
5 Rational Voluntarism and the Charitable Sector

BRUCE CHAPMAN

THE NEED FOR AN ACCOUNT OF RATIONAL VOLUNTARISM

Economics is characterized more aptly as a method of analysis than as a subject matter. The days are long gone when economists focused on that most paradigmatic of economic subjects – the market – perhaps straying only reluctantly to the workings of certain fiscal or regulatory institutions when these “imposed” themselves on what was otherwise deemed to be free market exchange. Now one can find economists applying their methods to voting rules and political institutions, to the machinations of bureaucracy, to the decisions of judges and the workings of the courts and legal rules, and, most recently, to the social impact of cultural norms.

What is it, then, that economics characteristically brings to the study of such a broad array of very different institutions? The short answer is *homo economicus*, or the rational actor – that person who, armed with a healthy set of ordered preferences, seeks so far as possible to choose that alternative which, given institutional constraints, he or she most prefers, or is most conducive to his or her own “self-interest.” The phrase is often construed as synonymous with “selfish,” but that is not strictly accurate. The preferences of the rational actor can be determined by any number of factors, including the interests of others. Thus, odd as it may sound, there would appear to be no methodological reason why one could not usefully apply the model of the rational actor to the analysis of charity and charitable institutions, where it is

usually thought that the interests of others, in contrast to self-interest, motivate key participants in this sector. One can, it seems, take a perfectly healthy interest in the interests of others and seek rationally to maximize that self-interest in the consistent choice of most-preferred alternatives.

Nevertheless, even though the rational-actor model can apparently accommodate the virtue of altruism, in this chapter I suggest some reservations about using the model in its purest form in the study of charity and charitable institutions. For while the rational actor is not exactly a knave,¹ thinking only selfishly about how the choice of certain alternatives might affect him or her, there is nevertheless something persistently *asocial* about him or her. He or she thinks, I argue, too reductively about collective action – that is, too individualistically – which can ultimately countervail the very interests of others in which he or she is said to be taking an interest.

Now this might suggest that we need here that other denizen of the social sciences sometimes trotted out to do theoretical battle with *homo economicus* – namely, *homo sociologicus*. This is a person who, without much rational or calculative regard to self-interest at all, simply does “the done thing” – that is, complies with whatever cultural norms, social roles, or habitual schemes are required of him or her. In other guises he or she sometimes appears as the Kantian who, without much regard to consequences, and certainly without any regard to the consequences for his or her own self-interest, does his or her duty for duty’s sake.

But such an unthinking² paragon of socially required conduct surely strains our credibility as much as the rational actor of economics. While it seems at least partially true to say of the self-interested rational actor that “people are not really like that,” it seems wrong to take this to mean that “people are not *at all* like that.” For that broad exclusionary claim is precisely what seems so strained in *homo sociologicus*. It is surely more accurate to offer a more narrow exclusionary claim in response to the economist’s rational-actor model – namely, “Not all people are like that,” or even “People are not entirely like that.” In other words, what we need is a more nuanced and heterogeneous account of people’s motivations and their choices, either for people in general or for someone in particular, than what is provided for in the simple caricatures of both *homo economicus* and *homo sociologicus*. What we need, we might say, is an account of *homo socioeconomicus*.

However, such an account must have some real structure to it, something that has enough purchase and precision genuinely to inform our institutional choices. It is not enough to say, vaguely, that *homo*

socioeconomicus is someone who is “in between” the other two sorts of beings, whose motivations are some sort of integration of the motivations of the other two, without saying very much that is specific about how this integration is to be achieved. In this chapter I aim to develop the beginnings of a structured account of homo socioeconomicus and to show the precise relevance of this account for our understanding of the charitable sector in general and for the regulation and organization of charitable institutions more particularly.

The charitable sector seems to be an appropriate place to begin looking for our new sort of actor. As I suggested above, the very notion of charitable conduct already strains the credibility of the self-interested rational actor. It seems more likely that the sort of being that is lurking here is something other than homo economicus, whatever the accommodating method of rational-choice theory might try to suggest. But there is also reason to believe, or so I argue, that those who participate in the voluntary sector reveal a commitment to the interests of others that is somewhat more contingent, or more subject to rational revision, than what the more absolute social commitments of homo sociologicus suggest. The challenge is to develop an account that allows for this possibility of rational revision of social commitments without having that possibility reduce at once to the full-blown and pervasive calculus of the rational actor. I hope to provide such an account in my characterization of homo socioeconomicus and to show that the charitable sector is regulated, and charitable institutions are organized, with this more complex sort of being in mind.

The argument in the chapter proceeds as follows. In the first section I provide a more detailed account of the motivational structure of homo socioeconomicus. I work with a general characterization of what it is to see oneself acting collectively and then, using the “prisoner’s dilemma” game for purposes of illustration, show more specifically how the rational voluntarism that characterizes homo socioeconomicus differs from the motivational structures of both homo economicus and homo sociologicus. The second section shows some of the implications of this account of rational voluntarism for our understanding of the charitable sector. The three subsections of the section address: first, why homo socioeconomicus should be kept apart from the competitive pressures of politics; second, why homo socioeconomicus shows such a high degree of responsiveness to tax subsidies in his or her charitable donations; and third, why homo socioeconomicus would choose to organize charities as non-profits and otherwise seek to limit the commercial activities of charities. All of these implications, I suggest, follow from the motivational complexity of rational volun-

tarism and are much harder to comprehend within the more conventional models of *homo economicus* and *homo sociologicus*.

THE MOTIVATIONAL STRUCTURE OF RATIONAL VOLUNTARISM

We can usefully derive the beginnings of a possible motivational structure for *homo socioeconomicus* from an analysis of that game form which is still so much at the centre of the economic analysis of institutions – the prisoner’s dilemma. While the invocation of this game might seem to beg the question in favour of the economic approach, and *homo economicus*, this model of strategic interaction remains intriguing for the economist (and others) precisely because it shows how economic theory *fails* to capture the possibility of social co-operation where we do in fact observe it (or at least partially fails to capture it – the question will often be whether the glass is half empty or half full when we observe what is typically something less than complete co-operation). Moreover, the prisoner’s dilemma is also frequently used to model the problem of supplying a public good or benefit through purely voluntary contributions. This also makes it relevant to our understanding of participation within the charitable sector. The notion of “public benefit” is crucial to the most general part of the historical definition of charity, and the more specific categories of charity typically listed within this definition are all public goods in the economic sense of that term.

According to economic thinking, a public good is a good which, once it is made available to some individuals, is equally available to others, regardless of whether these other individuals have made any contribution to provide for these goods. Standard textbook examples of such public goods include national defence, clean air, and the availability of a radio signal. But another example is the relief of poverty, something which is paradigmatic of what charities do.³ Once this relief is provided for, it is there for everyone to enjoy (at least if they have an interest in the interests of others), regardless of whether they have made any charitable contribution of their own. But, according to the economist, it is the inability to exclude non-contributors that can generate a problem for the supply of public goods; if individuals cannot be excluded from consuming the public good even though they have not contributed to it, then each, as a rational actor, will choose not to contribute, and the good will not be adequately supplied.

This argument is typically represented as a prisoner’s dilemma. Let there be a representative individual *i*, who is contemplating whether to make a voluntary contribution of some (unspecified) “fair” share to

Figure 5.1 The public goods problem as a prisoner's dilemma game

<i>Individual i</i>	<i>Everyone else</i>	
	1. Contributes (public good provided)	2. Does not contribute (public good not provided)
1. Contributes	x	z
2. Does not contribute	w	y

the public good. In the matrix (Figure 5.1), he or she is contemplating whether to choose row 1 or row 2. The columns 1 and 2 represent what everyone else does. In column 1 everyone else contributes their fair shares; in column 2 no one else contributes. Since, by assumption, individual i 's contribution is small, or insignificant, in terms of the whole cost of the public good, the good is provided in column 1 and not provided in column 2, regardless of what individual i actually does (i.e., regardless of which row, 1 or 2, he or she chooses). Thus, from i 's point of view, there are four possible social outcomes: everyone contributes, except i (social outcome w); everyone contributes, including i (x); no one contributes, including i (y); and no one contributes, except i (z).

Now suppose that i is the paradigmatic rational actor who, while taking an interest in the public good (for example, "the interests of others") being provided, nevertheless prefers not to contribute if everyone else does (for then the public good is provided for in any case). And, if no one else contributes, he or she feels that there is really little point in doing so (for then the public good is not provided in any case). Thus, i prefers w to x and y to z . However, i does consider this public good to be one worthy of contribution, even if this means contributing a fair share. (This, of course, requires that everyone else contribute as well). So i prefers x to y . Thus i 's ordering of the four social outcomes is (in order of preference from left to right): w, x, y, z .

Now consider i 's decision to contribute or not. Individual i knows that his or her contribution is too small to influence what everyone else does. Therefore, i simply takes everyone else's behaviour as given, or independent of i 's own. Of course, i does not know what everyone else will do. However, i reasons that if everyone else does contribute, he or she does best not to contribute, thus securing his or her most preferred social outcome. That is, i chooses w over x . However, if no one else contributes, and if i were to contribute, this would be the worst of all possible worlds, i 's having spent something for nothing. So i also chooses y over z . Thus, no matter what everyone else actually does, i chooses not to contribute. Alternatively, we can say that i has a

dominant strategy to choose row 2. Moreover, since i is a representative individual, everyone else has this same incentive. Therefore everyone else chooses not to contribute (chooses column 2), and the social outcome that prevails is y , or the status quo, “no contribution” alternative. This is the case even though all the individuals, like the representative i , would have preferred getting to social outcome x , where all contribute their fair shares.

Now those who would propose *homo sociologicus* rather than *homo economicus* as a more appropriate model of individual behaviour will suggest that the difficulty with the prisoner’s dilemma, or the reason that it fails to explain the fact that people *do* voluntarily contribute to public goods even though they have a dominant strategy to “free ride” on the contributions of others, is that it works with too impoverished a view of human nature.⁴ Most people make these contributions, the argument goes, because they feel that it is their duty or because they otherwise deem it normatively appropriate. Anything less, it might be said, would be to do less than “one’s part” – less than what it is properly to do the “done thing.”

Economists also sometimes attempt to explain voluntary giving by suggesting that individuals derive some satisfaction, or “warm glow,” just from the act of giving, even if the gift has almost no consequential effect on the provision of the public good in question.⁵ In the economic account of the prisoner’s dilemma, of course, this pure taste for giving has no role; there the rational actor looks only at the consequences of his or her own giving and, if the gift makes no real difference to the amount of public good provided, will choose not to make it.

But a taste for pure giving seems just as unlikely as the idea that we are all, unambiguously, free riders on the contributions of others. Whereas the free rider has a dominant strategy of never contributing in any circumstances (since such giving is so inconsequential), the contributor who is motivated purely by a taste for giving gives without any regard to consequences at all – that is, just out of the pure love of giving and regardless of whether the public good is actually being provided as a result. Where we might say the free rider is too consequentialist in his or her reasoning, asking only whether his or her gift makes a real difference to the public goods outcome, we must surely also say that the individual motivated by a taste for pure giving is too *non-consequentialist* and insufficiently attentive to whether his or her preferred outcomes are actually being achieved. Indeed, we might even see some special irony in the altruistic motivations of the pure giver, since he or she seems selfishly to care only about his or her own giving and not at all about whether it is actually helping others.⁶

Furthermore, the economist's account of "warm glow" giving fails to capture the subtlety of what it is to do "one's part" within a larger scheme of social co-operation. Indeed, one could also say the same of the more simple-minded caricatures of *homo sociologicus*, at least when these accounts contemplate individuals' acting co-operatively (or choosing row 1 in the prisoner's dilemma) in only a somewhat unreflective way. For doing one's part, or doing the "done thing," presupposes that there is already in place a co-operative venture, or *whole*, of which it can sensibly be said that one's own contribution is only a *part*, or, alternatively, *from* which one can determine the standard for the "done thing." In terms of the prisoner's dilemma, it presupposes that the representative individual who is choosing *between* the rows can know (or at least can reasonably expect) that he or she is choosing *within* column 1. But the economist's account of "warm glow" giving does not require that the individual be much concerned about whether there is any such co-operative venture in place. This is what makes that account so agnostic about actual consequences; the warm glow simply attaches to one's own giving. And the unreflective *homo sociologicus* co-operates just as unconditionally. While he or she might speak of "doing (his or) her part," if he or she never actually attends to whether others, who share the same conception of the public good, are doing their parts within the co-operative scheme (that is, never thinks about whether he or she is in column 1 or column 2), then this motivation, while absolute, seems purely formal – the stuff of thoughtless and empty commitment.⁷

What we need under the idea of "doing one's part" therefore is some possibility of a more conditional co-operation.⁸ In particular, what we require is a co-operative motivation that can account for the feeling that one is obligated to co-operate if others are doing so (if the representative individual finds himself or herself in column 1), but not, if they are not (column 2).⁹ The first part of this conditional cuts against the free-ride strategy of *homo economicus*, who is non-cooperative regardless of what others are doing; the second part, against the co-operative absolutism of either the "warm glow" giver or *homo sociologicus*, each of whom is co-operative regardless of what others are doing. But the strategy that co-operates conditionally – that is, only if others in one's co-operative venture are also co-operating, and otherwise not – would appear to differ from both. It is tempting to think that we might find the definitive strategy for *homo socioeconomicus* here.

However, that would be an overly hasty conclusion. For while some version of conditional co-operation will inform the motivation of *homo socioeconomicus*, there is a logical problem with the purest

version of this strategy. More significantly, the logical difficulty reveals a deeper substantive requirement for our account. There is still something reductive and overly individualistic in the purely conditional co-operator, a character trait inherited from the ancestor homo economicus. What we need, rather than a mind perfectly open to, or rationally impartial in its treatment of, the differing conditions for co-operation and non-co-operation, is a more unthinking presumption in favour of co-operation. While this might sound like a retreat to the motivations of homo sociologicus, it is not. Because the presumption in favour of co-operation is less than absolute, being open *at some point* to rational revision, we now see that it is much more like the complex integration of motivations that we are looking for in homo socioeconomicus.¹⁰

The logical difficulty in a strategy of purely conditional co-operation is that it cannot generalize for all representative individuals without becoming paralytically self-referential.¹¹ Each representative individual, seeking to condition his or her choice of a co-operative strategy on whether others are co-operating, must wait until those others reveal their choices. But those others, being equally representative individuals, are likewise waiting for him or her (and others like him or her) to reveal the conditions on which they can base *their* choices. Thus, in infinite regress, each representative individual is suspended in a kind of strategic limbo, unable to make any strategic choice until the other (equally representative) individuals have determined their strategic choices first.

Now there are several ways out of this problem. One is to avoid the strictly logical problem of self-reference by allowing a representative individual's decision to co-operate to condition not so directly on another such individual's own decision to co-operate but, rather more indirectly, on his or her receiving from the other individuals some sort of publicly observable message saying that these others will co-operate if they receive like messages from him or her (and others like him or her). This surprisingly small adjustment in the rules of the game avoids the logical difficulty of self-reference. However, some economists will continue to be sceptical unless one also assumes some unlikely degree of transparency, or honesty, in the messages being sent between representative individuals in such strategically charged situations.¹²

Another approach comes closer to some of the themes already discussed in this chapter. Each representative individual can escape strategic limbo by working with a simple presumption that other representative individuals will co-operate. This presumption allows each and every individual to begin with co-operation and, on observing the like-motivated co-operation of others (who have begun with the same presumption), to carry on co-operating with equanimity.

However, the introduction of a working presumption in favour of co-operation will strike the sceptical economist as just a little too convenient. Does the presumption not simply assume what needs to be shown? Do we not have to ground the presumption *in*, or explain it *by*, some sort of rational motivation, rather than the other way round – that is, we cannot structure our account of rational motivation around a given presumption. While we might expect this objection from anyone weaned on the rational-actor model, it is not at all obvious that the sceptical economist can raise it comfortably. For, in the absence of such presumptions, there will be no way to achieve some of the efficiencies, dear to the economist, that are present in even the most simple situations calling for social co-ordination. Yet these efficiencies seem to be easily attainable if individuals can be induced to think more collectively and less individually and, as a result, to presume in favour of certain co-ordinating actions rather than others.

To see this last point, consider the simple two-person co-ordination game called “matching pennies.”¹³ Each person, without consulting the other, must turn up either “heads” or “tails” on his or her own coin. If each person turns up “tails” – a match – then each will win another penny from the pot. However, if each turns up “heads” – another match – then each will win one hundred dollars from the pot. In the absence of a match, each wins nothing. What should each person do?

It seems obvious enough that each person in the game is motivated to match the other and moreover should turn up “heads” and walk away with the larger winnings. And it seems easy to predict that this is exactly what will happen if two players are reasonably well adjusted socially. But it is surprisingly difficult for two individually rational actors to get to this result. Why? For exactly the same reason that it was difficult for the two conditional co-operators to get to the mutually co-operative outcome in the prisoner’s dilemma. The representative person could sensibly co-operate there, it will be recalled, only if the others had already resolved to co-operate and so had laid down the basis for the representative person’s conditional co-operation. But the others were likewise waiting for him or her (and others like him or her). Hence the strategic limbo.

In the game of matching pennies, the problem is exactly the same for the rational actor. It makes sense for either one of the players to turn up “heads” only *if* the other person is turning up “heads”; otherwise, despite the larger winnings, it makes more sense to turn up “tails.” However, both persons are reasoning in this way (and, moreover, it is common knowledge that they are), so that neither can really find a determinative way to get to “heads” and the larger winnings that

go with that strategy. It seems that, in theory at least, two individually rational players can end up choosing in this game so that there is a non-trivial chance that any one of the four possible strategy combinations is the final outcome. Yet we can surely doubt that in the real world two reasonable players would have this problem.

What this suggests is that we need to purge *homo economicus* of more than his or her propensity for unconditional non-co-operation (in the prisoner's dilemma) if we are to explain how individuals do, sensibly, co-operate with one another. That first step takes us only as far as conditional co-operation but still leaves individuals uncertain how mutually to condition their conditionals. I have suggested that the reasonable way to proceed is to assume that conditional co-operators work with a presumption in favour of co-operation, which involves purging *homo economicus* further of the propensity to think *too* conditionally about co-operation – in particular, to think from the very beginning that he or she should co-operate only *if* others are doing so. While thinking conditionally about co-operation makes sense of the idea that one is “doing one's part” in some larger sort of collective action – something that neither *homo economicus* nor *homo sociologicus* (for quite different reasons) can really do – thinking *too* conditionally about the prospect of co-operation – that is, without even an initial presumption in its favour – serves only to reproduce the same sort of individualistic or non-collective thinking so characteristic of *homo economicus* that we hoped to avoid in *homo socioeconomicus*. To some extent at least, *homo socioeconomicus* must not be tempted by the question “What should *I* do?” and should substitute the more collective version of that question “What should *we* do?”¹⁴ The former question, even if it can accommodate the more conditionally motivated structure of *homo socioeconomicus*, and therefore make some sense of the idea of “doing one's part” within a collective enterprise, still encourages the individual to think *too* much (that is, *too* immediately or *too* pervasively) about what he or she should be doing in contrast to what others similarly situated, might be doing. This is what exposes him or her to the difficulty of a purely conditional “co-operation strategy” – namely, that he or she (and other like individuals) should co-operate in the collective enterprise only if the others are doing so.

The more collective question “What should we do?”, in contrast, encourages the individual to think about the overall profile of strategy choices that the individuals as a group should adopt and then identifies the choice for each individual as the one that simply (categorically) has that individual “doing (his or) her part” within that overall profile. Someone who has framed a strategy choice in this more col-

lective way does not have to consider whether the other players are themselves doing their parts as components of this profile of strategies in order to identify and justify his or her particular choice.¹⁵ Rather, in response to any question about why he or she was doing what he or she was doing, the first reaction would be only to say: “This is simply what we do when we do strategy profile *S* as best” or, perhaps, “This is simply what *I* do when we do strategy profile *S* as best.”

I emphasize this response as a *first* reaction – that is, as something that he or she might say immediately about what he or she is doing. But while the individual characterizes and motivates his or her conduct in a *categorically* co-operative way – that is, as simply *what it is* to be a part of some overall collective strategy *S* – the individual need not view himself or herself as *absolutely* committed to co-operation under strategy *S*.¹⁶ For while a co-operative strategy cannot be purely conditional (this not making any sense of collective action to begin with), it cannot end with a purely *unconditional* or absolute commitment either, since this makes nonsense of attending to whether there is really any social “whole” of which one’s own individual choice is only a part. Thus, at some point, and more particularly at that point (still unspecified) where there are too few fellow co-operators, the first reaction must give way to a rational revision of what one is doing, to allow for not co-operating when others are not co-operating as well. This is a presumption in favour of co-operation, but not an absolute presumption.¹⁷

But, since collective action implies both the initial presumption in favour of cooperation *and* the defeasance of that presumption in the presence of countervailing non-co-operation, then the conjoining of these two ideas is not merely an ad hoc or convenient conglomeration of unrelated elements but rather, under the aspect of a single idea, a rational integration of these elements into the complex motivational structure that makes up homo socioeconomicus.

Before we examine the implications of this motivational structure for the organization and regulation of the charitable sector, we should summarize briefly what we have learned about the motivations of homo socioeconomicus. There seem to be three essential and quite general characteristics, and one broad organizing principle.

(1) There is conditional co-operation. In contrast to both homo economicus and homo sociologicus, who in the prisoner’s dilemma play their respective strategies of non-co-operation and co-operation unconditionally, homo socioeconomicus co-operates conditionally, co-operating when like individuals are doing so and (subject to the qualifications below) not co-operating when others are not.

(2) There is a collective frame. Homo economicus, in a situation calling for either co-ordination or conditional co-operation, continues

to frame the strategic question individualistically as “What should *I* do?” Homo socioeconomicus, in contrast, frames the question in a collective way as “What should *we* do?” and then identifies the appropriate individual choice as that which has him or her doing his or her allotted part within the overall strategy profile chosen as best for the group.

(3) There is a non-absolute presumption. In further contrast to homo sociologicus, who adopts the collective frame absolutely, homo socioeconomicus takes it up presumptively, or non-absolutely, and reveals a willingness to revise the presumption if an insufficient number of other like individuals are actually co-operating.¹⁸

Finally, there is what we may term the broad organizing principle – “rational voluntarism,” or “doing one’s part.” The three preceding points of contrast follow as implications of the single idea of rational voluntarism – namely, that *homo socioeconomicus* is the sort of reflective being that is motivated to do his or her allotted part within a collective enterprise. Neither an unconditional strategy (in either its co-operative or un-co-operative versions) nor a purely conditional strategy (that is, one without any sort of collective frame favouring co-operation) can make sense of the (both logical and ontological) priority of the collective enterprise that such a motivation, rationally construed, must presuppose.

With these summary points to guide us, we are now ready to see whether there is any real evidence that homo socioeconomicus is at work within the charitable sector. In the next section I argue that the evidence for homo socioeconomicus exists in the various ways in which our charitable institutions and their regulation conjoin concern for the three different possible pairs of the three general characteristics of homo socioeconomicus that together constitute rational voluntarism. One of these three possible pairs provides the focus for each of the three subsections in the third section.

First, there is, I suggest, some recognition of the motivational complexity of homo socioeconomicus in the fact that regulators of the charitable sector are keen to keep charities apart from politics. Such a regulatory posture shows that the regulators are aware that institutional environments that are more competitive than co-operative severely test the predisposition that homo socioeconomicus has to co-operate. This calls for a strategy that attempts to separate out, or screen,¹⁹ the species’ co-operative predisposition into the charitable sector, where his or her *non-absolute yet conditional* predisposition to co-operate can do its work. Thus, this subsection focuses on the conjunction of characteristics 1 and 3 above.

Second, I find further evidence of the predisposition to co-operate if others are doing so in the fact that donors reveal a highly elastic

response to the tax subsidies that are offered on charitable donations. These high elasticities (with values higher than one) are hard to account for on the more conventional models of homo economicus, even when these models allow for conditional co-operation, and the subsidies themselves are unnecessary on the model of homo sociologicus. Thus use of these subsidies suggests that the taxing authorities are acutely aware that they are dealing with homo socioeconomicus in the charitable sector – that is, with a predisposition to co-operate that is conditional yet (presumptively) collective, or a conjunction of characteristics 1 and 2 above.

Third, and finally, I argue that rational volunteers themselves recognize that their commitments to co-operate are less than absolute. This explains their propensity to organize charities as non-profit organizations. It also explains, I argue, why a regulator might be concerned about their potential ability to earn unrelated business income. Again, this explanation calls on the motivational complexity of homo socioeconomicus. Where homo economicus shows too little commitment to any particular common cause to make sense of his or her choosing the non-profit form of organization to begin with, homo sociologicus shows too much commitment to the common cause to require his or going on with it in a non-profit form. Thus the choice of a non-profit form manifests the collective yet non-absolute commitment to co-operation that is peculiar to homo socioeconomicus and the conjunction of characteristics 2 and 3 above.

RATIONAL VOLUNTARISM IN THE CHARITABLE SECTOR

Rational Voluntarism and Political Debate

One of the most influential accounts of the charitable sector is that offered by Burton Weisbrod.²⁰ He views the sector as a kind of “add on” to whatever the political sector determines are the appropriate quantities of public goods that are to be provided out of general tax revenues. Some individuals, Weisbrod argues, will feel that these amounts (amounts determined, at least in the usual analyses of majoritarian voting, by the preferences of the median voter²¹) are inadequate and will naturally turn to the private sector to have the quantities supplemented. This, Weisbrod has argued, is the role properly played by the charitable sector, which acts largely in concert with, or as a supplement to, the political sector.

While this analysis is intriguing, nothing in it would appear to require that those in the charitable sector be prohibited from coming

back to the political sector to lobby for policies favourable to their charitable organizations. Yet those charities that engage in such political activities are typically in danger of losing the very charitable status that allows them to attract tax-subsidized voluntary contributions.²² Now it might be true that charitable groups would not be much expected under Weisbrod's analysis to return to the political sector, since the politically decisive preferences of the median voter would already have been exhausted. But it is not clear why, as a regulatory matter, there is any reason on his account actually to *prohibit* charities from any access to the political sector. After all, it is the essence of his theory that charitable groups view the political and the private voluntary sectors as merely complementary methods for achieving their goals.²³

However, a quite different perspective on the relationship between the two realms follows from our understanding of homo socioeconomicus – a perspective that can make some sense of why we might want to keep them apart. Homo socioeconomicus, we recall, is someone who is prepared to do his or her part within some larger co-operative scheme, at least in so far as there is some substantial amount of co-operation already resolved upon by other like-minded co-operators. However, in the face of substantially countervailing evidence of non-co-operation, or in the absence of a common enterprise to begin with, homo socioeconomicus is also inclined to be less co-operative. This suggests, to the extent that we are relying for the production of public goods on the predispositions of homo socioeconomicus to be co-operative, that we will want to keep him or her isolated from any public forum that disputes rather than accepts a given conception of the public good or common enterprise. Such controversy, while understandable in politics, has the appearance of non-co-operation and may undermine the presumption in favour of co-operation that animates homo socioeconomicus.

Why should the production of public goods within the charitable sector be any less controversial than their production within the political realm? Is there not the same diversity of views to be accommodated in either case? Such questions ignore the fact that different institutions respond to this diversity of demand in different ways. In competitive markets for private goods, for example, various individuals buy different quantities of the goods at the same competitive prices. Indeed, the fact that they can and do do so is what allows them to bring their marginal rates of substitution for the different goods into equality with one another, so that efficient aggregate consumption results.

However, in politics, where public goods are supplied, and where everyone must therefore consume, the same quantities of the public

goods so provided, these variable demands at the same prices cannot be accommodated by quantitative variations in individual consumption. Thus, the diversity of demand continues to show itself as a range of political disagreement that must somehow be resolved collectively – by majority voting, for example. In principle, of course, one could reduce the range of this political disagreement or conflict perhaps by having various individuals pay *different prices* for the *same quantity* of public good. Indeed, it should be possible in theory to use price discrimination across individuals with different demands for the public goods and to achieve thereby the same efficiencies in consumption of public goods as the market achieves vis-à-vis private goods.²⁴ However, such a scheme is impracticable, especially among diversely motivated individuals who realize that their higher demands for certain public goods will produce higher tax prices. In such conflictual circumstances, an individual, acting competitively, would appear to have every incentive to misrepresent his or her high demands as lower than what they actually are. Thus the political realm cannot resolve the range of disagreement across individuals about quantities of public goods by supplying the same quantities at different tax prices but must continue to resolve them collectively in the supply of the *same quantities* of public goods to be consumed at the *same tax prices*. We have reason therefore to worry about the high levels of disagreement about public goods that will manifest themselves politically.²⁵

However, in the charitable sector, no group of individuals can impose its collective will on some other group at some given tax price but must instead consume the public good in both varying quantities and at varying prices (according to the magnitude of each individual's voluntarily chosen contribution to the collective enterprise of which he or she chooses to be a part). There is accordingly less conflict over (albeit the same diversity in) the supply of these same public goods. After all, why should group A care much at all about what public good group B chooses to provide? So long as there are no tax implications for the members of group A in the provision of a public good to the members of group B, the accommodation of difference between the individuals in these two groups takes on more of the appearance of the same sort of accommodation that we saw when the market supplied private goods in varying quantities to individuals.²⁶

I emphasize the word “appearance” here. For readers will object immediately that this analysis ignores, in at least two important respects, the reality of how charities are funded. First, in a way still to be described and analysed, voluntary donations to charitable institutions attract certain forms of advantageous tax treatment, both for the donor and for the organizations themselves. It is common (though not

universal²⁷), for example, for donors to receive either a deduction from their taxable income or a credit against their tax liabilities according to how much they donate. And charities often receive tax breaks on the incomes that they earn or the taxes that they are obliged to pay as organizations. Second, whatever one might want to say about private donations to charities, by far the greater part of the funding of charities continues to come from general tax revenues.²⁸ Thus, the argument goes, to think of the charitable sector as involving “private decisions” is largely illusion.

I have more to say below about the tax advantages that charities enjoy, but here I want to focus on the suggestion that these tax advantages help to characterize the sector as public rather than private and thus render suspect any attempt to keep this sector apart from politics. The important point for my argument is not so much where the funding ultimately comes from, but rather what sort of decision-making is combined with what sort of funding. Just as collectively imposed (for example, majoritarian) decision-making can be combined with public funding in a non-divisive way if tax prices are variable for individuals (such variability serving to temper the destabilizing diversity that might otherwise be present within a broader range of political disagreement²⁹), so public funding from general tax revenues, or even variable matching public funds by way of tax credits or deductions, can be combined without difficulty with the manifestation of a group will that is not collectively imposed. A non-collective manifestation of a group will is what occurs when charities are identified and funded by an aggregate of individual donors’ decisions that are co-ordinated only under the aspect of some larger group enterprise or purpose. While each individual voluntarily does his or her part within the group enterprise, there is no moment of collective imposition of that group will on others. The tax revenues that come from matching deductions and credits are merely the further public implications of these individual decisions.

However, because they do not share a particular and public moment, these tax implications do not have the sort of political salience that might call for a reply from some other group. It is this sort of reply that can be destabilizing, both for the political sector in general *and* for the specialized sense of common enterprise that informed the co-ordinated action of the different volunteers to begin with.³⁰ Equally, while the approval of public funding from general tax revenues does seem to call for a genuinely collective decision, even that decision, in that it targets a charity that has been privately identified and (at least on initial donations) privately funded, is less self-consciously political than a decision that both originates in, and is com-

pleted by, public debate. Thus it too represents a lesser danger both to what is stable within politics and to what conduces to rational voluntarism within the charitable sector.

This reply might suggest that the only real concern for charities (and charitable status) is that some particular public good has been pursued as a political *activity*. That is, it might seem that the only real issue is whether the public good has either been identified as a matter of collective decision-making and in a way that might attract a political response, or has itself engaged in some overtly political activity that, equally, might call for a countervailing political move by some competitive group.³¹ But, while this might be the more usual sort of concern, it is not the only one. Some charitable *purposes* can be sufficiently controversial to attract a political or regulatory response by a rival concern, even if they are not pursued as a political activity. For example, a group devoted to preventing the gratuitously cruel treatment of animals might not be controversial if it were organized as a private charity and there were no salient political moment that called for its funding out of general tax revenues. Everyone might not share the same enthusiasm for this cause, but few (or at least not so large a number as to be politically decisive and destabilizing) would believe that the charitable purpose was really bad (or worth organizing against) either. But the same group might become controversial, even in the absence of any political activities, if it began to organize the private sector against animal experimentation to the point where certain medical advances became jeopardized. And this controversy might well attract a decisive countervailing political response.

While this last sort of private activity should clearly be permitted, it is at least arguable that it should not be permitted *for a charity*.³² The point of producing public goods within the charitable sector, unlike producing them politically, is that they can be produced without manifesting the controversy that endangers both political stability and the spirit of co-operation that is conducive to rational voluntarism in charities. However, to allow charitable status and, more specifically, the tax subsidy that goes with it to a charitable purpose that is itself politically controversial, may, rather than reducing political conflict as intended, actually exacerbate it. The result may be the reproduction of the original political instability that we sought to avoid, this time as a kind of regulatory overlay on the now tax-subsidized activities of (controversial) private initiatives. This is not an altogether coherent political result. The best way to avoid the problem, or at least the worst manifestations of it, would be to restrict charitable status, and its tax-subsidy advantages, to those groups whose activities

are unlikely to appear to other groups as actually promoting some public *bad* and, therefore, as requiring some politically salient response. This analysis should also rationalize and inform a requirement that we typically observe of organizations seeking charitable status – namely, that they promote a genuine “public benefit” in their declared purposes and activities.³³

I mean these arguments to show why it is so important to keep charitable institutions away from overtly political activity. Too close a relationship is bad, both for the politics that can otherwise unite us under broader social understandings and for the achievement of those more particular and common charitable purposes that distinguish us into groups and help to give different (and richer) meaning to our individual lives. An overly diverse range of public goods, at least when pursued in an exclusively political and competitive way, can mean a divisive and unproductive politics, the stuff of instability and stalemate. And when charities engage in political activity, the activity brings out what is non-co-operative in us and thereby undermines the achievement of the various public goods that serve to group each of us as part players within larger collective enterprises.

Moreover, these insights are available to us only if we believe in something like *homo socioeconomicus*. The *homo sociologicus* account cannot comprehend the danger that exists for charities themselves in politically competitive behaviour. *Homo sociologicus* is simply too (absolutely and implausibly) committed to his or her co-operative role for this sort of conflictual environment to undermine his or her disposition to co-operate. *Homo economicus*, in contrast, is no stranger to competitive behaviour; for him or her the puzzle must continue to be why there is any co-operation or voluntary giving at all. But if there is, and charitable institutions exist, then he or she too cannot comprehend why the sort of competitive being that he or she is should be kept apart from the competition that is politics. Only *homo socioeconomicus*, whose motivations to co-operate, while non-absolute, are sufficiently conditional on there being a surrounding environment of like-minded co-operators, can understand why voluntarism must be rationally and exclusively pursued within the more quiet waters of the charitable sector.

Rational Voluntarism and the Donor's Tax Subsidy

In my discussion above of a representative individual's motivation to contribute to some public cause, I suggested that to postulate a taste for pure giving, or so-called warm-glow giving, was as implausible as postulating a pure free rider. Certainly, the very fact that individuals do

make charitable contributions at all does suggest that something is amiss with the free-rider analysis and the account of homo economicus that it presupposes. But is there any analogous reason for doubting the idea of “warm glow” giving, or the analogous idea, derivable from the account of homo sociologicus, that someone might give unconditionally just because that was the right thing to do?

The notion of “pure giving,” whether it is motivated by tastes or explained by ethical commitments, does seem to be inconsistent with the empirical data on charitable contributions. Consider a warm-glow giver who, out of a pure desire to make his or her own contribution to some charity, is poised to make a gift of ten dollars. Consider now what would happen if he or she learned that he or she was to receive back from the government fifty cents on every dollar contributed to this charitable cause. Such a government subsidy would effectively reduce the cost, or price, of charitable giving by half. How should this change his or her behaviour? If all else remains the same, he or she should now be willing to contribute twenty dollars. Such a contribution, combined with the government subsidy of ten dollars, brings him or her back to a net personal contribution to the charity of ten dollars – the same gift that he or she wanted most to provide before the government subsidy was introduced. Thus the government subsidy allows the individual to continue to indulge a taste for giving ten dollars personally by giving twenty dollars *gross* less the ten-dollar government rebate.

The sort of behavioural response just described implies that the charitable giving of an individual who is motivated only by a pure taste for giving would exhibit a negative price elasticity equal to one. That is, a one per cent decrease in the price of charitable giving would, for such an individual, result in a one per cent increase in charitable donations. Some think that such a price elasticity has normative significance because it means that if a tax subsidy can reduce the price for charitable giving in this way, then the increased expenditures by taxpayers on charitable goods will exactly offset the forgone tax revenues. However, in a long series of papers, the economist Martin Feldstein and various collaborators have shown that in the United States this negative price elasticity of charitable giving actually exceeds one, suggesting that increased charitable contributions will *more* than offset any government tax subsidy.³⁴ This suggests that charitable donors are indulging something more than a mere taste for giving.

Economists, puzzled by Feldstein’s results, would probably agree with this conclusion, suggesting that a charitable donor possesses both a taste for pure giving *and* a desire to consume more private goods. But such mixed motivation would normally suggest a negative price

elasticity for charitable giving of *less* than one. The following comments by Hood, Martin, and Osberg on Feldstein's results are typical: "Feldstein's findings, however, imply that when marginal tax rates are reduced [i.e. government subsidies increased] individuals will give away to charity even more than the amount of their tax saving, thereby ending up with less [sic] consumption goods than they had previously. This the authors find somewhat odd. An elastic demand may be a reasonable finding for many goods, but when the 'good' in question is in fact consumption by others, it strains credulity.... It seems more reasonable to believe that when tax rates are cut people keep some and give some away."³⁵ Thus, even when the economist admits the possibility that a potential donor or volunteer, in addition to being concerned about his or her own consumption of public and private goods, might also be concerned about his act of giving to others, the economist does so in a way that cannot fully explain the empirical data.

However, homo socioeconomicus might well show a negative price elasticity greater than one for charitable giving. For recall that such a person reveals a commitment to personal giving and co-operation that varies with the level of giving and co-operation that is shown by others. Now consider how such an individual might react to a price reduction on charitable giving, as provided, for example, by some government or tax subsidy. He or she will not be like the individual who has an unwavering commitment to personal giving and who, therefore, increases his or her giving by one dollar for every dollar in tax subsidy received (a negative price elasticity of one). Nor will he or she be like the purely self-interested contributor whose (mixed) motives are still enough like those of the free rider that he or she cuts back on public-good contributions when others are providing matching contributions – for example, through taxes (a negative price elasticity of less than one).³⁶ Rather, the government subsidy positively affects contributions by homo socioeconomicus, because it reduces the price of charitable giving not only for him or her, *but also for others – something that gives him or her greater assurance that others like him or her will give*. This last fact probably encourages him or her to give even more than he or she might otherwise have done if he or she were concerned only about his or her own levels of giving, and certainly more than if his or her concerns about the giving of others were of the sort traditionally assumed by the economist. Thus it is reasonable to expect that the negative price elasticity of demand for charitable giving that is revealed by homo socioeconomicus will be larger than one.³⁷

It is in this way, therefore, that Feldstein's results make good sense. Under the tax subsidy provided by a deduction or credit for one's donation, homo socioeconomicus not only faces a lower price for the

contribution; he or she is also more assured that fellow co-operators, upon whose behaviour his or her own is conditional, will also make some sort of contribution for the same reason. Given the nature of his or her motivations, particularly his or her presumption in favour of an initial contribution, this should induce yet a further contribution. Moreover, there should be further, recursive second-order effects beyond these presumptive and first-order interactions. This, at least, is what Feldstein's high (greater than one) negative price elasticities suggest.

*Rational Voluntarism, the Non-profit Form,
and Commercial Activity*

The most influential explanation of the non-profit form of economic organization is probably still that of Henry Hansmann,³⁸ who develops his account of the non-profit sector in relation to what he describes as the more usual way of providing private goods and services in a market economy – namely, through for-profit firms. For-profit firms, Hansmann argues, supply goods and services at a quantity and price that represent maximum social efficiency only if certain conditions are satisfied. Three of the more important of these conditions are, first, that consumers can make a reasonably accurate comparison of the products and prices of different firms before they make a decision to purchase; second, that consumers can reach a clear agreement with the chosen firm concerning the goods or services that it is to provide and the price to be paid; and, third, that consumers can determine subsequently whether the firm has complied with the resulting agreement and can obtain redress if it has not. These three conditions point to possible problems of contracting in the market, and the failure of any one of them might suggest “contract failure.”

Hansmann identifies three basic forms of contract failure that might require, in his view, the existence of non-profit firms as a solution.³⁹ One of these, which he calls the “separation between the purchaser and the recipient of the service,” most obviously applies to charitable donations. Indeed, he illustrates the problem with the example of CARE, a charitable organization devoted to distributing food and other supplies to needy individuals in the Third World. Hansmann argues that if CARE were organized for profit, it would have a strong incentive to “chisel” on the goods or services that it has promised to provide, since any savings thereby achieved accrue to it as its residual claim, or profit. The geographical separation between the donor-purchaser and the location where the donated goods are received and consumed is what makes this chiselling possible. Given such a monitoring problem,

Hansmann argues, a donor is likely to choose a non-profit over a for-profit firm to provide this service, because, while a non-profit still has the same capacity to chisel the donor, it has less incentive to do so, since it no longer captures any of the cost savings as extra profit. Other examples, according to Hansmann, of problematic separation between purchaser and ultimate consumer include day care facilities (where the young child is unable effectively to monitor the quality of the service provided and report any discrepancies back to the parent) and nursing homes (where there are analogous difficulties for an ageing relative).

The second form of contract failure occurs when firms provide public goods, which Hansmann defines in the usual economic fashion, focusing on the problem of non-excludability (where the good, once provided, is equally available to all) and the consequent problem of free riders. His examples include radio signals and television broadcasts – a not altogether happy choice for his purposes, since so much of the radio and television sector is dominated by for-profit rather than non-profit firms. However, Hansmann suggests that these firms have overcome the problem of the free rider by effectively selling audiences to advertisers rather than by selling television or radio to audiences, thus effectively converting the problematic public-goods situation into the more usual one of supplying private goods (in that access to advertising spots is available only to advertisers who pay).⁴⁰ Nevertheless, some people, Hansmann suggests, do not like the radio or television that is provided in this way and indicate a willingness (despite the free-rider problem) to buy a different sort of product. However – and this is Hansmann's essential point – they are more likely to take their unsatisfied demands for commercial-free radio or television to a non-profit than to a for-profit firm because, given that the product is a public good, if they buy it from a for-profit firm, they can never be sure that their contribution has had any marginal impact on the product provided. Their contribution might just as easily have gone to higher profits on the *same* level and quality of output; that, at least, is where the incentives lie for a for-profit firm. Thus consumers of public radio and television are much more inclined to support non-profits, which have no such profit-seeking incentive. By doing so they can be more sure that their contribution has had a marginally beneficial effect on the quantity or quality of the product provided to them. After all, with only fixed claims coming out of the firm, and no residual claim in the form of profit-taking, where else can the marginal contribution go except into the production process?

Hansmann's third form of contract failure centres around personal services that are inherently complex and therefore difficult for the

consumer to assess. Health care and education are his examples. Once more the problem is the consumer's inability to monitor the purchase adequately – a fact that again lends itself to possible chiselling by the seller. Hansmann argues that the non-profit form that is commonly observed in education and health care shows that consumers think that this risk is smaller for non-profits for reasons that, by now, should be familiar.⁴¹

Of these three forms of contract failure, only the first, invoking the separation between purchaser and recipient, would seem to involve donative activity or charitable giving. And even here the connection to the non-profit form is not immediate. I can also send a gift through a for-profit firm, as I do when I ask a department store to send a wedding gift, or a florist to send flowers, to a friend. But Hansmann's rejoinder is that in such cases the separation of the purchaser from the recipient is less great and that, as a consequence, delivery of the gift or donation is more easily monitored.⁴² I can and do easily check to see if my flowers have arrived at their destination, and I look forward to the usual "thank you" note confirming the receipt of my wedding gift. Thus Hansmann argues quite convincingly that the presence of for-profit firms in these particular cases of gift giving is actually supportive of his theory rather than contrary to its predictions.

However, one striking feature of Hansmann's analysis obscures the possible considerable overlap between altruistic or charitable activity and the non-profit organizational form.⁴³ All of his examples are driven by *demand-side* analysis. In the case of CARE, for example, donors decide that they would rather trust a non-profit than a for-profit firm to deliver foreign aid to some faraway place, and the suppliers of that aid, who (like florists, it seems) could just as easily have been organized for profit, simply respond to that demand. In the case of public broadcasting, consumers dissatisfied with commercial broadcasting look elsewhere, to non-profits in particular, for quality radio and television; again, the producers simply react to this demand for a non-profit institution.⁴⁴

However, it is difficult to look at the usual list of non-profits, which includes social service agencies, providers of health services, religious organizations, arts and cultural groups, and educational institutions, without finding some sort of charitable motivation, or commitment to a public cause, operating on the *supply* side as well. These are all public services or, to use an old-fashioned term, public "callings," where for-profit motivation seems somehow out of place.

Why "out of place"? It is not because "profit" is a nasty word, but rather because the non-profits, as suppliers of these services (even when they are commercial non-profits supported by sales revenues

earned in the market; more on this below), are making transfers of very specific goods to (often) specifically targeted individuals. That is, they are making so called transfers in kind.⁴⁵ They will therefore both seek to control the price at which the good is sold – choosing often something less than the profit-maximizing price to encourage the transfer – *and* focus more often on the special qualities of the good that is delivered. These concerns, which are more ideological than profit-maximizing, provide ample supply-side motivation for their decisions.

The point is not that the very idea of taking profits undermines the possibility of a charitable transfer to others.⁴⁶ One could, for example, if one were *homo sociologicus*, simply make charitable transfers, or transfers in kind, to targeted recipients via for-profit firms. This may require that one not always choose those opportunities elsewhere that better maximize one's profit, but that should not be a difficulty for the likes of *homo sociologicus*, whose commitment to the common cause is absolute. Thus, there is no obvious reason why *homo sociologicus* need organize the delivery of charitable goods in non-profit form.

Rather, the point of the non-profit form of organization – a point that only *homo socioeconomicus* could foresee – is to remove the temptation within a for-profit firm to defect from supplying goods identified as appropriate to the common cause or transfer in kind that links him or her with fellow co-operators. After all, such action might lead to higher profits. But the ideologically motivated volunteer does not want, at least presumptively, to become the sort of investor who is interested more in profits, whatever the source, than in the specifically identified transfers in kind that originally informed his or her collective purpose and co-ordinated his or her particular contribution with the contributions of others. Furthermore, he or she does not want fellow investors to be able to sell out to such profit-oriented investors, who would probably seek to appoint managers of the charity that would be interested only in profit.⁴⁷ Thus *homo socioeconomicus*, aware that his or her presumptive commitment to the common cause is more fragile (less absolute) than that of *homo sociologicus*, seeks to remove these supply-side temptations by organizing the enterprise as a non-profit and, further, by restricting the transfer of ownership in the non-profit firm.

The same sort of worries about what is sometimes called “mission drift,” or drift away from the public cause chosen for the firm, can extend to how the organization, once formed as a non-profit and subject to restrictions on transfer of ownership, might afterwards be managed. First, to control managers’ “free cash flow,” and the man-

agerial discretion that goes with it,⁴⁸ there is good reason to have a regular obligation to make disbursements of the kind imposed on charities by, for example, Canada's Income Tax Act.⁴⁹ This rule disciplines managers to the common cause by forcing them to return regularly to their ideologically motivated investors and donors.

Second, and also related to free cash flow, there should be limits on both the investments that charities can make and the sorts of "unrelated business activities" in which they can engage. Moreover, this last restriction should continue even if management says that the money so obtained would go to charitable purposes. The idea is not to subsidize just *any* charitable purpose, but rather the one that motivated the original investors under a common cause.

Even if charities were permitted to earn unrelated business income,⁵⁰ it would not follow, because of their charitable status, that they should receive any kind of special tax relief on the earning of this income. Such tax relief may be appropriate for donated income, since donors would not be much encouraged by a tax subsidy on donations if they perceived that the donation was only to be taxed later in the hands of the very collective enterprise that was their reason, or common cause, for giving it. But tax relief is not appropriate on income from unrelated business activity, since, again, the idea is to aid not just any sort of charitable activity, even one chosen by the managers of the charity in question, but only that selected by, and collectively motivating, particularly organized and focused donors and investors.⁵¹ Thus there is a need for a tax break only on donated income; anything broader is in danger of, first, undermining the motivational impact for homo socioeconomicus of having a *single* common cause and, second, subsidizing the managers of charities in their "altruistic" use of other people's money.⁵²

Finally, nothing in the argument so far requires that income from "related business activity" be non-taxable. This last recommendation is different from some prevailing views *and* from current legal practice.⁵³ Nevertheless, it is a common criticism that the current tax subsidy on related business income operates as an unfair government subsidy of non-profits in their competition with for profit firms.⁵⁴ The analysis presented here would allow this subsidy to be removed, although it would not require it. One of my points is that there can be a charitable transfer in kind in selling a good (or providing a certain quality in the good) in a commercial market at *less* than its market price. But if that is so, there is no donation in the price that *is* charged and, therefore, no charity in the income that is received commercially. Thus, at least on the argument presented here, there is no need to exempt a charity's related business income from corporate income taxation.

CONCLUSION

In this chapter I have tried to provide an outline of the complex motivational structure of *homo socioeconomicus* and to present some evidence for the existence of this more complicated sort of being in the way in which our charitable institutions are organized and regulated. I have also referred to “rational voluntarism” as the phenomenon that this more complicated sort of motivation makes possible. Each of the terms in this phrase serves to displace one of the two simpler models of human behaviour that we see in *homo economicus* and *homo sociologicus*. That there is any voluntarism at all, for example, is a problem for the model of *homo economicus*. *Homo economicus* is not much inclined to volunteer, preferring instead that the other fellow make the requisite contribution to the public good. Thus the mere fact that we have a vibrant voluntary sector must mean that we are not all like that.

Or perhaps it means only that we are not all like that all of the time. For I have also stressed the vestigial rationality in the voluntarism that we do observe, which is hard to accommodate in the model of *homo sociologicus*. *Homo sociologicus* avoids the paradoxes of collective action that plague *homo economicus* only by postulating an absolute and somewhat unreflective commitment to social role or norm-guided behaviour. But this also seems contrary to what we observe in the charitable sector and its regulation. The strongly virtuous being that is *homo sociologicus* would have no use for the strategy of institutional separation that seeks to shelter a more fragile co-operative motive from both political competition and commercial temptation. Yet we find both forms of this strategy at work in the regulation and organization of charities. Furthermore, there would appear to be no need to encourage or sustain such a virtuous commitment to co-operation by offering it anything like a tax subsidy. The tax subsidy should at best make no difference to *homo sociologicus*; at worst, it might undermine social co-operation as a virtue because it would tend to frame it as something to be bought.⁵⁵ Again, however, we not only observe the tax subsidy working on voluntary donations in the charitable sector, but we also see it working in a supportive rather than counterproductive way.

The three subsections of the third section each served to illustrate, in differing combinations, the three general characteristics of *homo socioeconomicus*, namely, that his or her co-operation is conditional, collectively framed, and non-absolute. The separation from politics allows our less-than-absolute charitable instincts to get a more secure, albeit conditional, purchase on the co-operative behaviour of others

than would be provided in a world of political competition. And the separation from the profit motive protects this merely conditional presumption in favour of the collectively framed co-operation from falling prey to the temptation that comes with anything less than absolute commitment. The success of the tax subsidy for charitable donations shows both the (presumptively) collective frame and the conditional nature of co-operation at work. All three subsections together, therefore, demonstrate the full range of homo socioeconomicus and the full effect of his or her rational voluntarism.

NOTES

I am grateful to Susan Rose-Ackerman for her very thoughtful comment on this paper at the conference. I was also much helped by comments from Kevin Davis, Abraham Drassinower, Ed Iacobucci, and Jim Phillips on an earlier draft.

- 1 David Hume is often cited for the idea that it is wise, at least in the design of governmental institutions, not to assume too much of persons. In his essay *On the Independency of Parliament*, in K. Haakronssen, ed., *Hume's Political Science* (Cambridge: Cambridge University Press, 1994), he remarks: "In constraining any system of government and fixing the several checks and controls of the constitution, every man ought to be supposed a knave and to have no other end in all his actions than private interest." This may be a wise strategy for the design of governmental institutions, where there is a large concentration of power and the possibility of its abuse, but as a more general assumption for understanding institutions it is overly narrow and encourages theorists to overlook some opportunities for better institutional design. On this last point, see G. Brennan, "Selection and the Currency of Award," in R.E. Goodin, *The Theory of Institutional Design* (Cambridge: Cambridge University Press, 1996), 258.
- 2 I should register some reservations here about implicating Kant as an "unthinking" paragon of virtue, since so much of his argument turns on the freedom that goes with being a rational self *exercising* that rationality over given predispositions. For Kant an action has no moral worth if it is merely done "in accordance with duty" but not "out of duty," for example. Nevertheless, there is in Kant, and many Kantians, the idea that one should do the "right thing" regardless of what others do, and it is this lack of attention to others' conduct that I am characterizing as "unthinking" here.
- 3 The relief of poverty may be paradigmatic of what charities do *as* charities, but it is arguable that it is not typical of what most organizations reg-

istered as charities actually do. For example, according to D. Sharpe, chapter 2 in this volume, Table 2.1, the number of registered charities in Canada's so-called welfare sector is second to the number in "religion." Furthermore, in terms of revenues, the welfare sector is third after hospitals and teaching institutions (Table 2.5).

- 4 For a good critique of these sorts of game-theoretic accounts of voluntary giving, see R. Sugden, "On the Economics of Philanthropy," *Economic Journal* 92 (1982), 341, and "Reciprocity: The Supply of Public Goods through Voluntary Contributions," *Economic Journal* 94 (1984), 772. The prisoner's dilemma does not arise simply from an individual's being "selfish," in the sense of giving exclusive weight to his or her own interests. Pure altruists, who give exclusive weight to the interests of others, will also confront the prisoner's dilemma. Indeed, it is possible to construct a prisoner's dilemma for any agent who gives any sort of *unequal* weighting to the interests of the players. It is only if all the individuals weigh the interests of all the players equally in their choices, in the manner of the classical utilitarian, that the prisoner's dilemma can be avoided. For discussion, see J. Tilley, "Prisoner's Dilemma from a Moral Point of View," *Theory and Decision* 41 (1996), 187. Of course, this should not be altogether surprising, since then all such individuals will have identical rankings of all the various social outcomes.

However, for these utilitarian individuals there will still be the problems of co-ordination, to which I refer below – a problem effectively analysed in D.H. Hodgson, *Consequences of Utilitarianism* (Oxford: Clarendon Press, 1967), and in D. Regan, *Utilitarianism and Cooperation* (Oxford: Clarendon Press, 1980). All of this suggests that the problems that begin with the prisoner's dilemma are not to be solved by manipulating interests, and the weights we give to them, but rather require some rethinking of what it is to make a rational choice in the face of these interests. This is the spirit in which I offer the arguments in this chapter.

- 5 See J. Andreoni, "Impure Altruism and Donations to Public Goods: A Theory of Warm Glow Giving," *Economic Journal* 100 (1990), 464.
- 6 I am grateful to Kate Kempton for raising this point. However, there is still some ambiguity here. It is clear that the warm-glow giver will rank outcome x in the prisoner's dilemma as best of the four and outcome y as worst. Thus, however he or she ranks the other two outcomes, w or z , he or she will have a dominant strategy to contribute to, or co-operate in, the provision of the public good. But if the warm-glow giver ranks the four outcomes in the order x, w, z, y , then it would seem that he or she ranks the consequence of the public good actually being provided by others in outcome w as higher than his or her own inconsequential contribution in z , something that belies a motivation focused purely (and selfishly) on his or her own giving. It is only if he or she ranks the four

outcomes in the order x, z, w, y that we can say with some confidence that he or she is concerned only about his or her own giving regardless of the consequences. Of course, as the notion of dominance suggests, these differences in the overall preference orderings of the warm-glow giver will not be observable in the choices made.

- 7 Again, there is room for some ambiguity here (compare the previous note). If homo sociologicus ranks the four outcomes in the prisoner's dilemma in the order x, z, w, y , then his or her commitment to doing his or her part does seem to be thoughtless and empty. However, if his or her ranking is x, w, z, y , then he or she would appear to be somewhat sensitive to the general idea that "doing one's part" makes more sense when there is a whole (w) of which his or her own contribution can be deemed a part (x); this is what induces him or her to rank z as only a third-best outcome. The problem is that by continuing to rank z ahead of outcome y , he or she does not carry this insight into his or her behaviour in a thoroughly consistent way. The result is that he or she continues to have the same dominant strategy of co-operating, or of contributing to the public good, as does the more thoughtless version of homo sociologicus.
- 8 The idea of conditional co-operation has been much discussed under the aspect of David Gauthier's theory of a "constrained maximizer," someone who has developed for prisoner's-dilemma situations a disposition to co-operate with another co-operator, but not otherwise. (A "straightforward maximizer," by contrast, is someone who would not co-operate, even with a fellow co-operator – the sort of unconstrained maximizing behaviour that we saw in the prisoner's dilemma as originally presented.) Gauthier has argued that it is in the interest of individuals to develop this sort of disposition, at least if the disposition can be made somewhat transparent to others. See D. Gauthier, *Morals by Agreement* (Oxford: Clarendon Press, 1986).

In this chapter the idea is more that a conditional form of co-operation is logically implied by the notion of "doing one's part," a motivation that need not be grounded in self-interest, although it does involve seeing one's behaviour *rationally* – that is, as *organized* under some *categorical* (and collective) sense of "*what it is that we are doing*."

- 9 If we were working with preferences to explain this sort of thinking, then we would have substituted what Sen calls an "assurance game" for the original game of prisoner's dilemma; see A. Sen, "Choice, Orderings, and Morality," in S. Korner, ed., *Practical Reason* (Oxford: Blackwell, 1974). In an assurance game, a representative individual ranks the above four possible outcomes in the order x, w, y, z . But here I am retaining the original prisoner-dilemma preferences and suggesting a rational motivation for playing that game which would induce an individual to behave

as if he or she had assurance-game preferences. Sen also suggests this “as if” connection but does not suggest a comparable sort of motivation.

The sort of principled motivation I am attempting to articulate here is very like Sugden’s principle of “reciprocity”; see Sugden, “Reciprocity.” However, Sugden locates the motivation for the principle of reciprocity in a sense of “fairness” between individuals rather than in the idea of “doing one’s part” in some collective enterprise. Sugden’s more individualistic approach has the somewhat extreme consequence that an individual has to reciprocate only an amount of co-operation equal to the minimum amount of co-operation shown by any other fellow co-operator. Thus the non-co-operation of any one co-operator can justify the non-co-operation of any or all others. The idea of doing one’s part within a (largely, but not completely) successful collective scheme does not have this extreme implication.

- 10 I have argued elsewhere that a rational individual is someone who follows a rule presumptively, but only in a defeasible (non-absolute) way, and that this account of rational behaviour might help us to avoid certain difficulties in the theory of games. See B. Chapman, “Law Games: Defeasible Rules and Revisable Rationality,” *Law and Philosophy* 17 (1998), 443.
- 11 See G. Den Hartogh, “The Rationality of Conditional Cooperation,” *Erkenntnis* 38 (1993), 405.
- 12 I have suggested that an obligation on the sender to provide reasons for his or her message can make these messages at least partially transparent to other players, so that misrepresentation of preferences is a less accessible strategy; see B. Chapman, “Rationally Transparent Social Interactions,” in M. Streit, ed., *Cognition, Rationality, and Institutions* (Berlin: Springer, 2000), 189–204.
- 13 For an analysis of this game, and the problems that it presents for conventionally rational actors, see R. Sugden, “Rational Co-ordination,” in F. Farina, F. Hahn, and S. Vanucci, eds., *Ethics, Rationality and Economic Behaviour* (Oxford: Clarendon Press, 1996), 245–62; and in R. Sugden, “Rational Choice: A Survey of Contributions from Economics and Philosophy,” *Economic Journal* 101 (1991), 751, 774–8.
- 14 Michael Bacharach refers to the more collective version of this question, “What should we do?,” as operating in the “we-frame,” contrasting it with the more conventional game-theoretic question (involving the usual Nash conjecture), “What should I do?,” which operates in the “I/he frame”; see his “We’ Equilibria: A Variable Frame Theory of Cooperation,” paper presented at the Seminar on Cooperative Reasoning, St John’s College, Oxford, 1997. I discuss the implications of Bacharach’s variable frame theory for play in the prisoner’s dilemma in Chapman, “Rationally Transparent Social Interactions.” For philosophical accounts

of the “we-frame” idea, see R. Tuomela and K. Miller, “We-Intentions” *Philosophical Studies* 53 (1988), 367; and G.J. Postema, “Morality in the First Person Plural,” *Law and Philosophy* 14 (1995), 35.

- 15 Compare Robert Sugden’s characterization of “team reasoning” in his “Thinking as a Team: Towards an Explanation of Nonselfish Behavior,” *Social Philosophy and Policy* 10 (1993), 69, 86: “To act as a member of a team is to act as a *component* of the team. It is to act on a concerted plan, doing one’s allotted part in the plan without asking whether, taking other members actions as given, one’s own action is contributing to the team’s objective.”

In my “Law Games,” I have also argued that the prisoner’s dilemma game might be played by those who can see themselves as being in either an individualistic- or a collective-choice frame and that the non-simultaneous availability of these two different frames might give rise to a defeasible conception of rational choice – that is, a conception that makes one’s choice under a rational strategy conditional on what the other (otherwise identical and symmetrically placed) player happens to choose. This argument combines features of Sugden’s team reasoning and Bacharach’s variable frame analysis; see Bacharach, “‘We’ Equilibria.”

- 16 See Chapman, “Law, Incommensurability, and Conceptually Sequenced Argument,” *University of Pennsylvania Law Review* 146 (1998), 1487, 1507, on the difference between the *categorical* and the *absolute* within the sequenced structure of a defeasibly rational or reasoned choice. Also see Chapman, “Law Games,” 455, for the application of this idea to rational choice within games.
- 17 In Tuomela and Miller, “We-Intentions,” 374–8, the presumption in favour of co-operation is captured in the idea that the agent has an “unconditional” intention to co-operate. But the agent must be able to expect in some broad way that his or her co-actors are (probably) going to co-operate – an expectation that would obviously be severely tested if the (probable) level of such co-operation gets too low.
- 18 My account of homo socioeconomicus is very similar to, and much inspired by, Philip Pettit’s notion of a “virtually self-interested rational actor”; see P. Pettit, “Institutional Design and Rational Choice,” in R.E. Goodwin, ed., *The Theory of Institutional Design* (Cambridge: Cambridge University Press, 1996), 54, 68. However, in Pettit’s theory, the defeasance of a prior motivation to cooperate in “role play” seems to come about almost only because the sacrifice in the satisfaction of self-interest gets large enough that a “red light” goes on for the agent. Up until that point the presence of self-interest is only “virtual,” not actual. In my account, the idea need be less about self-interest and personal sacrifice. It could simply be that it is harder to “frame” one’s behaviour col-

lectively as there become fewer fellow cooperators. Thus the problem is about the use of concepts rather than a test of personal preferences or self-interest – something that Pettit has characterized elsewhere as “inference theoretic” rather than “decision theoretic” concerns; see P. Pettit, *The Common Mind: An Essay on Psychology, Society and Politics* (Oxford: Oxford University Press, 1993), chap. 5.

Indeed, some of these more conceptual concerns arise even for Pettit when he speaks (in “Institutional Design,” 78–85) of certain features of institutional design. For example, when we become focused on deterrence or deviance, Pettit argues, we raise the profile of non-co-operation in a way that does not happen when we see institutions from a more “compliance centered” point of view. This can undermine co-operation. But it is not clear that anything has changed for the actor in terms of self-interest; only the conceptual frame that supports, or gives profile to, co-operation has changed. I make use of a more compliance-centered strategy to support charitable contributions in the first two subsections of the third section of this chapter. (It may well be, however, that the argument in the third subsection relies more on something like Pettit’s “virtually self-interested rational actor.”)

- 19 For interesting discussion of this screening strategy, and a claim that theory of institutional design has too much neglected it, see Brennan, “Selection,” and Pettit, “Institutional Design.”
- 20 B.A. Weisbrod, “Toward a Theory of the Voluntary Nonprofit Sector in a Three-Sector Economy,” in S. Rose-Ackerman, ed., *The Economics of Non-Profit Institutions* (New Haven, Conn.: Yale University Press, 1986), 21–44.
- 21 On the median-voter result, see D.C. Mueller, *Public Choice II* (Cambridge: Cambridge University Press, 1989), 67–73. This result assumes that there is some single and decisive continuum of judgment along which all voters can assess all the alternatives for public choice. Movements towards the alternative that the median voter most prefers will always receive majority support, and movements away from this point will obtain only minority support. Thus the median voter’s most preferred outcome on the continuum is the majority voting equilibrium outcome. When there is no such general agreement on a single decisive continuum for judgment, a majority voting equilibrium is much harder to achieve. For discussion of the significance of this last point for the regulation of charities and their political activities, see B. Chapman, “Between Markets and Politics: A Social Choice Theoretic Appreciation of the Charitable Sector,” *George Mason Law Review* 6 (1998), 821.
- 22 For more on the so called political-purposes doctrine in the law of charities, see Drassinower, chapter 9 in this volume.
- 23 Weisbrod’s approach is quite conventional in this respect. The idea is to postulate that people in different institutions are more or less the same,

and that they simply react differently to different institutional constraints. The idea that different sorts of people might be attracted to different institutions, which informs the “screening” hypothesis of both Brennan, “Selection,” and Pettit, “Institutional Design,” or the related idea, developed here, that different institutions might bring out systematic differences in people’s motivations, is viewed by economists with suspicion. One economist, Harold Demsetz, has even labelled this as “the people could be different” fallacy, his argument being that it is naive, for example, to assume that those within the public sector are somehow more “other-regarding” than those in competitive markets. See H. Demsetz, “Information and Efficiency: Another Viewpoint,” *Journal of Law and Economics* 11 (1969), 1.

- 24 This would be the effect of charging what are called Lindahl prices; see J. Buchanan, *The Demand and Supply of Public Goods* (Chicago: University of Chicago Press, 1968), chap. 7. For how the market accommodates variable demand by having variable quantities of private goods consumed at given competitive prices, how the political sector could theoretically solve the same problem by permitting the identical consumption of a public good at variable prices, and how the charitable sector might even be seen as achieving something of the latter, see B. Chapman, “The Governance of Nonprofits,” in R. Daniels and R. Morck, eds., *Corporate Decisionmaking in Canada* (Calgary: University of Calgary Press, 1995).
- 25 For argument that this might result in the sort of majority voting paradox that forms a principal subject of concern for public choice theory, see Chapman, “Between Markets and Politics,” 845–53.
- 26 When individuals in group A and group B must come together and, politically, decide the relative quantities of public goods A and B that are to be provided by them as a whole, the reference group for their collective deliberations is, correspondingly, groups A and B. But this larger group has, by hypothesis, (internal) differences of opinion rather than a common cause. It is this potential for conflict around a moment of collective choice, rather than a mere diversity of opinion across groups each in pursuit of its own common cause, that undermines the disposition to co-operate in homo socioeconomicus. I am grateful to Susan Rose-Ackerman for encouraging me to clarify this point.
- 27 In the United Kingdom, for example, there is no tax deduction or tax credit for charitable donations.
- 28 For a statistical summary of the funding sources of charities in Canada, see Sharpe, chapter 2 in this volume.
- 29 See *ibid.*, n 25.
- 30 Sugden suggests that the same sort of concern would attach to his account of charitable giving under the notion of “reciprocity”; see Sugden, “Reciprocity,” 783.

- 31 On this view, the sort of argument that was used against allowing an ancillary-activities doctrine in *Scarborough Community Legal Services v. The Queen*, (1985) 17 DLR (4th) 308 (FCA), may make some sense. The worry is not that certain political activities, if merely ancillary, might be used to mischaracterize an organization's overall charitable purpose. Rather, it is that a bona fide charitable organization, if active politically, can attract a political response that is both destabilizing as a political matter and undermining of the common purpose that induces co-operative and charitable behaviour to begin with. For a more sympathetic view of the ancillary-purposes doctrine, and for a critique of the *Scarborough* case that rejected the use of this doctrine in the case of charitable organizations, see Phillips, chapter 7 in this volume.
- 32 For some indication of how this particular example might be treated in the English law of charities, see *National Anti-Vivisection Society v. Inland Revenue Commissioners* [1948] AC 31 (HL).
- 33 The fourth and most general head of the common law categorization of charitable purposes is "other purposes beneficial to the community"; see *Commissioners for the Special Purposes of the Income Tax v. Pemsel* [1891] AC 531 (HL). Purposes that are controversial as goals within the community are less likely, it seems, to be construed as generally beneficial. Thus political controversy, if directed at charitable organizations that otherwise have no political salience because they are not politically active, evidences a purpose that is not for the public or general benefit and therefore is, while perhaps legally permissible, not charitable.

While some purposes might be controversial in fact, they attend to such a broad range of interests that they *should* not (reasonably) be controversial. The protection of universal human rights – something that is presupposed in the effective pursuit of any set of interests, no matter how partial or private – might be an example. Thus, it is not clear that the activities or purposes of Amnesty International should be viewed as so political as to be non-charitable. For further discussion of this sort of example, as well as more general issues, see Drassinower, "The Doctrine of Political Purposes."

- 34 See Feldstein, "The Income Tax and Charitable Contributions: Part I – Aggregate and Distributional Effects," *National Tax Journal* 28 (1975), 81; Feldstein and Clotfelter, "Tax Incentives and Charitable Contributions in the United States: A Micro-econometric Analysis," *Journal of Public Economics* 5 (1976), 1; Feldstein and Taylor, "The Income Tax and Charitable Contributions," *Econometrica* 44 (1976), 120; and Boskin and Feldstein, "Effects of the Charitable Deduction on Contributions by Low Income and Middle Income Households: Evidence from the National Survey of Philanthropy," *Review of Economics and Statistics* 59 (1977), 351. For a good survey of the price elasticity for charitable contributions

which shows that Feldstein's results are generally accepted, see Clotfelter and Steuerle, "Charitable Contributions," in Aaron and Pechman, eds., *How Taxes Affect Economic Behaviour* (Washington, DC: The Brookings Institution, 1981). Some research has suggested that the negative price elasticities for charitable giving in Canada are less than they are in the United States (and, on average, less than one). See G. Glenday et al., "Tax Incentives for Personal Charitable Contributions," *Review of Economics and Statistics* 68 (1986), 688; Hood, Martin, and Osberg, "Economic Determinants of Individual Charitable Donations in Canada," *Canadian Journal of Economics* 10 (1977), 653. However, in their recent summary of the U.S. and Canadian empirical work, Scharf, Cherniavsky, and Hogg have concluded as follows: "Price elasticities of giving in the United States have largely been estimated to be greater than one in absolute value, indicating that not only do tax concessions garner more dollars per dollar of concession, but they are also cost-effective from a revenue point of view. The same conclusion holds generally for Canada, with two exceptions [citing the above two Canadian studies].": K. Scharf et al., *Tax Incentives for Charities in Canada*, Canadian Policy Research Networks, Working Paper No. CPRN 3 (Ottawa, 1997).

- 35 Hood et al., "Economic Determinants," 660–1. This idea that the increased contributions by others should lead to a *reduction* in the contributions of any one individual is also part of Howard Margolis's theory of altruism. See his *Selfishness, Altruism and Rationality* (Chicago: University of Chicago Press, 1982). This should not be surprising, since Margolis admits that his theory of giving can be interpreted as akin to the economist's familiar notions of diminishing marginal rates of substitution, here applied to substitutions between spending in the group interest (for example, the pure utility of giving) and spending in self-interest (for example, the usual free-rider motive). See *ibid.*, 42.

Thus we can think in the following way of the differences between the free rider, the mixed-motive contributor modelled by both the economist and Margolis, and the contributor whom the economists critique in Feldstein's work. Where the free rider cuts back dollar for dollar on his or her own potential contributions, in the light of the contributions of others, this is analogous to not spending *any* of the additional dollars received on public goods if he or she suddenly and unexpectedly became richer. To see this, observe that the free rider is trying to achieve an outcome where, for example, he or she enjoys \$10 worth of the public good *and* keeps \$10 worth of his or her own wealth. He or she can do this *either* by free riding once he or she knows that others will make the \$10 contribution *or* by making the \$10 contribution when others do not *and then* becoming \$10 richer. In the latter case, the additional, unexpected \$10 does not result in any additional contributions to

the public good. It is therefore in this sense that the free rider does not spend any additional dollars of his or her wealth on public goods.

However, those economists (together with Margolis) who believe in some marginal rate of substitution between spending on the public good (perhaps because of the warm glow that one gets) and private goods (the return from free riding) would suggest *some* increased expenditure on public goods as one becomes richer, though *not* so much as an increase of a dollar or *more* for every dollar of increased wealth. It is the latter possibility that Hood et al. are criticizing in Feldstein's high-price elasticity results (lower prices, after all, are one way to increase everyone's real wealth or income).

- 36 See Feldstein, "The Income Tax"; Feldstein and Clotfelter, "Tax Incentives"; Feldstein and Taylor, "The Income Tax"; Boskin and Feldstein, "Effects"; Clotfelter and Steuerle, "Charitable Contributions"; Glenday et al., "Tax Incentives"; Hood et al., "Economic Determinants"; Scharf et al., *Tax Incentives*; Margolis, *Selfishness*.
- 37 Strictly speaking, what the account of homo socioeconomicus predicts is that the effect of a tax (positive or negative) on any one individual will be reinforced or magnified *for that individual* by the same effects that the tax will have on other like-minded individuals. Feldstein's empirical results, where the price elasticities of voluntary giving are greater than one, are merely one possible manifestation of this. Of course, increasing income tax rates on individuals, so that the price of charitable giving drops (there now being a greater tax advantage in the charitable deduction) can have both a substitution effect (towards charitable giving and away from other "spending") and an income effect (away from spending altogether). If the income effect dominates the substitution effect, so that the taxpayer responds *negatively* to a more advantageous charitable tax deduction (i.e., an increase in the tax rate) then the homo socioeconomicus account would suggest an elasticity of *less* than one. The general point, therefore, is that under the account of homo socioeconomicus the divergence of elasticities will be larger than that expected by the more simple theory of homo economicus. Feldstein's results only provide some corroboration (on one of the two extremes) for the homo socioeconomicus account.
- 38 Hansmann, "The Role of Nonprofit Enterprise," *Yale Law Journal* 89 (1980), 835.
- 39 Although these three forms of contract failure appear in *ibid.*, the three-part classification appears most clearly in his article "Reforming Nonprofit Corporation Law," *University of Pennsylvania Law Review* 129 (1981), 497.
- 40 Hansmann, "Role," 850.
- 41 For some effective criticism of Hansmann's account of the non-profit form, see A. Ben-Ner and T. Van Hoomissen, "Nonprofit Organizations

in the Mixed Economy: A Demand and Supply Analysis," in A. Ben-Ner and B. Gui, eds., *The Nonprofit Sector in the Mixed Economy* (Ann Arbor: University of Michigan Press, 1993), 27–58.

- 42 Hansmann, "Role," 847.
- 43 This point has been suggested by another of Hansmann's commentators; see R. Atkinson, "Altruism in Nonprofit Organizations," *Boston College Law Review* 31 (1990), 501.
- 44 The fact that the non-profit suppliers are largely passive in Hansmann's theory, or at most merely reactive to the demands of consumers, also may explain why Hansmann seems to think that they would not be opportunistic against consumers when organized as non-profits. But it is difficult to think why homo economicus would not seek, just as much as in the for-profit firm, to chisel a larger (albeit now fixed) return out of consumers who cannot adequately monitor (against the money contributed) the quality or quantity of product that is ultimately delivered.
- 45 This point is much emphasized in the economics literature to explain what otherwise looks like inefficient behaviour. Normally, it is more efficient to supply subsidies in cash than in kind; this method allows recipients, who are normally the best judges of their own interests, to make their own choices. However, in charitable giving the *donor's* interests are also important, and the donor often wants the recipient to consume some specific good. See, for example, D. Johnson, "The Charity Market: Theory and Practice," in T. Ireland and D. Johnson, eds., *The Economics of Charity* (London: Institute for Economic Affairs, 1973), 85–90.
- 46 This is Atkinson's claim; see Atkinson, "Altruism," 550.
- 47 For analysis of the non-profit form as a device to control these sorts of agency costs, where managers might otherwise, in pursuit of profitable opportunities, drift away from the non-profit mission, see R. Fama and M. Jensen, "Agency Problems and Residual Claims," *Journal of Law and Economics* 26 (1983), 327, 341–5.
- 48 See M. Jensen, "The Agency Costs of Free Cash Flow: Corporate Finance and Takeovers," *American Economic Review* 76 (1986), 23. He argues, for example, that the declaration of a dividend, or the substitution of debt for equity, commits management to reducing its holdings of cash and therefore reduces the possibility of managerial opportunism that would otherwise exist with respect to earnings retained on investments funded through an equity issue. Management, after paying a dividend or the interest on debt, must go back to the capital market so as to be able to continue funding its strategic investments. This capital market promises a way to monitor and discipline management should it stray from the interests of shareholders. Thus the declaration of a dividend, or the substitution of debt for equity, can be associated with a positive effect on a firm's share price, something that is difficult to explain on many other theories.

- 49 Income Tax Act, RSC 1985, c. 1 (5th supp.) [as amended] s. 149.1(2).
- 50 Charities can earn income from unrelated business through their passive investments in other organizations that are not themselves charities. It is hard to see how things could be otherwise; charities are not expected to keep donated income tucked away in mattresses. Needless to say, it is often difficult to distinguish between passive business investments (which are permitted to charities) and active investment in an unrelated activity (which is not). For some sense of the litigation on this issue, see *Church of Christ Development Co. Ltd. v. MNR*, [1982] CTC 2467 (FCA).
- 51 This differs from the position advocated by Atkinson, "Altruism," 616ff. Atkinson's view is that all favourable tax treatment for charities is to be understood as a tax subsidy for altruism, the sort of thing we want to see encouraged. Thus Atkinson sees little point in distinguishing how the subsidy is provided – a tax break on donated income, on passive investments, or on unrelated business activities – so long as the extra money ends up being used for charitable purposes. However, if the point is not just to encourage altruism in the abstract, but rather the particular forms of altruism that the donors themselves have selected, and which gives them common cause, then only a tax break on donated income is justified.
- 52 The idea of a cross-subsidy suggests that it will often be difficult to separate those situations in which the managers are using only new sources of income (for example, unrelated business income or even income from new donors) to fund new charitable purposes from those situations in which the managers are (to some extent at least) using old (original-donor) sources of income to fund these new purposes. Arguably, only the latter involves a malign form of mission drift. For an argument that it is possible to keep these two situations apart and therefore that unrelated business activities should be permissible for charities, see Davis, chapter 15 in this volume.
- 53 See, for example, Income Tax Act, RSC 1985, c. 1 (5th supp.) [as amended], s. 149.
- 54 For discussions of this criticism, which has the effect of sharply limiting its scope, see S. Rose-Ackerman, "Unfair Competition and Corporate Income Taxation," in Rose-Ackerman, *The Economics of Non-Profit Organizations*, 394–414; and Davis, "Regulation."
- 55 Peter Singer has effectively made this point against Kenneth Arrow. In "Gifts and Exchanges," *Philosophy and Public Affairs* 1 (1972), 343, 350, Arrow had queried Richard Titmus's argument in *The Gift Relationship* (London: Allen & Unwin, 1971) that the presence of a market for blood would affect the motivation to donate blood altruistically. Arrow wondered why the "add on" presence of a market for blood would prevent a donor from continuing to donate blood if that was what he or she wanted to do. But Singer argued that the character of the gift would now

be different. Before the advent of the market, he or she effectively gave the “gift of life,” since the recipient depended on the gift and could not otherwise get blood; after the arrival of the market he or she would only save the recipient a few dollars, the cost of the market alternative. See P. Singer, “Altruism and Commerce,” *Philosophy and Public Affairs* 2 (1973), 312, 316.