreover, shelter in modern society almost certainly includes utilities such as water, electric service and telephone service, all of which would have been deemed luxuries a century ago, and as beyond the conceivable extent of necromancy two centuries before that.¹⁵ In the future, perhaps an Internet connection, an intelligent home, and a personal robot will be regarded as basic necessities of life; E.M. Forster's classic science fiction story, *The Machine Stops*, imagines a future world where humans live inside

13. See HANNAH ARENDT, *THE HUMAN CONDITION* (1958); JURGEN HABERMAS, *THE STRUCTURAL TRANSFORMATION OF THE PUBLIC SPHERE: AN INQUIRY INTO A CATEGORY OF BOURGEOIS SOCIETY* (Thomas Berger trans., 1989).

14. See BRAYBROOKE, *supra* note 7; ROBERT GOODIN, *REASONS FOR WELFARE: THE POLITICAL THEORY OF THE WELFARE STATE* (1988); HENRY SHUE, *BASIC RIGHTS: SUBSISTENCE, AFFLUENCE AND U.S. FOREIGN POLICY* (1980).

15. David Schmitz, for example, argues that the poor in our society are not really in bad shape because, as of 1994, 60% of poor households own a microwave oven. David Schmitz, *Taking Responsibility*, in *SOCIAL WELFARE AND INDIVIDUAL RESPONSIBILITY* 41-42 (1998). He has forgotten that this device, which seemed like a scientific marvel forty years ago, is now a completely standard item, and, in fact, may be a poor person's substitute for a functional stove. The fact that a family has a microwave (you can get an Emerson 900 watt MW8987B at Target for \$45) does not mean that it has a decent home to put it in, or adequate food to put into it.

electronically interconnected rooms and have lost the ability to walk.¹⁶

The form that charity assumes is equally variable. In some cases, as already discussed, it takes the form of a monetary transfer, while in other cases it involves in-kind contributions of food, clothing or health services. The choice between the two depends on the extent to which the society has a money economy (ancient Egypt, for example, did not have money at all), on the social meaning of money,¹⁷ on the proximity of the donor to the recipient, and on a variety of other factors. Either type of charity can be given directly, that is, from one individual to another, or through some institution. In the ancient world, the principle institution that channeled charitable funds was the city; in the medieval world, it was, of course, the Catholic Church. Religious institutions continued to dominate after the Reformation, but the secularism that began in the eighteenth century, and the instrumentalism that followed in the nineteenth led to the creation of many charitable institutions that had either attenuated connections to religion or none at all.

II. PHILANTHROPY AND MORALITY

Having briefly described the nature of philanthropy, I can now turn to the relationship between philanthropy and morality. I will not begin from first principles, however. This is not a philosophic inquiry but a social analysis. I am not attempting to explore the implications of some particular moral system, such as utilitarianism, realism or contractarianism, for the issue of philanthropy. Such an inquiry would fail to address the question that this Essay poses, which is the general relationship between philanthropy, morality and the modern state. Instead, I will begin from the complex cluster of moral ideas that prevail in the contemporary Western world. For example, the prevailing view is that ownership of private property is justified, and that at least some inequalities of wealth are justified as well. If we had a different social consensus, such as radical egalitarianism, where everyone is supposed to have the ex-

16. E.M. FORSTER, *SELECTED STORIES* (David Leavitt & Mark Mitchell eds., 2001). This story was freely adapted as a movie, *THX 1138* (Warner/American Zoetrope, 1970) (George Lucas, director), George Lucas's first film.

17. See VIVIAN ZELIZER, *THE SOCIAL MEANING OF MONEY* 119-69 (1994).

act same amount of wealth,¹⁸ then the relationship between morality and philanthropy would be completely different.

Philanthropy in general is regarded as a moral good in our society, but on examination, its connection to morality, while certainly non-negligible, turns out to be surprisingly attenuated. The reason is that the moral virtue of philanthropy, in general, cannot reside in the benefits it provides to its recipients. This is not because giving sometimes goes awry, resulting in more harm than good. That does occur, and this issue will be discussed below, but it would be difficult to argue that deleterious donations are so common that they undermine the value of philanthropy in general. The assiduousness with which most potential recipients pursue donations is sufficient to preclude this possibility. There is, however, a more basic reason for the parlous relationship between philanthropy and morality. It is not that philanthropy confers no benefits, but that its recipients are so varied that no system of morality can declare them all morally worthy of being benefitted.

Consider institutional philanthropy. While most systems of morality would see nothing wrong in making donations to educational or cultural institutions, with one possible exception to be discussed below as well, they would not regard such donations as a moral obligation. Instead, these donations are a classic case of supererogatory action. It probably does no harm to give money to the opera, and it certainly benefits the relatively small but still significant number of people who attend, but few systems of morality demand that a person support the opera, any other cultural institution, or culture in general. Such donations, after all, do not maximize utility, achieve social justice, support equal respect for human beings, or fulfill most other basic moral principles.

A stronger case might be made for the moral status of donations to religious institutions. There is, however, a serious difficulty, which may be described as the problem of inconsistent beneficiaries. The Western world contains many different religions, and these religions, unlike the supernatural cults of ancient Greece and Rome, claim exclusivity for their own theological position. Thus, any moral

18. This is Nozick's nightmare, see ROBERT NOZICK, *ANARCHY, STATE, AND UTOPIA* (1974), but it is not a particularly common position among modern theorists.

commitment that makes contribution to one religion obligatory is unlikely to extend to others. Someone may believe that it is morally obligatory to contribute to his particular church, because that church represents the true religion, but cannot also believe that it is morally obligatory for others to contribute to religions that reject those very same views. Such contributions may not be regarded as morally wrong, given the pluralist inclinations of modern people, but they would not have the same obligatory status. Thus, a person is unlikely to regard institutional philanthropy in general, as opposed to support for his own religion in particular, as a moral obligation.

This problem of inconsistent beneficiaries is even more extreme in the case of ideological giving. To be sure, there are some ideologies that are supported by strong moral principles and opposed only by considerations of political or economic practicality. Few people are affirmatively in favor of cruelty to animals or pollution of the air; opposition to moral commitments in these areas comes primarily from those who do not feel them as strongly, and are unwilling to incur the costs that their full realization would entail. But many ideological positions are directly opposed to each other, a situation that simply precludes any general connection between philanthropy and morality on the basis of philanthropy's recipients. Those who favor a woman's right to choose abortion are motivated by strong moral commitments, and those who oppose it are motivated by equally strong commitments, but it is impossible for someone to be committed to both positions. As a result, one cannot regard contributions to both these positions as obligatory on the basis of the position's moral status.

If a general connection between morality and philanthropy can be found, therefore, then it must reside in the act of the donor, rather than in its effect on the recipients. In fact, such a connection exists, and has deep roots in Western culture. Philanthropy is a form of self sacrifice, the voluntary relinquishment of something that the donor finds desirable, and could use for her own comfort or convenience if she did not give it away. Whether or not the effect it produces on its recipients has moral value, the self sacrifice on the donor's part is regarded as a moral act. It indicates that she cares about others, that she does not take action solely for her own advantage, that she is an altruist. These are all traits that are valued by virtually every system of morality

that is prevalent in the Western world, including rule utilitarianism. As Richard Titmuss points out in *The Gift Relationship*, the willingness to give is a very basic social instinct, one that many people regard as central to the sense of community and cooperation on which all societies depend.

But this value, however long its pedigree, is very much attenuated in modern society. In our more pragmatic, instrumental culture, self-sacrifice for its own sake is less likely to be seen as a badge of saintliness than as a personal idiosyncrasy, bordering on the mental disease of masochism. The flagellants, anchorites, hermits, and hair-shirt wearers who were so common in the Middle Ages, and attracted admiration for their saintliness, are long gone and the audience for such self-immolative practices is gone as well. Titmuss argues persuasively that donated blood is safer and easier to manage than purchased blood, but this only underscores the strength of the modern sensibility that, outside the United Kingdom, is redefining blood as a commodity, and seeking methods other than donation to ensure its supply. None of this is to suggest that the ethic of self-sacrifice has disappeared. It remains a feature of the Western sensibility, but its force has declined, and it consequently establishes only a weak connection between philanthropy in general and our sense of moral obligation.

There is, however, one form of philanthropy that has a strong connection to morality on the basis of its effect upon recipients. This is, of course, the third of the three categories described above, namely, charitable giving. Charity is not regarded as supererogatory according to most moral systems. Rather, it is seen as an instantiation of the general moral obligation to help those in extreme need if one can do so without significant danger or inconvenience to oneself.¹⁹ Peter Singer articulates the standard view: On his way to teach his class at Princeton, he—a grown man in good health—sees a small child drowning in a shallow, ornamental pool.²⁰ Few people would question that he is morally obligated to save the child's life if the only cost to him is getting his socks and shoes wet and being late to give his lecture. Similarly, when confronted with people who are

19. See GOODIN, *supra* note 9; SHUE, *supra* note 14; PETER SINGER, *PRACTICAL ETHICS* (2d ed., 1993).

20. SINGER, *supra* note 19, at 229.

starving, homeless, or lacking medical care that could prevent their death or permanent disability, there is a strong moral argument for providing aid, at least if it can be done without causing some similar misery to the donor. This is the one form of philanthropy that can plausibly be regarded as morally obligatory, that is, the one case where the failure to provide a voluntary donation would lead us to consider someone a bad person. It is easy for theorists to concoct all sorts of elaborate moral obligations that we claim ordinary people must fulfill, but a realistic account of morality must distinguish between the optimal and the acceptable. It would be optimal if everyone with means supported their favorite cultural institution, and perhaps if they participated actively in the political life of the community. But the only refusal to provide philanthropy that people would generally regard as truly unacceptable—as truly bad—would be the refusal to help those in dire need.

Charitable giving, moreover, is free from the problem of inconsistent beneficiaries. No serious moral system says that it is wrong for Singer to go splashing into the pool to save the child, no matter how many children may be drowning elsewhere. One could argue, perhaps, that charity given to the poor or sick diverts money that could be used for other purposes, but there are few if any purposes that would take moral priority over this form of philanthropy. Moreover, charity does not impose any significant costs on other sectors of society, the way the opposition to animal cruelty or air pollution does, and whatever costs it imposes on the donor cannot be counted as a detriment so long as the donation is genuine philanthropy, that is, a voluntary gift. It would require a very robust theory of false consciousness to argue that donors should be protected from their voluntary desire to aid those less fortunate than themselves.

There are, however, some serious moral questions that the issue of private charity presents. One is the problem of effectiveness, or paradoxical results. Although it is conceivable that the child wants to die and, in fact, is better off dead, the hypothetical is set up to make such a possibility seem unlikely—although Singer, ironically, is one of the few ethicists who would argue that one should not go splashing into the pool to save a severely disabled child left there by

its parent.²¹ But more complex forms of assistance, such as charity, often raise the complex moral dilemma of the potential divergence between intention and effect. Does charity undermine the recipient's will to work? Does it create a class of permanent and demoralized dependents? Does it provide a temporary palliative that obscures the underlying misery of the recipient's condition, thereby diverting her from justified political activism? Some moralists are entirely content with good intentions, but most want to take at least some cognizance of consequences, and the consequences of charity are not necessarily as beneficial as might first appear.

A second problem that emerges from the connection between morality and charity may be called the problem of unbounded obligation. Charity is not merely virtuous, but decidedly too virtuous, too tightly bound to our core conception of moral behavior. It is a sort of morality vampire that sucks the virtue out of everything else it comes in contact with. To begin with, how can one justify any other form of philanthropy? It was stated above that most people see nothing wrong with contributions to educational and cultural institutions, but if one treats charity as a moral obligation, then institutional contributions, being supererogatory, begin to look like a self-indulgent, somewhat frivolous diversion of funds that could remedy the inanition or illness of the poor. Susan Wolf argues that this approach would require us to give up spectator sports, the theater, the opera, art museums, gourmet cooking, and much else that confers charm and texture on our lives.²² But the person who installs an attractive statue in the middle of a fountain while a small child is drowning at its base would be considered a moral monster, even though passers-by may enjoy the statue for many years to come, while the child's dead body will be quickly fished out of the fountain.²³

Even more seriously, the obligation to help those in dire need would appear to demand that more fortunate people sacrifice a substantial portion of their assets and income. According to Worldwatch Institute, Americans and Europeans spend 17 billion dollars per year on pet food—an amount that exceeds the gross national product of every

21. See *id.* at 184.

22. Susan Wolf, *Moral Saints*, 79 J. PHIL. 419, 422 (1982).

23. See SINGER, *supra* note 19, at 244.

sub-Saharan African nation other than Nigeria and South Africa, and which is nearly equal to the amount that would be required, Worldwatch says, to end world-wide malnutrition.²⁴ Pets undoubtedly add pleasure to people's lives, but how can one justify giving meat to a dog when a billion people in the world are suffering from serious malnourishment for lack of protein? The difficulty with this reasoning is that it has no stopping point short of a highly circumscribed existence, that it demands a level of self-sacrifice that few people are willing to contemplate. Singer speaks of an obligation to help those in dire need unless it involves "sacrificing anything of comparable moral significance."²⁵ This would not only preclude expenditure on luxuries such as perfume, cosmetics, pet food, and Susan Wolf's opera and gourmet cooking, but would also require people in this country to move into modest homes, drive Honda Civics and buy their clothes at K-Mart. After all, how can our desire to live in a nice house, drive a nice car, and wear non-iridescent clothes be of comparable moral significance to other people's need to obtain minimally adequate nourishment or be cured of debilitating diseases? But this level of self-sacrifice cannot be a valid description of our current moral system, and even Singer is not willing to go so far. Instead, he recommends tithing, that is, contributing ten percent of one's income,²⁶ which is not only an arbitrary figure that his own rationale cannot explain, but also a disconcertingly old-fashioned benchmark in a discussion of contemporary ethics.

A third problem with charity, as a moral obligation, may be called the problem of mixed motives. It involves the relationship between the donor and the recipient, and specifically the sense of superiority that the act of charity can confer upon the donor. This may lead the recipient to feel of sense of humiliation or subordination that is worse than cold or hunger, thus raising the problem of paradoxical results described above. But even assuming the more likely scenario that food and shelter are worth more to the recipient than a minor loss of dignity (employment, after all, also involves a loss of dignity in many cases) the subordination involved creates a moral problem for the donor. The image

24. STATE OF THE WORLD: A WORLDWATCH INSTITUTE REPORT ON PROGRESS TOWARD A SUSTAINABLE SOCIETY, (Linda Starke ed., 2004).

25. SINGER, *supra* note 19, at 229.

26. *Id.* at 246.

of the contemptuous plutocrat tossing a handful of coins at the feet of the clamoring paupers as he passes by in his landau or his limousine reflects our sense of moral ambiguity about this issue.

Flannery O'Connor's well-known story, *Everything That Rises Must Converge*,²⁷ provides a particularly vivid depiction of this issue. Julian, a young but already-unsuccessful writer, is taking his widowed mother to the Y for a weight-reducing class. They are in a Southern city in the early 1960s. Julian's mother is a member of a formerly wealthy slave-owning family that has suffered economic ruin, so much so that she must agonize about spending seven dollars and fifty cents for a new hat. She is incensed by the civil rights movement, and terrified that a black person might sit next to her on the now-integrated buses. Sure enough, "a large, gaily dressed sullen-looking" black woman and her little boy get on the bus. Julian, whose mother mortifies him as only a parent can do, vengefully hopes that the woman will sit next to his mother, but she sits next to him instead. He then realizes, to his delight, that the woman and his mother are wearing exactly the same hat, an implicit claim of equality that, to Julian's disappointment, his mother wards off with a supercilious smile. They all get off the bus at the same stop. Julian's mother decides, to Julian's further mortification, to follow her common practice and give the little boy a penny. The boy's mother reacts with rage, slugging Julian's mother and shouting, "He don't take nobody's pennies."

While Julian's mother is apparently engaged in charity, her charity is not intended to relieve distress, but to assert superiority. Her family was clearly wealthier than the black woman's at one time, but this may no longer be the case, as their identical hats suggest. Her social superiority, also unquestionable as recently as ten years before the action in the story, has been challenged by the civil rights movement. Because charity carries the implicit message that the donor is superior to the recipient, it serves as the perfect vehicle for her to counteract her loss of wealth and status. The little boy's mother understands this perfectly and refuses to tolerate it. The issue is obviously not one of paradoxical effect; the penny itself is not going to do the child any real harm,

27. Flannery O'Connor, *Everything That Rises Must Converge*, in *EVERYTHING THAT RISES MUST CONVERGE* (1965).

and his mother would be unlikely to object if he had found it lying in the street.

This is, of course an extreme example, and it would be wrong to suggest that such feelings of superiority and subordination accompany most charitable acts. To begin with, donations of blood and other body parts are generally incapable of carrying such a message, because needing the donation has no status implications.²⁸ With respect to donations to the disadvantaged, Mother Theresa certainly seemed motivated by both kindness and humility, and, in any case, we must assume she was, since you can't write an essay about charity without mentioning Mother Theresa. Loretta Schwartz-Nobel's account of American hunger relief organizations features relief workers who are clearly motivated by genuine sympathy for the recipients of their aid, often emphasizing, both to Schwartz-Nobel and to their recipients, that they themselves once suffered from hunger.²⁹ The recipients seem to get this message, and appreciate that the aid workers are often volunteers, or professionals working for meager salaries because they want to help.

Most charity that involves contact between the donor and recipient falls between these two poles. It is rare that charity is merely an assertion of superiority, but also rare that such an assertion is entirely absent from the interaction. Moreover, charity not only enables one to feel socially superior to the recipients, but also to feel morally superior one's social equals who are less beneficent. The qualities of generosity and superior status are intimately intertwined in our culture; indeed, generosity was regarded in the Middle Ages and even later as not only an obligation of nobility, or an indication of it, but its virtual equivalent.³⁰ How many donors could separate, even within their own minds, the pleasure they derive from alleviating suffering and sharing

28. Titmuss's study confirms this. The social class of the blood donors in the U.K., where the donation is a true gift, is the same as that of the recipients. TITMUSS, *supra* note 8, at 178-99.

29. LORETTA SCHWARTZ-NOBEL, *GROWING UP EMPTY: THE HUNGER EPIDEMIC IN AMERICA* (2002).

30. See MAURICE KEEN, *CHIVALRY* 155 (1984) ("Riches were for redistribution, not for re-investment: *largesse* was a quality to be expected of every nobleman."). When Lancelot sets off for Camelot, in the Vulgate Lancelot, the Lady of the Lake describes the obligations of knighthood to him. Among these, she says, is that a knight must be "compassionate towards the needy, generous and prepared to help those in need." *LANCELOT OF THE LAKE* 52 (Corin Corley trans., 1989).

their good fortune, with the pleasure they derive from knowing that they are among the magnificent few who can afford to be charitable, and among the munificent fewer who choose to do so? How many can distinguish between the gratitude and the groveling of their recipients, and truly say that they accept the first and shun the second?

But is this mixture of motives a real moral difficulty, rather than being merely an interesting psychological observation? From a deontological position, the answer is almost certainly yes. Virtually any system of deontological ethics that prevails in Western society, and more specifically, any system that would regard charity toward others as a good, is likely to count the desire to assert one's superiority over others, whether poor or rich, as evil. Such attitudes clearly violate any simple or sophisticated version of the Golden Rule, including Kant's categorical imperative,³¹ to assert one's superiority over others is to treat them as a means rather than an end. With respect to asserting superiority over the poor, it also violates ethical systems based on equal dignity of human beings, and at least runs counter to systems based on empowerment and non-exploitation, such as those proposed by Henry Shue³² and Robert Goodin.³³ From a consequentialist or utilitarian perspective, the moral failure is not quite so obvious, particularly since a utilitarian would count the donor's smug sense of superiority as a positive benefit for the donor. But those whose charity is motivated by condescension may have a strong motivation to perpetuate the dependency of their recipients, and thus direct their efforts to maintaining poverty, rather than eradicating it.³⁴

The only real antidotes to these less admirable motivations are distance and anonymity. Distance separates the donor from the objects of his charity. The more impersonal the donation, and the less its recipients are aware of it, the less the donor can indulge his feelings of superiority, and the more likely he is to be motivated by an unalloyed desire

31. See IMMANUEL KANT, *GROUNDING FOR THE METAPHYSICS OF MORALS* (James W. Ellington trans., 2d ed. 1981).

32. See SHUE, *supra* note 14.

33. See GOODIN, *supra* note 14.

34. The sense of superiority that the donor feels over his less charitable equals, however, is probably not a bad thing from a consequentialist perspective, since it is difficult to see any serious negative consequences that such non-needy persons would suffer from the donor's silent scorn.

to aid the disadvantaged. Anonymity contributes to this distance, and simultaneously prevents the donor from indulging a sense of moral superiority over her equals. The difficulty, of course, is that people who cannot indulge their sense of superiority may be less likely to give, which would be bad from both deontological and consequentialist perspectives. In an ideal world, distance and anonymity would provide donors with desired self-discipline but would not impair their willingness to give; in the real world we must inhabit, purified commodities of any kind tend to be less common than those alloyed with baser substances.

III. CHARITY AND MODERN GOVERNMENT

On the basis of this brief exploration of the general relationship between charity and morality in our society, I can now turn to a consideration of the moral role of charity in the modern state, and the reason that I find exhortations to rely on private charity so annoying. The evolution of the modern state, and modernity in general, resulted from the interaction of at least two trends: first, the mentality that developed gradually from the end of the Middle Ages to the early nineteenth century, and second, a relatively rapid change in material culture that occurred at the end of the eighteenth century and the beginning of the nineteenth. The change in mentality is typically described by terms such as humanism, secularism and meliorism. Europeans began to perceive that society was not a divinely established order, but a human contrivance that served a purpose, and could be altered by conscious action.³⁵ While this conceptual change was not centrally concerned with charity, the idea of charity was inevitably affected.

The change can be seen as early as the work of Shakespeare, who was, after all, a product of the Renaissance. In *King Lear*, Gloucester, having just been blinded by the evil Cornwall, takes refuge in the hovel of the apparently insane Tom o'Bedlam, in fact his disinherited son Edgar. He speaks to Tom-Edgar as follows:

Here, take this purse, thou whom the heav'ns' plagues

35. See, e.g., 1 JURGEN HABERMAS, *THE THEORY OF COMMUNICATIVE ACTION: REASON AND THE RATIONALIZATION OF SOCIETY* (Thomas McCarthy trans., 1984); J.B. SCHNEEWIND, *THE INVENTION OF AUTONOMY: A HISTORY OF MODERN MORAL PHILOSOPHY* (1998); 2 QUENTIN SKINNER, *THE FOUNDATIONS OF MODERN POLITICAL THOUGHT* (1978).

Have humbled to all strokes: that I am wretched
 Makes thee the happier: Heavens, deal so still!
 Let the superfluous and lust-dieted man,
 That slaves your ordinance, that will not see
 Because he does not feel, feel your power quickly;
 So distribution should undo excess,
 And each man have enough.³⁶

Gloucester begins with an act of face-to-face charity, the standard form of charity in the pre-modern era. He cannot see that the object of his charity is his own loyal son Edgar, and that the last thing that Edgar wants from his father is pocket money. But in his blindness and his error,³⁷ Gloucester achieves real insight, this being one of the play's general themes. He begins to perceive the nature of social injustice, the fact that "superfluous and lust-dieted" men monopolize the resources of society because "they will not see" and "doth not feel." This leads him to the last two, very modern-sounding lines, which recharacterize charity as a mechanism of general economic redistribution. In a single speech, the blind but now perceptive Gloucester has moved from a medieval to a modern sensibility.

A.C. Bradley points out that this speech parallels a more famous speech by Lear, just as the two men's stories parallel each other.³⁸ When Lear flees from his ungrateful daughters into the stormy night, he also takes refuge in Tom-Edgar's hovel, which, despite its decrepit condition, seems to have been quite well located. Before going in, he says:

Poor naked wretches, whereso'er you are,
 That bide the pelting of this pitiless storm,
 How shall your houseless heads and unfed sides,
 Your loop'd and window'd raggedness, defend you
 From seasons such as these? O! I have ta'en
 Too little care of this. Take physic, Pomp;

36. WILLIAM SHAKESPEARE, *KING LEAR* act 4, sc.1, 64-71 (Arden ed. 1959).

37. Gloucester's blindness at this moment is entirely symbolic; it is not the reason he fails to recognize Edgar, but simply an external confirmation of his failure. When he first meets Edgar in his disguise as Tom, before he has been blinded, he fails to recognize him then and asks him his name. Tom-Edgar answers, "Poor Tom; that eats the swimming frog . . ." *Id.* at act 3, sc. 4, 132. This failure, and his subsequent failure, are of course reflections of his prior failure to recognize Edgar's moral worth, and his preference for the opportunistic Edmund.

38. The similarity, he says, was first recognized by Samuel Johnson, who viewed it as a defect. A.C. BRADLEY, *SHAKESPEAREAN TRAGEDY* 271 (1991).

Expose thyself to feel what wretches feel,
 That thou mayst shake the superflux to them,
 And show the Heavens more just.³⁹

Despite its obvious overlap with Gloucester's speech, this speech moves in a somewhat direction—from the insight that the poor have no protection from the vagaries of nature to the recognition that the king, that is, the government, should feel empathy for them and engage in redistribution to alleviate their sufferings. When the two speeches are combined, therefore, they generate the idea that private charity should move toward general redistribution, and that the government should play a central role in this redistributive effort.

The change in material culture that occurred some two centuries after Shakespeare wrote is a familiar one; it includes the industrial revolution, urbanization, secularization, nationalism, mass politics, and administrative government. In this transition, the experience of life for the average European and American was rapidly transformed. Small towns or villages, oriented around agricultural production, yielded to large urban industrial concentrations. The churches, monasteries and other religious institutions that dominated life in these towns lost their central role in people's everyday lives. Loyalties shifted from the locality to the nation, and collective public discourse, previously limited to narrow elites, expanded to include large portions of the population. The finely interwoven sinews of traditional communities were ripped apart, as traditions, and the very idea of tradition, dissolved before the booming, dynamic rhythms of modernity.

The evolution of the administrative state paralleled these momentous social changes, that is to say, it was made possible by them and simultaneously made them possible.⁴⁰ Government filled the void that had been created by the dissolution of the village and its religious institutions. Con-

39. SHAKESPEARE, *supra* note 36, at act 3, sc.4, 28-36.

40. See generally HOWARD G. BROWN, WAR, REVOLUTION, AND THE BUREAUCRATIC STATE: POLITICS AND ARMY ADMINISTRATION IN FRANCE, 1791-1799 (1995); SAMUEL P. HUNTINGTON, POLITICAL ORDER IN CHANGING SOCIETIES (1968); WOLFGANG J. MOMMSEN, THE AGE OF BUREAUCRACY: PERSPECTIVES ON THE POLITICAL SOCIOLOGY OF MAX WEBER (1974); GIANFRANCO POGGI, THE DEVELOPMENT OF THE MODERN STATE: A SOCIOLOGICAL INTRODUCTION (1978); MAX WEBER, ECONOMY AND SOCIETY: AN OUTLINE OF INTERPRETIVE SOCIOLOGY 212-99, 956-1003 (Guenther Roth & Claus Wittich eds., 1978).

sciously developed administrative systems gradually took responsibility for services that were previously managed on an informal basis, such as sanitation, water supply, and transportation, and for those that had been previously provided by religious institutions, such as education and poor relief. The demands of urban, industrial society, and the technological capacities that this society produced, then added other functions to the government's responsibilities, such as unemployment compensation, public health, consumer protection and environmental protection. All these functions became part of government through the national political process, in both modern democracies and dictatorships. In democracies, this process simultaneously mobilized the dispossessed majority's demands for ever-expanding services and provided a mechanism by which the quality of those services could be monitored, however fitfully, by that majority.

When the conceptual changes that began with the Renaissance were combined with the material and political changes of the nineteenth century, they resulted in a new approach to aiding society's impoverished or disadvantaged members, and thus a new conception of charity. The traditional idea of charity as a face-to-face gift of money from a wealthy person to a poor one ("Here, take this purse") was generated by the highly localized town or village life of the pre-modern era. In the Middle Ages, the wealthy people in a given locality were the total, nearly independent rulers of those who lived there, either directly or through the vassals they had subinfeudated. They dispensed justice as well as charity, and their subordinates, many of whom were virtually owned by them, depended on these local magnates for survival.

As time went on, national governments gained control over the feudal lords and national institutions developed, such as the common law in England or the royal councils in France, but wealthy elites still served as the effective means of local government for many functions, including the relief of poverty. Often, their efforts were mediated by religious institutions. While these institutions sometimes acted on their own, with funds derived from general bequests, there was still a sense of immediacy about the relationship, because the church's distribution of charity funds was equally localized. Thus, the benefactor knew whom the recipients were, the recipients knew the benefactor, and

they all interacted with each other on a regular basis. Wealthy people could thus observe the level of need and respond to it on the basis of their sense of responsibility for their locality, which often depended on them for its survival, and to which they were intimately connected. This highly personalized mode of charity, and governance in general, was combined with personalized conceptions of social responsibility. Charity was regarded as a direct moral obligation of the wealthy. If they failed to respond, it was viewed as a moral failure, a consequence of personal defects such as a lack of feeling, a willingness to ignore the suffering that they could see before them. The two speeches from *King Lear*, although they move toward a modern understanding of charity, still reflect this personalized mode of thought. Shakespeare's view is modern, however, in treating this moral failure in largely secular terms, his reference to the "heavens" in both speeches being deeply ambiguous. The more common interpretation was a Christian one, that is, that the failure to provide charity resulted from a sinful attitude, a lack of grace. The antidote for such insensitivity was moral exhortation, often coming from the church. The church, as both the leading moral and administrative institution in each locality, was simultaneously responsible for generating charitable donations and distributing these donations to their intended recipients.

Of course, this system suffered from many gaps and inefficiencies. The itinerant poor, who belonged to no locality, often went uncared for; the expanding cities, although small by modern standards, were large enough to contain substantial populations of impoverished people, who often found themselves beyond the reach of any wealthy person's charitable instincts. Wealthy persons, though often sincere in their Christian belief, possessed the capacity of all people to act in their own material self-interest and rationalize their moral failures. Donations that were so assiduously elicited by the church, on moral grounds, often wound up in the pockets of the prelate rather than the poor.

But whatever the defects in this system of relief, it seemed to have functioned well enough to maintain social order, and to alleviate misery to a point commensurate with most people's expectations at the time. It suffered a complete collapse, however, with the advent of industrialization and urbanization. Cities swelled uncontrollably, filling up with huge populations of displaced rural people, some hav-

ing come to make a livelihood in the burgeoning factories, others because they could no longer make a livelihood in the declining countryside. There were no benefactors who felt responsible for these new agglomerations of humanity, cut off from history and incomprehensibly vast by prior standards. The wealthy people present in these cities were factory owners, like Dickens's Scrooge or Bounderby of Coketown,⁴¹ who were often newly risen from modest circumstances, and felt that their continued prosperity in these competitive, dynamic times depended on sustaining the rapacity that had brought them their good fortune.

The government's first reaction to this situation, borne of fear, was to treat the urban masses as a problem of social control. This attitude is captured in a famous passage from Dickens's *Christmas Carol*, when two visitors urge Scrooge to contribute to a private charity:

"At this festive season of the year, Mr. Scrooge," said the gentleman, taking up a pen, "it is more than usually desirable that we should make some slight provision for the Poor and destitute, who suffer greatly at the present time. Many thousands are in want of common necessities; hundreds of thousands are in want of common comforts, sir."

"Are there no prisons?" asked Scrooge.

"Plenty of prisons," said the gentlemen, laying down the pen again.

"And the Union workhouses?" demanded Scrooge. "Are they still in operation?"

"They are. Still," returned the gentleman, "I wish I could say they were not."

"The Treadmill and the Poor Law are in full vigour, then?" said Scrooge.

"Both very busy sir."

"Oh! I was afraid, from what you said at first, that something had occurred to stop them in their useful course," said Scrooge. "I'm

41. See CHARLES DICKENS, A CHRISTMAS CAROL (1843); CHARLES DICKENS, HARD TIMES (1854).

very glad to hear it I help to support the establishments I have mentioned; they cost enough; and those who are badly off must go there."⁴²

The government, just beginning to acquire its administrative character, was using its taxing authority to address the problem of poverty, but only by creating institutions such as prisons and workhouses. From such circumstances, Marx and Engels concluded that Western governments were nothing more than instrumentalities of the capitalist elite, that a cataclysmic uprising of the impoverished classes was inevitable, and that the system that had generated these new urban populations and cut them off from private assistance was doomed.⁴³

But modern capitalist society and Western governments proved more complex, creative and resilient than Marx and Engels had predicted, and gradually acted to alleviate the miseries of the new urban populations. At least three material factors were crucial to these developments. First, revolutionary France's general conscription initiated an era during which European nations needed to mobilize large portions of their citizenry in order to compete with each other militarily and maintain their independence. This demanded a relatively high level of cooperation from the urban populations, and also required these populations to be reasonably healthy. Prussia, with its great aspirations and relatively small population, was the first nation to recognize these demands, and was generally the first to initiate tax-supported poor relief, unemployment compensation, health care and similar programs.⁴⁴

42. DICKENS, A CHRISTMAS CAROL, *supra* note 41, at 12-14.

43. FRIEDRICH ENGELS, THE CONDITION OF THE WORKING CLASS IN ENGLAND (Victor Kiernan ed., Penguin Books 1987) (1845); KARL MARX & FRIEDRICH ENGELS, THE COMMUNIST MANIFESTO (Samuel Moore trans., Penguin Books 1967) (1888).

44. See ERNEST BARKER, THE DEVELOPMENT OF PUBLIC SERVICES IN WESTERN EUROPE 1660-1930, at 18-28 (Archon Books 1966) (1944); see also GILES MACDONOGH, PRUSSIA: THE PERVERSION OF AN IDEA (1994). This instinct was still important as recently as the Nazi period. The Hitler Youth program, although obviously conceived as an instrument of political indoctrination, was also designed to produce better soldiers by providing urban populations with fresh air and exercise. WILLIAM SHIRER, THE RISE AND FALL OF THE THIRD REICH 256 (1960) (noting that in the early days of World War II, "the contrast between the German soldiers, bronzed and clean-cut from a youth spent in sunshine on an adequate diet, and the first British war prisoners, with their hollow chests, round shoulders, pasty complexions and bad teeth.").

In more open societies, with a more participatory political tradition, urban populations did not need to rely on their role as cannon fodder, but were able to demand tax-supported social welfare programs through the political process. Such demands could be presented by publicity and agitation, but the most effective way of doing so was by voting for public officials who were sympathetic to their needs. Property owners, terrified that such demands would destroy the economy and, incidentally, deprive them of their wealth,⁴⁵ adamantly opposed extension of the franchise to propertyless citizens. The resulting controversy was certainly one of the major political conflicts of nineteenth century Western European nations.⁴⁶ Its gradual resolution in favor of universal manhood suffrage, and then universal suffrage, can be partially attributed to the fact that each successively poorer group that got the vote proved surprisingly moderate in its demands, and increasingly less resistant to the further extension of the franchise.

The third, and perhaps most powerful factor, was the growth of the government's administrative capabilities. Both the idea of conscious social policy, and the division of government into functional units that could implement such policy, evolved during the late eighteenth and early nineteenth century. This evolution occurred for reasons that were probably unrelated to social welfare, but it meant that once the demand arose, the government possessed the machinery for satisfying it. Pre-modern governments were not only inclined to rely on private charity and its mediation by religious institutions, but were required to do so because they lacked the organizational capacity to dispense with these traditional and localized mechanisms. The same process that led to the breakdown of the former system generated new capacities within national governments. These made tax-supported social welfare programs possible on pragmatic grounds and conceivable on conceptual grounds. There is probably no intrinsic teleology to this coincidence of social needs and governmental capabilities; one might speculate that the gap between the two in the late

45. This concern goes back to Aristotle, at least. See ARISTOTLE, *THE POLITICS* 310-13 (Trevor J. Saunders ed., T.A. Sinclair trans., Penguin Books 1981).

46. See generally E.L. HOBSBAWM, *THE AGE OF REVOLUTION: EUROPE 1789-1848* (1962); DOROTHY THOMPSON, *THE CHARTISTS: POPULAR POLITICS IN THE INDUSTRIAL REVOLUTION* (1984); ROBERT TOMBS, *FRANCE 1814-1914* (1996).

Roman Empire led to its collapse. But Western capitalism did not collapse, and a large part of the reason is that the political systems of Western nations had developed the capability to resolve the problems that economic and social changes had created.

Beyond these material factors lay a conceptual change in the idea of social responsibility. Relieving the plight of the poor came to be seen as a matter of conscious social policy, and the government, funded by general taxation, came to be seen as the natural mechanism for implementing policy in this arena, as in so many others. Relief itself ceased to be regarded as a means of alleviating a particular and immediate need, and more a matter of redistributing income through this governmental process so that the poor could sustain a minimally decent general existence. Failure to achieve this standard could no longer be regarded as a personal failure of the ruler, and certainly not a personal failure of wealthy individuals within society, but rather as a failure of government policy, either because the political system was not generating the proper policies, or because the administrative system was not implementing those policies in an effective manner. Thus, the government took the church's place morally as well as institutionally. Like the church in the pre-modern era, it was not only responsible for distributing poor relief to its intended recipients, but also for generating the necessary funds through the process of normative decision making that it embodied.

The question posed by this Essay, however, is not the shift from the localized, religiously centered system of the pre-modern era to the national, politically centered system of the modern one, since this is already well-established. Rather, it involves the role of personal morality in the modern state, and specifically its role with respect to charity, the one form of philanthropy with a strong connection to morality. This question can now be answered in terms of these familiar social changes. Because the basic mechanism in the modern state for relieving the conditions of the poor is government assistance, not personal or localized donations, the moral obligation of the citizen is to support this governmental mechanism. Citizens are morally required to vote for redistributive welfare programs that will alleviate poverty and ensure a minimally decent life for all members of society, and perhaps for all people in our increasingly interconnected world. To put this in terms of modern republi-

can government, rather than the direct democracy of a prior era,⁴⁷ citizens are required to vote for public officials, mainly legislators and a chief executive, who will favor such programs.⁴⁸ It would then be the responsibility of these officials to allocate adequate tax funds to welfare and foreign aid programs, and to supervise the administration of these programs in a creative, conscientious manner.

Thus, government-run aid programs, supported by tax dollars, occupy the same role in society, and the same role in individual morality, as private charity occupied in the pre-modern era. Any moral argument that once generated an obligation to provide private charity, such as Singer's argument that we must help those in need if we can do so without major inconvenience to ourselves, has in fact become obsolete as a result of changing social circumstances, and now generates an obligation to vote for those who support public welfare programs. Consider again Singer's hypothetical of seeing a small child drowning in an ornamental pool on his way to work. This example has a literal connection with the experience of pre-modern life; wealthy people really did pass by the needy members of their locality as they carried out their daily tasks. They do not do so today, however, particularly not in Princeton. The version of this hypothetical that accurately reflects contemporary circumstances would involve a large ornamental pool, miles away from able-bodied passers-by, that is filled with hundreds of drowning children. Under these circumstances, we cannot expect the children to be saved by the voluntary action of private individuals; what is required is a team of paid professionals employed by government, such as the fire department or the paramedics.

As I was writing the foregoing paragraph, and picturing to myself the two images I used as contrasting analogies, I realized that the single child I saw in my mind's eye who was drowning in the ornamental pool at Princeton was white, and the hundreds drowning in the distant pool were of color. I don't know whether other people will form the

47. See Edward L. Rubin, *Getting Past Democracy*, 149 U. PA. L. REV. 711 (2001).

48. These are, of course, the only public officials that voters elect at the national level in Western nations; indeed, even the chief executive is not an elected official in some cases. There may be other elected officials—in the U.S., for example, some states have elected judges or attorneys general, but these would rarely play much of a role in formulating welfare policy.

same image, but there is certainly a reality to the version I imagined. The gap between rich and poor is widened further by racial divisions, particularly in the United States, but increasingly in Europe as globalization and the needs of industrial society for inexpensive, unskilled labor, create more pluralist societies. In his recent book about the South Bronx, Jonathan Kozol describes the isolation of a modern urban slum, the racial differences, decrepitude and sense of danger that pervades it, cutting it off from its surrounding city.⁴⁹ Wealthy people do pass through the South Bronx on their way to work, but they see it only fleetingly, as they zoom by on an elevated freeway; New York City, apparently feeling that even this momentary glimpse might be disconcerting to suburban commuters who are so crucial to its economy, has painted a mural of cheerful, middle class room interiors on the abandoned buildings along one side of the freeway.⁵⁰ To expect these commuters to pull off the freeway, search out the impoverished people in this massive slum, and find some way to help them that will be both effective and non-insulting, is to demand the kind of moral sainthood that Wolf correctly portrays as an unrealistic and all-consuming ideal. Modern mass society creates an enormous distance between rich and poor, a separation that very few wealthy or middle class people will be inclined to cross. Thus, the pre-modern geography that facilitated private charity has been replaced by a modern one that seriously impedes it, and once again requires governmental programs to take its place.

This does not mean that there is anything wrong with private charity. Indeed, it is morally commendable; the relief workers that Schwartz-Nobel describes, for example, are among the most admirable people in America. But their efforts, like contributions to cultural institutions, are supererogatory. What is morally required is to vote for politicians who will support the basic social welfare services that will reach the entire population of disadvantaged persons. Voting in this manner involves as real a contribution of one's resources as private charity did in the pre-modern era; any person who is sufficiently prosperous will in fact be taxed on behalf of the poor. Of course, voting for particular

49. JONATHAN KOZOL, *AMAZING GRACE: THE LIVES OF CHILDREN AND THE CONSCIENCE OF A NATION* (1995).

50. *Id.* at 30-31.

politicians only fulfills a person's moral obligation to the poor in the context of a modern administrative state governed by elected officials. In the absence of these conditions, there is no realistic possibility of aiding the unfortunate through voluntary support of collective political action, and the obligation to provide private charity would re-assert itself. The same might appear to be true in an administrative state where pro-welfare politicians are regularly defeated in electoral campaigns; the present-day United States springs readily to mind as an example. But deciding the level of public welfare that is adequate, and providing sufficient private charity to make up for one's personal share of the shortfall, is too complex an obligation to impose on ordinary people. By voting for pro-welfare politicians, one declares a readiness to be taxed, and that is sufficient to fulfill the minimal moral requirement. If there be no realistic possibility that pro-welfare politicians will prevail, then the obligation translates more readily into required contributions to their political campaigns, rather than a renewed requirement to provide private charity.

It may be argued that such political contributions or unsuccessful votes for pro-welfare politicians do not truly aid the poor, and that private charity would be more beneficial under these conditions. But private charity would almost always be beneficial. The issue is not deciding what is morally acceptable, or moral admirable, but rather what is morally required, what someone must do to avoid being considered a bad person. And in the modern world, that minimal requirement is voting for pro-welfare politicians, not making private donations to the poor. A dominant theme sounded by the relief workers whom Schwartz-Nobel interviewed is that their own private efforts, to which they are often devoting their lives, are inadequate, that their centers must turn away large numbers of eligible people, and that only governmental programs can adequately deal with the human misery that they are trying to alleviate. One may believe that there is nothing wrong with making private donations to help outfit a warship (I personally think it would be sick), but no one would argue that we should rely on such donations to support the navy.

But can private charity be truly described as superegratory? Doesn't the moral obligation to provide personal assistance to those in need continue, even if a further obligation to vote for public welfare programs has been added

to it? Suppose an impoverished person appears on one's doorstep, for example? In fact, that is a scenario that implies a pre-modern context; in a small, locally-administered town, the poor lived near the well-to-do, knew who they were and understood their role as community leaders. To appear on such a person's doorstep was comprehensible as a request for aid. In our modern administrative state, a poor person who traveled from the inner city to a wealthy suburb and appeared on someone's doorstep would be acting in a highly idiosyncratic, and largely incomprehensible manner. The well-to-do person would be justified in treating that person as bizarre, and potentially dangerous, rather than as an object of sympathy. The more general point is that our primary means of helping the disadvantaged is now through government administered programs. True moral obligation attaches to that primary means. Those who are genuinely concerned with the plight of poor persons may be tempted to preserve the pre-modern obligation as well, on the perfectly plausible ground that every additional effort helps, and that government programs are far from optimal or foolproof. But this effort to multiply moral obligations attenuates them all, and ultimately does more harm than good. One means of aiding disadvantaged persons—the primary, most effective means—should be deemed a true moral obligation. Other means, such as private charity, are highly commendable, but to condemn any person who does not engage in them as immoral is to impose unreasonable, unrealistic demands.

The reason why exhortations to rely on private charity instead of public welfare or foreign aid make me angry, therefore, is that these exhortations are insincere and immoral, in the context of our modern state. In late fifth century Athens, a person who argued that warships should be outfitted by private donations might have sounded like a proponent of a strong navy, but this would have been disingenuous, because the Athenian navy could no longer be supported by those means. At present, public welfare and foreign aid take the place of private charity. To argue in favor of private charity is to argue against any effective assistance to the poor at all. That is not only an immorally inhumane position, but it suffers from the further immorality of insincerity. It conceals its insensitivity to human suffering behind a false facade of kindness by invoking an outmoded social mechanism that some people still mistakenly

regard as an effective approach to the problem. It is bad enough to be morally insensitive, to abandon the charitable instinct that has played a central role in Western morality for thousands of years and allow the disadvantaged and afflicted to suffer when society has the resources to alleviate their suffering. It is still worse to adopt this view while hiding behind sententious assertions of virtue.

IV. THE MORAL VIRTUES OF SOCIAL WELFARE

Many of the moral dilemmas that currently afflict the issue of private charity arise because it is an outdated means of achieving its asserted purpose. These dilemmas were not as serious in the pre-modern era, when private charity was the most effective way to alleviate the conditions of the poor. They are more serious now because our government-run social welfare has taken the place of private charity, both pragmatically and morally. As our dominant mode response to poverty, these programs partially resolve some of these dilemmas, and thus return us to the moral equilibrium that prevailed in the pre-modern era. In this section, I will address the three difficulties that have been described above—the problem of paradoxical effect, the problem of unbounded obligation, and the problem of mixed motives. I will also address a problem that was not previously discussed, but springs naturally to mind whenever social welfare policy is discussed—the problem of the undeserving poor, the needy people who could help themselves but prefer to receive support from the state.

In discussing paradoxical effects, it is important to distinguish between global arguments that social welfare inevitably produces counterproductive results, and more empirically-based arguments that social welfare is inadvisable, from a social policy perspective, because it usually produces such results. To begin with the global argument, some critics of social welfare repeat the long standing condemnation of charity—that any support for the poor, even if it effectively alleviates their misery, undermines their work ethic and encourages counter-productive behavior, such as having children at an early age. At one time, these behaviors were considered sinful, a violation of the Bible's precepts for a virtuous life. But we now have a secular society, and we no longer presume to pass judgment on people's personal life choices. In fact, it is now a matter of our social morality

that people can choose whether or not to work, and whether or not to have children. This objection to social welfare, therefore, depends on the claim that the behaviors it induces will decrease the total wealth of our society by undermining people's work ethic, or creating more dependents. As a matter of social policy, the concern is plausible enough, but it does not have sufficient moral weight to overcome the widely-recognized obligation to assist the needy. To subject people to misery at the present time, to deny food to the hungry or shelter to the homeless on the ground that the society will be wealthier as a result runs counter to the moral concerns that must now be implemented through government supported welfare programs. If alleviating people's misery will really make the nation somewhat less wealthy, that is precisely the kind of self-sacrifice that charity, or philanthropy in general, frequently demands. It might not be reasonable to demand that the nation plunge itself into poverty in order to provide a minimally decent life for every citizen, but few people really think that social welfare would produce so dramatic an effect; the amount of money required, in comparison with the size of the American economy, is just too small.

Critics of welfare sometimes argue that maximizing social wealth will ultimately alleviate poverty in a more effective manner because there will be more resources available for everyone. But if these increased resources are denied to the poor, as existing resources are at present, then this moral benefit will never be realized, however successfully the social policy of wealth maximization is achieved. Of course, one might argue that increased resources will benefit the poor as they accumulate. This argument, however, ignores the redistributive element of social welfare as the modern incarnation of charity. It might make sense in a nation that is currently too impoverished to feed and house its citizens, but ultimately hopes to obtain the necessary resources through economic development. It does not make sense for a wealthy nation such as the United States. If we are unwilling to provide the poor with a minimally decent standard of living now, why should there be any expectation that we will do so in the future? At what point will we consider ourselves so rich that we would be prepared to redistribute resources to the poor if we now consider ourselves so impecunious that we are willing to let our own citizens go without sufficient food, decent housing, or adequate medical

care? At what point will increased wealth trickle down to the poor, and improve their lives, if it fails to do so at the present time, when we are the wealthiest major nation in the world?⁵¹

Two other global arguments that critics advance regarding the effects of welfare are stated in moral, rather than social policy terms: first, that the poor will benefit more if they are compelled to be self-reliant, or, in modern parlance, to exercise personal responsibility, and second that they deserve their poverty because they have not tried hard enough. But the first is merely the same social policy argument masquerading as a moral one; that is, it uses misery as a means of social engineering. The motivation that served as the basis of private charity, and now serves as the basis for supporting public welfare, is to meet people's present needs, to alleviate their suffering, not to teach them lessons by continuing their privation. This instinct, moreover, is grounded on a much more convincing view of human nature than the one that the critics of social welfare champion. Modern social science indicates that poverty is generally a debilitating experience, not an instructive one; the lesson it teaches is more often hopelessness than assiduousness or ambition.

In contrast, the idea that poverty results from lack of effort or self-discipline is based upon the genuinely moral stance of just deserts. It applies, somewhat uncontroversially, to the young person who gambles away the family fortune or the college graduate who quits a well-paid job because the hours are too long. But the argument has a good deal less moral force with respect to children, the sick, the disabled, the unemployed, and the working poor who lack the skills to earn enough. When these groups are added up, they constitute a rather large proportion of potential welfare recipients. The unappetizing notion of blaming these groups of people could be partially ignored in pre-modern

51. Calculations of per capita income vary, of course. According to the Purchasing Power Parity method, the United States is wealthier than any nation other than Luxembourg and Bermuda. (Moreover, the latter is not actually a nation, and the income figures for the former are probably inflated by day commuters from France and Germany). According to the so-called Atlas method, which adjusts for currency values rather than purchasing power, the U.S. ranks behind Norway and Switzerland in addition to Luxembourg and Bermuda, but ahead of every other nation. See GNI per capita 2003, Atlas method and PPP, The World Bank Group, available at <http://www.worldbank.org/data/databytopic/GNIPC.pdf> (last visited Sept. 13, 2004).

society, when there was a general belief that being born in fortunate circumstances was God's way of indicating superior moral worth. This belief, which served as one of the major justifications for slavery, is no longer current in modern, secular society. Moreover, the sociology of the argument is something that few conscientious people find acceptable; now that we can study the actual behavior of poor people, the claim that they are lazy or intemperate individuals is simply not borne out.

The second set of concerns about the paradoxical effects of charity or social welfare are more empirically grounded. Welfare programs rarely succeed, it is argued; their faulty design and inadequate implementation typically waste funds and fail to produce desirable effects. An extreme example of such concerns is Garrett Hardin's argument that providing hunger relief to impoverished third world nations will lead to increased population and inevitable death from famine in the future, so that it is better to allow the smaller current populations to starve to death right now.⁵² Such arguments are highly contestable; scholars who are more knowledgeable about third world conditions, for example, reject Hardin's analysis.⁵³ I will not try to resolve these empirical issues in this Essay. For present purposes, the important point is that concerns of this nature are precisely what motivated the transition from private charity to public welfare programs administered by government. Alleviating poverty is a complex business, particularly in a mass society where the issues are not comprehensible to individuals, the way they were, or seemed to be, in the small localities of the pre-modern world.⁵⁴ The problem lies beyond the capacities of private donors and amateur intermediaries like religious institutions. To address it in a systematic, conscientious manner, we need the resources of the modern state, with its

52. Garrett Hardin, *Lifeboat Ethics: The Case Against Helping the Poor*, in *WORLD HUNGER AND MORALITY* 5, 8-11 (William Aiken & Hugh LaFollette eds., 2d ed. 1996).

53. See JEAN DREZE & AMARTYA SEN, *HUNGER AND POLITICAL ACTION* (1989); JEAN DREZE & AMARTYA SEN, *THE POLITICAL ECONOMY OF HUNGER* (1990); SHUE, *supra* note 14. These authors point out that the problem is not the lack of sufficient food, but lack of income among the poor and the failure of the distribution system. Besides, the idea of allowing entire nations to collapse may seem less attractive now that we understand that they may choose to harbor terrorists, instead of quietly submitting to their fate.

54. Habermas refers to this development as the colonization of the lifeworld. See HABERMAS, *supra* note 6, at 301-73.

paid professionals, its access to data, and its ability to deploy sociological research.

It has become fashionable to treat claims of governmental expertise with scorn, and to parade the easily compiled list of governmental failures in support of this position. But such arguments suffer from a confusion about the proper standard of comparison. The task of solving complex social problems, particularly in our complex modern world, and particularly with limited resources, is an admittedly difficult matter. If government programs are being compared to some imaginary ideal, they will always be found wanting. But the more realistic comparison, once we have reached the moral decision that people should not be allowed to suffer extreme deprivation in the midst of a wealthy society, is with real alternatives for achieving this goal. The obvious alternative, because we used to rely on it, and because George Bush is touting it at present, is private charity. From this perspective, government programs begin to look more promising. As is widely recognized, private charity will be spotty and insufficient in its coverage. Its various efforts will be uncoordinated, and much of it will be distributed on a highly informal basis, with little monitoring or evaluation. The experience with Faith Based Initiatives provides ample evidence of these difficulties.

Again, this is not to suggest that private charity should be eliminated, or even discouraged. But it clearly cannot take the place of tax-supported, professionally-run social welfare or foreign aid programs. We cannot manage without the administrative state these days; it is the best we have, the mechanism on which we must rely, and do rely, for all forms of collective problem solving. Those who argue that private charity should replace government programs are really using an empirical argument as a substitute for a moral argument that they are unwilling to advance, which is that we should allow the poor to suffer. They would be unlikely to advance a similar argument for social policies to which they are truly committed. How many opponents of social welfare or foreign aid, for example, would argue that we should abolish government-run police forces, or the governmental-run military, and rely on private parties to carry out these functions? Yet it is just as easy to demonstrate the inefficiency and failure of the police and military as it is to demonstrate the inefficiency and failure of public welfare.

Asserting that supporting public welfare is now a moral obligation does not mean that we must endorse the welfare bureaucracy, the kind of intrusive conditions that government sometimes attaches to monetary payments, or the centralized, command and control approach that long-dominated government programs in this area. There is no reason why the administration of public welfare cannot be decentralized, outsourced to private providers, or transferred from direct grants to negative tax credits. What is essential is only that the government use its comprehensive authority to collect resources from the whole society and distribute those resources to the entire range of needy persons. It is this, not some particular mode of bureaucratic management, that makes the morally required public welfare system public.

The proper conclusion to draw from the empirical criticisms of social welfare programs, therefore, is not that we should abandon them, but that we should pay more attention to their improvement. If hunger relief in third world nations creates a risk of unchecked population growth, then it should be combined with aggressive birth control measures, increased education for women, and social security programs that eliminate people's need to rely on their children in old age. If domestic programs such as food stamps, AFDC, or work incentives are ineffective, then we should try other options, such as higher funding levels, a negative income tax, or adult education. One advantage of recognizing the moral argument for social welfare is that it may induce more people to stop arguing about whether we should have social welfare programs, and engage in a conscientious discussion of the way to make such programs work effectively.

The shift of focus from private charity to welfare also goes a considerable way to solving the second dilemma private charity presents, that is, the problem of unbounded obligation. In the pre-modern world, the localized nature of society meant that wealthy people could legitimately limit their eleemosynary efforts to the poor persons in their town or district. Modern society lacks such natural limits; in fact, mass media often bring us into more immediate contact with the telegenic suffering in some remote, unreachable location than the more ordinary misery in the slums under the freeway on which we regularly travel. This leads each conscientious individual to feel that there are unlimited

numbers of people who need her help, and that there is no moral reason that she should restrict her efforts to those who happen to be nearby. Dickens, who is so critical of Scrooge's insensitivity, is equally critical of the instinct that leads people to focus their efforts on remote concerns and overlook the ones in front of them. In *Bleak House*, he gives us Mrs. Jellyby, a practitioner of "telescopic philanthropy" who neglects her own children while expatiating on the fact that her efforts will "have from a hundred and fifty to two hundred healthy families cultivating coffee and educating the natives of Borrioboola-Gha, on the left bank of the Niger."⁵⁵

Translating the moral obligation to provide private charity into a moral obligation to vote for public officials who support public welfare and foreign aid solves a large part of this problem. It is the role of the modern state to balance priorities and to set support for different functions at the appropriate level. To fund these functions, it collects taxes, and the taxation rate is another question that modern administrative government is designed to resolve. The citizen's moral obligation to aid the poor is satisfied when he votes for public officials who are committed to this goal. These officials will then decide, or instruct administrators to decide, how much funding is required, and how the allocated funds are best deployed. In developing a domestic welfare program, they will vote for a budget item that is sufficient to provide every citizen with minimally acceptable nourishment, housing, health care and education. In developing a foreign aid program, they will vote for another budget item that will alleviate the suffering of poor populations throughout the world. Moral people can disagree about the level of support that should be provided to each group, whether the support provided domestically should be higher, in relative terms, and how each program should be designed. These disagreements will become part of the public debate over welfare policy, and thus part of the national discourse that is a feature of the political system in a modern state. But a person is not acting morally unless she supports public officials who are willing to make a sustained and serious commitment to alleviating deprivation, both domestically and overseas.

55. CHARLES DICKENS, *BLEAK HOUSE* 53 (The New American Library, Inc. 1964) (1853).

The reason social welfare largely solves the problem of unbounded obligation in the context of modern life is that it mobilizes collective action. Confronted with the widespread misery in the United States, and throughout the world, the individual finds himself in a dilemma. Every luxury that he allows himself seems unjustifiable; every expenditure above the level of the minimum he needs to continue earning his income would seem to be better spent, from a moral point of view, in alleviating the misery of the many who are less fortunate than he is. Yet, as indicated above, this standard demands an unsupportable level of self-sacrifice, and will often lead even conscientious individuals to abandon the entire enterprise of charity. But once the moral obligation to provide private charity is translated into a moral obligation to vote for charitably-motivated politicians, the level of self-sacrifice becomes entirely acceptable. These politicians, using their tax authority, can collect funds from the entire nation. A moderate increase in the tax rate, or a reduction of other, less morally significant expenditures like agricultural price supports, long prison terms for minor property offenders, or warships, will be sufficient to provide the funding necessary to provide everyone in the nation with a minimally decent life, and to end starvation and curable disease throughout the world.

Governmental action, moreover, is more efficient and effective than private charity, even apart from its ability to minimize paradoxical effects through expertise. To begin with the example of foreign aid, it would be virtually impossible for a private person to provide assistance to many of the world's neediest people, specifically those in failed states such as Liberia, Sierra Leone, Congo and Somalia.⁵⁶ Any money or materiel that is sent to these countries would be immediately seized by corrupt military leaders, which is exactly why these countries are in so much trouble. Even going to these countries personally and risking one's own life—an extraordinary level of commitment—would be unlikely to accomplish very much. Only governmental action can combat the misery that is rampant in these countries, either by circumventing or displacing the existing rulers. Similarly, a government, unlike a private organization, is

56. See DANIEL BERGNER, *IN THE LAND OF MAGIC SOLDIERS* (2003) (discussing Sierra Leone); BILL BERKELEY, *THE GRAVES ARE NOT YET FULL: RACE, TRIBE AND POWER IN THE HEART OF AFRICA*, 63-101, 103-41 (2001) (discussing Liberia & Congo); Jeffrey Clark, *Debacle in Somalia*, 72 *FOREIGN AFF.* 109 (1993).

not only capable of providing aid, but also of persuading other nations to participate, by means of threats or inducements. Within a nation such as the United States, analogous advantages of governmental action may be less dramatic, but they are far from non-existent. The problem is not only corruption among local governments but, more importantly, the organizational problems of relief agencies that only state or national governments can resolve.

Third, there is the problem of mixed motives. In the pre-modern world, the temptation to use charity as a means of asserting superiority over others was restrained, ironically enough, by the fact that the superiority of the wealthy was so obvious that it did not require demonstration. The social hierarchy that made the donor wealthy and his recipients poor was regarded as part of the natural order.⁵⁷ As such, it was not something that charity asserted, but rather something that pre-existed charity. Moreover, as the Middle Ages progressed and the nobility came to regard itself as an hereditary class,⁵⁸ the indicia of social superiority became increasingly associated with status, not action, and charity came to be viewed more as a moral obligation than as a means of attracting and retaining a retinue of loyal followers. How strongly these beliefs affected people's attitudes is difficult to say, but it is clear that they are entirely rejected by the current ideology of social mobility and equal opportunity.

Lacking a world view that serves as a source of restraint, how is a moral person, in the modern world, to be sure that her charitable actions are sincere? As stated above, the mechanisms of distance and anonymity can serve as reassurance; it is difficult to assert superiority through charity when the objects of one's charity are far away, and more difficult still when the gift is made anonymously. Both mechanisms can be employed for private charity, of course. But, once again, the translation of charity from private giving into voting for officials who favor public welfare and

57. See HEINRICH FICHTEAU, *LIVING IN THE TENTH CENTURY: MENTALITIES AND SOCIAL ORDERS* (Patrick Geary trans., The University of Chicago Press 1991); ARTHUR LOVEJOY, *THE GREAT CHAIN OF BEING: A STUDY OF THE HISTORY OF AN IDEA* (1936).

58. See, e.g., MARC BLOCH, *FEUDAL SOCIETY* 283-331 (L.A. Manyon trans., The University of Chicago Press 1961); JONATHAN DEWALD, *THE EUROPEAN NOBILITY, 1400-1800* (1996); GEORGES DUBY, *THE CHIVALROUS SOCIETY*, 59-81, 94-111, 134-48 (Cynthia Postan trans., 1980); KEEN, *supra* note 30, at 143-62.

foreign aid provides a particularly good solution. Voting for these officials is the very essence of a selfless act. Alone in the voting booth, by an action the voter is legally entitled to keep secret, one voluntarily chooses to impose taxes on oneself for the purpose of benefitting people one will never meet, and who will never know about one's action.

To be sure, proponents of welfare often argue, correctly in my view, that it produces a wide range of positive benefits for society, quite apart from any benefits for the recipients. To give just one example, society has an enormous interest in making sure that all children receive proper nourishment, medical care, education and parental supervision. Denying children such conditions is not only cruel to them, but a virtually certain source of crime, dependency and wasted human capability. The personal responsibility argument is that people simply should not commit crimes, whether they had a deprived childhood or not, and if they do so they should be severely punished. This is no response at all, because it does not address the social cost of crime. Catching and punishing criminals is extremely expensive, and they can be severely punished only after they have severely hurt an innocent victim in one way or another. But these fairly obvious social benefits of welfare do not impair the moral value of voting for public officials who support it. The desire to divert money from prisons to other purposes and to protect people from crime is a moral motivation of its own. Mixed motives are not a moral dilemma if the mixture involves equally admirable components. Moreover, the benefits to society, while they will help the voter, are sufficiently generalized and abstract to count as distant and anonymous. Voting for policies that will reduce the chance that one will be victimized by crime is not an assertion of self interest in the same sense as voting for policies that will reduce one's taxes or subsidize one's company.

The distance and anonymity of voting does not mean, of course, that recipients of social welfare are free from being subjected to scorn and condescension. Welfare workers and other professionals who deal with them often dish out large helpings of these attitudes. This is not a moral failure on the part of voting citizens, however. Perhaps they should be expected to support public officials who not only favor social welfare, but implement it in a humane, respectful manner. On the other hand, this may be too fine-grained an issue to be addressed in electoral politics. In any event, the objec-

tionable attitudes to which people are subjected when receiving public welfare, as opposed to private charity, will come from full-time government employees, which means that they will be subject to control. Those responsible for implementing and monitoring public welfare programs should make sure that welfare workers treat the recipients in a proper manner, for pragmatic reasons as well as moral ones. Such efforts are possible because of the shift from private charity to public welfare.

To summarize, only public welfare provides an even partially satisfactory solution to the problems of paradoxical effects, unbounded obligation and mixed motives at the present time. For private charity, these problems, which were relatively minor in the pre-administrative era, have become severe. This is not the reason why I have argued that private charity has become supererogatory, rather than obligatory. That argument, stated above, is that only a society's primary mode of aiding the poor should be regarded as a basic moral obligation. But the problems with private charity in a modern context certainly support this admittedly unusual position. How can we treat something as a basic moral obligation—a ground for condemning someone as immoral if he fails to fulfill it—if its effects are so uncertain, its boundaries so vague, its exercise so open to abuse? Don't we undermine the basic idea of moral obligation if we attach it to something that has become so difficult to design and control. Voting for certain types of public officials is a bounded, socially meaningful action that every person can be reasonably expected to perform, just as private charity was in the pre-modern era. Only actions of this kind should be treated as genuinely obligatory.

Is something lost, however, in moving from the direct expression of humane concern that is involved in private charity, at its best, to the anonymous, mechanical act of voting for politicians who favor social welfare? In *The Needs of Strangers*, Michael Ignatieff describes the impersonal character of public welfare:

As [I] stand together in line at the post office [with welfare recipients], while they cash their pension cheques, some tiny portion of my income is transferred into their pockets through the numberless capillaries of the state. The mediated quality of our relationship seems necessary to both of us. They are dependent on the state, not upon me, and we are both glad of it. Yet I am also aware

of how this mediation walls us off from each other. We are responsible for each other, but we are not responsible to each other.⁵⁹

Ignatieff regrets this separation, but he offers no solution.⁶⁰ In fact, there is no solution. The structural changes that produced mass-industrial urban society have left individuals no choice but to favor impersonal programs operating at a distance. The loss of human scale and interpersonal relations is an intrinsic feature of the modern age. Of course, individuals who find voting personally insufficient are free, and indeed encouraged, to engage in the traditional mode of private charity, as a form of supererogatory action. But for them to treat this as the exclusive means of aiding the poor would be deeply immoral, a violation of the basic principles which they claim to be following in their charitable efforts.

A final problem that needs to be addressed, particularly because it arises so often in discussions of social welfare policy, is whether assistance should be provided to the undeserving poor. The idea of desert, in this context, is readily captured by contrasting images. On the one hand, we have a disabled person with several children, born in wedlock to a spouse who has since died; to gild the lily, we can suppose that the spouse was a police officer killed in the line of duty, or a soldier killed defending the country. On the other hand, we have an able-bodied adult with no children, and—gilding the lily here as well—we can suppose the person has a credential that makes him reasonably employable, like a degree from Automotive Trades Vocational High School or Princeton University. The question is generally framed as an administrative one—whether assistance can be provided to those who deserve welfare without also providing assistance to those who do not.

Behind this administrative question lies a more basic one, however; whether it is proper to make such desert-based distinctions in the first place. After all, no one is arguing that assistance, whether private or public, should

59. MICHAEL IGNATIEFF, *THE NEEDS OF STRANGERS* 10 (1984).

60. He does restate the issue in more general terms:

It has been a recurrent dream of the Western political imagination to fashion a form of society that would so wrap the individual in the fraternity of his fellows that his choices would unerringly reconcile private and public interest, the claims of self and the other, in decisions that the choosing self would know were right.

Id. at 64. But this does not come any closer to a plausible proposal.

provide its recipients with a luxurious existence; there is general agreement that its purpose is to alleviate a person's minimal wants. If a person is really satisfied to live in such exigent circumstances, who is to say that he is not impaired in some manner, even if the problem is not as apparent as blindness, or as five children, no spouse and no training? Alternatively, if we are really all members of a community, perhaps a minimally decent standard of living is simply something to which all members are entitled, regardless of their actions. That is certainly the position we take with respect to political freedom and protection against crime; failure to participate in government, refusal to work, even prior commission of a crime, does not preclude a person from speaking freely, practicing his religion, or receiving police protection.⁶¹ Our reluctance to extend this position to minimal wants may be based on nothing more exalted than our fear that we will lose our menial workers. Whether this will actually occur is an empirical question, but it hardly seems to have sufficient weight, in normative terms, to counterbalance the demands of humanity or community.

In any event, what is notable, for present purposes, is that the issue of who is deserving of assistance is independent of whether the assistance is provided by private or public sources. The concept of desert depends on the behavior of the recipient, not the source of the assistance. Once we have decided who deserves assistance, in whatever terms we choose to do so, then assistance to the deserving will be deemed morally obligatory, whether the obligation is stated in the pre-modern terms of private donation, or in the modern terms of voting for social welfare policies. Assistance to the undeserving will be deemed supererogatory in either context, or perhaps, depending on one's notions of desert.

The difference between private and public welfare lies in the administrative area. Governments have much greater resources to distinguish between the deserving and the undeserving, including the authority to investigate recipients in various ways and to punish those who collect assistance by eluding stated rules. There has been so much

61. Those who have committed a crime may lose their right to vote, but they do not lose these protections. Of course, their free speech rights are subject to severe time, place and manner restrictions while they are in prison, but even in that most restrictive and setting, they do not entirely lose this right, *see* *Turner v. Safley*, 482 U.S. 78 (1987), or their right to practice their religion, *see* *Cruz v. Beto*, 405 U.S. 319 (1972), *Cooper v. Pate*, 324 F.2d 165 (7th Cir. 1963).

discussion of welfare cheating in recent years that we tend to forget that however inefficient the government may be in preventing this practice, private donors are bound to be much worse. This fairly obvious fact will be obscured if we make the conceptual error of comparing public welfare in the modern world to private charity in the pre-modern one. It was fairly easy for private donors to police the recipients of their largesse in the localized, small scale setting of the pre-modern village, where these recipients were personally known to the donors. But this is hardly relevant to modern conditions, when the allegorical pool where hundreds of children are drowning is so far away from able-bodied passers-by, and where the actual needy are concentrated in massive, insular slums or scattered through remote rural areas, far away from potential donors.

If the problem of excluding the undeserving poor still seems more troublesome for public welfare than for private charity, despite the superior policing capacities of public authorities, that may be the result of two other considerations, neither of which can sustain a coherent argument. First, it might be argued that private charities can decrease their vulnerability to the undeserving by choosing their recipients with care, and limiting their efforts to areas where they possess particular knowledge. But this reduces the risk of aiding the undeserving poor by guaranteeing that many of the deserving poor will go unaided as well, which is not a morally acceptable solution. It is precisely the fact that so many of the deserving poor will go unaided that makes continued reliance on private charity immoral, and requires the shift to public welfare and foreign aid in the modern context.

Second, it might be argued that private charity, because it is voluntary, does not compel anyone to contribute, and thus does not confront them with the unappetizing prospect that their money will go to the undeserving. But this reduces the distastefulness of aiding the undeserving by denying the mechanism of administrative government to relief efforts for the deserving poor, which again ensures that most of them will go unaided. To reiterate, this is the reason why the moral citizen must vote in favor of public relief efforts. The compulsion of citizens who do not feel these moral obligations is simply an inevitable aspect of government. One can argue against government in general on this

ground, as Robert Nozick does,⁶² but so long as one rejects such arguments, there is nothing special about the compulsory aspect of public welfare programs. In general, the problem of the undeserving poor is something that opponents of public welfare parade around as a means of concealing the immorality of their position. Only government can alleviate the miseries of its needy citizens; the fact that there are inefficiencies in this process, and that undeserving persons sometimes benefit from these inefficiencies, is no different from the fact that there are inefficiencies involved in national defense, that unscrupulous military contractors sometimes benefit from these inefficiencies, and that those who oppose national defense must pay a portion of these costs. The solution, in each case, is to improve policing methods, not to abolish the governmental function.

V. SO, WHAT WOULD JESUS DO?

No discussion of personal morality in the Western world can be complete without taking account of the Christian religion. To begin with, Christianity played an obviously crucial role in shaping Western moral attitudes; as a result, our understanding of these attitudes, even in this currently more secular age, will be clarified and deepened by paying serious attention to Christian doctrine. Moreover, Christianity is not only a formative influence for virtually all people in the Western world, but also a current source of guidance for many of them, particularly in the United States. Any reinterpretation of moral obligations, such as the one suggested above, will be unacceptable to many people, at least at present, if it turns out to be inconsistent with the precepts of Christianity.

While Christianity would be relevant to any moral issue, its relevance to the issue of charity is immediately apparent. To identify the embedded Christian influence, or the current Christian teaching, on important issues such as public education, national defense, or civil liberties requires a great deal of extrapolation and surmise, since these issues are simply not addressed in the New Testament. This is also true for issues where religious concerns are currently at the forefront of public debate, such as abortion, birth control, sex education and homosexuality; while the New Tes-

62. NOZICK, *supra* note 18.

tament has a good deal to say about marriage and sexual desire, these other, more currently controversial issues are barely mentioned.⁶³ In contrast, charity is addressed directly and repeatedly; it is impossible to read the New Testament, and particularly impossible to read those portions of the book that report the life and words of Christ Himself, without coming across repeated discussions of this issue.

Despite this, the New Testament's discussion of charity, like everything else it contains, requires interpretation.⁶⁴ Jesus lived, and the New Testament was written, two thousand years ago, when the Roman Empire was at its height. His teachings, and the writings which are based on them, address conditions that prevailed at that time. Presumably, He could have made predictions about our present society, but He did not do so; His only predictions involve the end of the world, which, as we know, has not yet occurred. Moreover, Christianity itself, that is, the religion as maintained at any given time by those who express belief in it, has undergone enormous changes, from a religion of the oppressed in its first few centuries, to the official religion of a philosophically sophisticated but politically collapsing empire, to the religion of an illiterate warrior society in the Dark Ages, to the unifying force of an intellectually and commercially expanding society of emerging nation states in the High Middle Ages, and to the source of savage theological and military conflict in the Reformation. In each stage, interpretation of the canonical sources has yielded distinctly different answers, which only emphasizes the obvious fact that a religion, if it is to survive over extended periods of time, must allow for continued evolution of its specific prescriptions.

This interpretive process, according to contemporary views, must begin by considering the difference between Roman and contemporary society. In the Roman Empire, as in pre-modern Europe, charity was a local affair. The impe-

63. See WILLIAM ESKRIDGE, JR., *THE CASE FOR SAME-SEX MARRIAGE: FROM SEXUAL LIBERTY TO CIVILIZED COMMITMENT* (1996).

64. See MARY JO BANE & LAWRENCE MEAD, *LIFTING UP THE POOR: A DIALOGUE ON RELIGION, POVERTY & WELFARE REFORM* (2003), for an example of divergent interpretations. Bane adopts the fairly standard position that the New Testament requires private charity. See *id.* at 12-52. Mead, demonstrating the possible range of interpretation, argues that the message of the New Testament is personal responsibility, i.e., that people should be responsible for themselves, and not depend on charity. See *id.* at 53-106.

rial government concerned itself with matters such as conquest and defense, finances, civil law and grain supply, but not with relief of the poor. Charity, to the extent that people other than the Jews focused on it at all, was viewed as a matter for private benefactors, or for the cities that these benefactors supported, particularly in the Eastern or Greek part of the Empire. When Jesus speaks of charity, therefore He does so exclusively in terms of private giving, but his context is a society where no other means for helping the poor exists. In order to discern what His teachings would require in a society such as our own, it is necessary to consider the ideas that underlie His explicit statements.

The New Testament's treatment of charity involves a number of different, albeit interwoven themes. One theme is that wealth is a positive impediment to salvation, apparently because it distracts its owner from spiritual matters. When a rich young man tells Jesus that he has followed all the commandments and now wants to know what he should do to be assured of eternal life, Jesus answers: "One thing thou lackest: go thy way, sell whatsoever thou hast, and give to the poor, and thou shalt have treasure in heaven . . ."⁶⁵ The man reluctantly refuses to comply, and Jesus, in response, turns to his disciples and says "It is easier for a camel to go through the eye of a needle, than for a rich man to enter into the kingdom of God."⁶⁶ Another rich man, "clothed in purple and fine linen,"⁶⁷ spurns the entreaties of the beggar Lazarus who has been left on his doorstep; he winds up in hell, begging Father Abraham to send Lazarus from heaven to relieve his suffering, a request which Abraham refuses.⁶⁸ Still a third rich man planned to rebuild his storage facilities to accommodate his goods, but God says to him: "Thou fool, this night thy soul shall be required of thee: then whose shall those things be, which thou hast

65. *Mark* 10:21 (King James), available at <http://www.bartleby.com/108> [hereinafter Bartleby].

66. *Id.* at 10:17-27. This story is repeated, virtually verbatim, in *Matthew* 19:16-26 and *Luke* 18:27. *Matthew* and *Luke* undoubtedly got the story from *Mark*, whose work they used as one of their sources, but the fact that they both chose to repeat it indicates its importance. See *Matthew* 19:16-26 and *Luke* 18:18-27, both available at Bartleby, *supra* note 65.

67. *Luke* 16:19, available at Bartleby, *supra* note 65.

68. See *id.* at 16:19-26. The rich man then makes the more admirable request to send Lazarus to his five brothers to warn them that they too risk damnation. But Abraham again refuses, telling him that all the warnings that they need are contained in "Moses and the prophets." *Id.* at 16:27-31.

provided? So is he that layeth up treasure for himself, and is not rich toward God."⁶⁹ Speaking generally, Jesus says: "Sell that ye have, and give alms; provide yourselves bags which wax not old, a treasure in the heavens that faileth not."⁷⁰ In the Sermon on the Mount, Jesus says: "But woe unto you that are rich! for ye have received your consolation. Woe unto you that are full! for ye shall hunger."⁷¹ And James makes an even stronger statement:

"Go to now, ye rich men, weep and howl for your miseries that shall come upon you. Your riches are corrupted, and your garments are moth-eaten. Your gold and silver is cankered; and the rust of them shall be a witness against you, and shall eat your flesh as it were fire."⁷²

A second theme in the New Testament treatment of charity involves the alleviation of suffering. It is clear from both the story of the rich young man who wanted eternal life, and the rich man clothed in purple and fine linen who got more eternal life than he wanted, that Jesus does not ask the wealthy to simply give up their possessions, but rather to give these possessions to the poor.

All three versions of Jesus's advice to the rich young man explicitly require this, as does His general advice in Luke's gospel. Paul, who generally favors salvation by faith rather than salvation by works, says to the Ephesians, "I have showed you all things, how that so laboring ye ought to support the weak, and to remember the words of the Lord Jesus, how he said, It is more blessed to give than to receive."⁷³ James who strongly favors salvation through works, says: "If a brother or sister be naked, and destitute of daily food, and one of you say unto them, Depart in peace, by ye warmed and filled; notwithstanding ye give them not those things which are needful to the body; what doth it profit?"⁷⁴ Perhaps most dramatically, when Jesus describes

69. *Luke 12:20-21, available at Bartleby, supra note 65.*

70. *Id.* at 12:33.

71. *Luke 6:24-25, available at Bartleby, supra note 65.*

72. *James 5:1-3, available at Bartleby, supra note 65.*

73. *Acts 20:35, available at Bartleby, supra note 65.* The author of this passage is Luke again, the most adamant of all the Gospels in condemning wealth and urging charity. Whether Jesus actually said this is another matter. In his letters, Paul, who never met Jesus, rarely quotes him.

74. *James 2:15-16, available at Bartleby, supra note 65.*

the actions of the King, or Son of man on judgment day, he says:

Then shall the King will say unto them on his right hand, Come, ye blessed of my Father, inherit the kingdom prepared for you from the foundation of the world: for I was ahungred, and ye gave me meat: I was thirsty, and ye gave me drink: I was a stranger, and ye took me in: naked, and ye clothed me: I was sick, and ye visited me: I was in prison, and ye came unto me. Then shall the righteous answer him, saying, Lord, when saw we thee ahungred, and fed *thee*? or thirsty, and give *thee* drink? When saw we thee a stranger, and took *thee* in? or naked, and clothed *thee*? Or when saw we thee sick, or in prison, and came unto thee? And the King shall answer and say unto them, Verily, I say unto you, Inasmuch as ye have done *it* unto one of the least of these my brethren, ye have done *it* unto me.⁷⁵

The passage goes on with a parallel account of how others have refused to aid the King because they failed to aid "one of the least of these." To these persons, the King will say, on judgment day, "Depart from me, ye cursed, into everlasting fire."⁷⁶

Third, the New Testament emphasizes that charity must be given for the right reason, that is, as a means of separating oneself from love of luxury, and as a means of helping the poor, not to obtain material advantages or to elevate one's status in society. The context here is that

75. *Matthew* 25:34-40, available at Bartleby, *supra* note 65. There is good reason to think that this passage is an authentic statement of Jesus. On the one hand, it fails the criterion of independent attestation, since only Matthew reports it. On the other hand, it satisfies the criterion of dissimilarity, that is, it is sufficiently problematic, in terms of later Christian doctrine, that it seems unlikely that Christian writers would have fabricated it. This is because the passage depicts the judge on judgment day as someone other than either God or Jesus, namely "the Son of man."

76. *Id.* at 25:41. This passage, and others cited in the above paragraph, highlight the problem with Mead's argument that the New Testament demands that people take responsibility for their actions, and thus counsels against charity and public welfare. See BANE & MEAD, *supra* note 64, at 53-106. The teaching of the New Testament is certainly that a person, to act morally, must take responsibility for her actions. But this general principle does not mean that one is entitled to blame people who fail to do so, in one's personal opinion, and thus refuse to help them. Rather, each person is responsible for meeting the moral standards that Jesus and his followers indicate, which includes aiding the poor. The fact that other people do not meet these moral standards does not excuse the actor from following them. This is stated over and over in the New Testament; it forms one of the principal themes of the Sermon on the Mount.

philanthropy, specifically providing resources to one's city, was often a practical means of ensuring social prestige and political success in the ancient world; in many cases, it was virtually obligatory if one wanted to get ahead. Against this background, Jesus says to the Pharisees:

"When thou makest a dinner or a supper, call not thy friends, nor thy brethren, neither thy kinsmen, nor *thy* rich neighbors; lest they also bid thee again, and a recompense be made thee. But when thou makest a feast, call the poor, the maimed, the lame, the blind: and thou shall be blessed; for they cannot recompense thee."⁷⁷

He is even more explicit on this point in the Sermon on the Mount:

Take heed that ye do not your alms before men, to be seen of them: otherwise ye have no reward of your Father which is in heaven. Therefore when thou doest thine alms, do not sound a trumpet before thee, as the hypocrites do in the synagogues and in the streets, that they may have glory of men. . . . But when thou doest alms, let not thy left hand know what thy right hand doeth: that thine alms may be in secret: and thy Father which seeth in secret himself shall reward thee openly.⁷⁸

Watching a poor widow make a small contribution to the synagogue, and wealthy people make large ones, Jesus says to his disciples: "That this poor widow hath cast more in, than all they which have cast into the treasury: for all *they* did cast in of their abundance; but she of her want did cast in all she had, *even* all her living."⁷⁹ Paul uses this same notion of charity as one of his examples in his effort to reconcile his doctrine of salvation by faith with Jesus's doctrine of salvation by works, saying, "And though I bestow all my goods to feed *the poor*, and though I give my body to be burned, and have not charity [i.e., love], it profiteth me nothing."⁸⁰

77. Luke 14:12-14, available at Bartleby, *supra* note 65.

78. Matthew 6:1-4, available at Bartleby, *supra* note 65. This passage does not appear in Luke's version of the Sermon, see Luke 6:21-49, available at *id.*, but neither does Jesus's proscription against committing the sins of anger and adultery in one's heart, nor His reassurance against care and worry, nor His description of the wide and strait gates, nor the Lord's Prayer.

79. Mark 12:43-44, available at Bartleby, *supra* note 65.

80. I Corinthians 13:3, available at Bartleby, *supra* note 65. Modern translations use the term love, not charity, in this passage. In any event, the meaning is clear from the quoted language itself, and from the context. Paul is con-

How are the words of the New Testament to be best translated in modern practice? It seems reasonably clear that they cannot be read as urging philanthropy in general. There is no suggestion that people should engage in institutional donations, that giving money to one's city, to the opera, or to Princeton, would satisfy the Biblical command to aid the poor. There is not even any suggestion that contributions to the Church would count as the sort of charity that Jesus and his followers were urging. While they obviously did not have a church at the time, they did have a movement, but Jesus always tells the wealthy to give their money to the poor, never to Him or his disciples.⁸¹

Similarly, there is nothing in the New Testament that would favor ideological giving. During the life of Jesus, Judea and Galilee were smoldering with anti-Roman sentiment that would burst into open rebellion in 66 A.D. and again in 132 A.D., making these little provinces the most difficult to control in the entire Empire. Jesus gives no indication of support for this ideologically-based dissension. When the Pharisees challenge Him by asking whether it is proper to give tribute to Caesar, Jesus points out that the coins bear Caesar's image, and then makes His famous statement, "Render to Caesar the things that are Caesar's, and to God the things that are God's."⁸² In general, Jesus's message focuses on metaphysical issues and interpersonal kindness, not on ideology. The core of His teaching is probably contained in His answer to another hostile question about the most important commandment; that one

trusting what we now call charity (bestowing ones goods to feed the poor) with the underlying reason for this action.

81. He does encourage his disciples to beg for subsistence. See *Matthew* 10:9-10, available at Bartleby, *supra* note 65, for the famous injunction in favor of apostolic poverty: "Provide neither gold, nor silver, nor brass in your purses; nor scrip for your journey, neither two coats, neither shoes, nor yet staves: for the workman is worthy of his meat." But this simply means that He wanted His followers to place themselves among the poor, where they could demand what any needy person could, not that He was trying to use the poverty of His followers as a means of fund raising.

82. *Mark* 12:17, available at Bartleby, *supra* note 65. This statement was also deemed important enough to be repeated almost verbatim by both *Matthew* and *Luke*. See *Luke* 20:25 and *Matthew* 22:21, both available at Bartleby, *supra* note 65.

should "love the Lord thy God with all thy heart" and that one "shalt love thy neighbour as thyself."⁸³

Jesus's injunction to aid the poor, on the other hand, is stated repeatedly, and in explicit terms. The problem for people, both in His time, in our time, and in the intervening time, is that he seems to demand that people give up everything to the poor and become poor themselves. He asserts that those with possessions are unlikely to achieve salvation, whereas the poor are, perhaps by virtue of their poverty, in some sort of blessed state. The very first words of the Sermon on the Mount are "Blessed be ye poor, for yours is the kingdom of God."⁸⁴ Most people have been unwilling to take His words literally, but any reasonable interpretation must acknowledge that these words carry some sort of demand for self-sacrifice, some sense that one can only enter into a right relationship with God by giving up something that one finds desirable.

To this may be added the two other themes described above. First, the sacrifice must not be a symbolic one, but must actually aid those in need. Second, it must not be motivated by a desire for glory or for recompense, but from a genuine desire to enter into a right relationship with God, and thus achieve salvation. The first theme addresses the problem of paradoxical effect, and the second addresses the problem of mixed motives. No definitive solutions are offered and any implied solutions would need to be reinterpreted over the course of time. There may also be some tension between the two themes, that is, between the pragmatic concern with alleviating poverty and the metaphysical concern that the alleviation of poverty is not sufficient unless the donor has the proper motivation. This tension, embodied in the dual command to love God and to love one's neighbor, is addressed by the idea that one must undertake right actions for the right reasons.

In the modern world, private charity conforms to these Biblical themes only fitfully, and sometimes not at all. There exist many opportunities to make donations without experiencing any real sense of self-sacrifice. Wealthy people

83. *Mark* 12:30-31, available at Bartleby, *supra* note 65. Again repeated both in *Matthew*, 22:38-40 and *Luke*, 10:26-28, both available at Bartleby, *supra* note 65.

84. *Luke* 6:20, available at Bartleby, *supra* note 65. *Matthew's* version is "Blessed are the poor in spirit: for theirs is the kingdom of heaven." *Matthew* 5:3, available at Bartleby, *supra* note 65.

often make contributions out of surplus funds, that is, out of funds that will not affect their life style in any way. Middle class people often give small sums that satisfy a need on their part but have a similarly negligible effect on the way they live. Moreover, giving to the poor often augments the donor's prestige or generates a sense of superiority that directly contradicts New Testament teaching.

Voting for public officials who support welfare programs, on the other hand, is a convincing translation of New Testament teaching into the context of a modern administrative state. In casting such votes, wealthy and middle class citizens are, in effect, voting for higher taxes, or, at the very least, for giving the poor tax dollars taken from their salaries. No one likes paying taxes. Even people who would voluntarily contribute to the poor generally prefer deciding when and how to make the contribution, and, incidentally, getting a tax benefit. To vote for increases in tax-supported public welfare programs, therefore, is to submit oneself to a moral obligation of precisely the sort that Jesus urges when he tells people to give their money to the poor. There is a similar need to overcome one's reluctance to part with worldly possessions, a similar sense of self-sacrifice. But in contrast to giving away all of one's possessions, wearing a hair shirt, or flagellating one's flesh, this is a form of self-sacrifice that makes sense in a modern context. It is thus a plausible translation of the sort of self-sacrifice that Jesus insists upon. If He were speaking to us now, He might well say that it is easier for a Mack truck to go through a fiber optic cable than for someone who votes against public welfare programs to enter into the kingdom of God.

Similarly, the New Testament obligation to actually aid the poor, to engage in self-sacrifice to provide pragmatic benefits to those in need, can only be discharged by voting for those who support public welfare and foreign aid programs. There is simply no other mechanism available in our society that can ensure that all needy people in one's own nation and throughout the world survive at a minimally adequate level. To rely on private charity, in the context of modern mass society, inevitably means that one will be saying, to many of the poor, "depart in peace, by ye warmed and filled" without giving them "those things which are needful to the body." To vote for public officials who refuse to provide social welfare and foreign aid in amounts ade-

quate to relieve human suffering calls forth the condemnation of the Son of man: "I was hungered, and ye gave me no meat, I was thirsty, and ye gave me no drink . . . Inasmuch as ye did *it* not to one of the least of these, ye did *it* not to me. And [you] shall go away in everlasting punishment."⁸⁵

Finally, there is no better way to ensure that one is giving charity for its own sake, and for moral reasons, rather than to obtain prestige or assert superiority, than to vote for officials who support social welfare and foreign aid. No one can obtain much personal gain by merely voting for a particular candidate. Campaign contributions, a mode of ideological philanthropy, may serve this function, but voting, the modern equivalent of giving charity, cannot. Moreover, it cannot produce a sense of gratitude or obligation on the part of the recipients; they may be thankful for the benefits they receive, and even feel some sense of gratitude to the millions of people who voted in favor of these benefits, but their sentiments cannot be conveyed to individual voters, except in the most abstract sense. Voting is the ultimately anonymous, remote act of charity toward the disadvantaged, "for they cannot recompense thee."

Maybe I would be less irritated at the private charity folks if I really thought that they were headed straight for Hell, and that the people they had allowed to suffer, including American citizens right here in our own country, would be compensated for their suffering with an eternal life in heaven. As it is, it only makes me angrier to think that people who claim to believe in the New Testament, parade their faith as a means of political advantage, and use it as a means to deny disadvantaged persons the very benefits the New Testament urges them to grant, may get away scot-free. At least they could be honest, and own up to the fact that they simply don't want to help other people, that they're willing to allow them to sink—in a really deep ornamental pool—or swim. At least they could say that their goal is to maximize the wealth of the society, and that they are perfectly content for that wealth to enrich the already opulent lives of the wealthy. But to clothe oneself in the raiments of a religion whose central principles one is systematically ignoring strikes me as insincere as well as in-

85. *Matthew* 25:42, 45-46, available at Bartleby, *supra* note 65.

humane. It's not even my religion, but the disrespect for it annoys me.