

public support and oversight—but those are not the choices our elected representatives have been making. More giving at the expense of equitably resourced and publicly governed public systems is neither democratic nor sustainable. Good giving requires us to see the relationships between our public and private choices; it requires us to remove the false cover of political neutrality.

Traditions that center mutual aid, community self-sufficiency, interdependence, and cooperation make the political assumptions of US giving even more visible. As Caroline Shenaz Hossein notes, mutual aid among Black and Caribbean populations is a long-standing tradition, built in part from Black women’s “lived experience of how to organize in inclusive ways to help an array of people.”¹⁴ These practices are political acts, providing safety, trust, and necessary financial resources to communities continually oppressed by White supremacy. They are deliberate alternatives to racist and exclusionary financial and philanthropic systems. They emphasize a commitment to sharing resources and building collective power. They operate within a different set of economic and political frames than those that incentive large private endowments and competition between nonprofits. One sign of the political values at work is the frequency with which mutual aid networks and community bail funds pay “extra” contributions forward to other networks or funds. Although it’s not unheard of for a nonprofit or a community foundation to forward donations on to other organizations (especially in disasters), it’s not common. The difference is whether there is a focus on serving community, expanding access to resources, and ensuring everyone has enough (mutual aid, for example), or whether the norms and laws emphasize institution-building and growth (organizational capacity and endowment-building efforts, for example). Since 2015 a growing network called Community-Centric Fundraising has been organizing, advocating for, and teaching an approach to giving that centers principles of shared abundance and economic and racial justice. This movement is exciting, but its current marginality only further reveals its distance from the norm.

If our legal systems and national conversations about giving are to be more inclusive and just, we need to open them up to the values and

*How We Give Now:
A Philanthropic Guide For the Rest of Us
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practices that power mutual aid networks and other traditions. However, it is not sufficient for participants in existing White systems just to engage with these practices without examining and changing their assumptions and expectations. Megan Ming Francis and Erika Kohl-Arenas have documented the long history of how this kind of White “discovery” often leads to co-optation and capture.¹⁵ The first six months of the COVID-19 pandemic in 2020 saw a rush of people joining and creating mutual aid networks and calls for nonprofits and foundations to support them. Only if the newcomers adapt their ways to respect the political intentions of the Black, Indigenous, or diasporic traditions will we be able to take the next step and institute a more inclusive set of norms and laws. However, hope comes from what Shenaz Hossein points out: “Any general trends towards mutual aid in the U.S. should be understood, not simply or principally as a return to earlier giving habits, but also as an echo of ongoing giving practices among the Global majority around the world.” Demographic changes—along with our clearly interdependent challenges of climate catastrophe, wealth inequality, and structural racism—provide motivation and inspiration for improving majority practices.¹⁶

Giving is political in that it is a statement of values, something to build community around, and something that powers communities. Giving is also political because we write laws that privilege certain behaviors. Our current tax laws about charity clearly prioritize a small number of wealthy people, and the nonprofit organizational form privileges hierarchy over reciprocity. Recently, more White people have gotten involved with community efforts such as bail funds and mutual networks, and there are efforts to encourage “institutional” philanthropy to support these efforts as well. Doing so respectfully takes more than money; it takes recognizing and working within a different set of values and practices.

Start here →

A NEW PHILANTHROPIC CHOICE

So far, I have discussed time and money. But we have a new resource—digital data—to consider as part of our giving as well. Throughout this book, you will meet people donating photographs, audio recordings,

medical information, exercise data, and their DNA, all in digital form. Being able to donate digital data opens up a host of new possibilities and concerns. What does it mean to donate a digital photograph when you'll still have a copy of it? Who gets to decide what happens with the digital data on your phone? You? Facebook? Verizon? How does donating data fit into broader public policy questions about how companies and governments use digital data? Is donating digital data a good idea?

One of the most significant changes influencing how we give is our ability to communicate and connect instantly using tools such as cell phones and the internet. These tools change *what* we give (digital data), as well as *how* we give. Answering these questions about data is a new challenge for us as individual givers. Setting the rules for how it will work is a new challenge for us as a society. We definitely need to address these questions about digital data. We also have the opportunity to revisit related questions about time and money—because the existing policies, regulations, and institutions may no longer be doing what we need them to do.

A QUICK SCAN OF CURRENT STRUCTURES

The nonprofit corporation was created as a solution to a nineteenth-century problem. One hundred and thirty years ago, states and the federal government in the United States began writing the laws that would eventually lead to the modern-day nonprofit organization. This history unfolded over decades and was motivated by railroad barons seeking to maximize their profits, efforts to protect religious freedom, elite concerns about status, political candidates seeking to shut out opponents, and tax policy.¹⁷ Much has changed since the 1880s, and it's time to revisit the questions that are part of that history.

More than a century later, we've come to see nonprofits as a standard part of the giving landscape and of civil society in the United States. Today, as we experiment with ways to donate digital data for public purposes, we face a similar kind of problem—one which may well be solved through the creation of a new form of institution. Recognizing this may motivate

you not only to think about today's challenges but also to realize that we have changed and can change the conventions of philanthropy as the times demand. The next few pages are provided to orient you to some of the current conventions—not because they're perfect and immutable, but precisely because they're not.

NONPROFITS AND GIVING

If you've been asked to give money to a cause, there's a pretty good chance the person doing the asking has emphasized that the organization is a 501(c)(3). You may have nodded your head, acknowledging this as important, without really knowing what you were nodding about. Not to worry, most of us don't walk around with various subsections of the Internal Revenue Code memorized—and that's exactly what 501(c)(3) refers to, a subsection of the tax code. It happens to be the most common category of nonprofit corporations in the United States.

There are about 1.5 million 501(c)(3)s in the country, providing everything from social services to education, health care, environmental work, scientific research, animal welfare, cultural programs, and religious worship and services. This distinction is often misunderstood to be more important than it really is. Given how frequently fundraisers in particular talk about 501(c)(3)s, you'd be forgiven for thinking this is what distinguishes nonprofit organizations from for-profit corporations. But it isn't.

There are two different sets of laws, piled on top of each other. One is the corporate code, which distinguishes nonprofits from profit-making ventures; this legal distinction is tied to the nineteenth-century robber barons. The 501(c) subsections are part of the tax code, a different set of laws. The corporate code works at the state level; the tax code operates nationally. Corporate regulations state that if a nonprofit corporation takes in more money than it uses to pay its expenses, it must put the remaining funds back into the corporation. Nonprofit corporations have no shareholders, and no one is allowed to profit by "owning" them. There are also regulations about conflicts of interest and self-dealing, all of which are designed to create a corporate form that uses all its money for its mission.

Section 501 of the tax code, on the other hand, lays out rules about how these organizations and the funds they raise are or are not taxed. The fact that it is subsection (c)(3) under discussion is a good hint that there are many kinds of organizations in the code. There are twenty-nine such subsections, covering a wide range of associations, including cemeteries, certain insurance schemes, and professional associations. And the tax rules vary across subsections. In general, 501(c)(3) nonprofits don't pay federal tax on donations made to them. In addition, people who give money to 501(c)(3) nonprofits can, if they choose, deduct the amount of their gift from their income, thereby owing income tax on a lower amount than they would have otherwise. All of this is what gets shorthanded into talking about tax-exempt nonprofits and charitable giving. It's much more complicated than that last paragraph and, mostly more boring, so we'll leave it at that.

There is another category within Section 501(c) that matters, however, and that is subsection (4). It applies to organizations that are called *social welfare nonprofits*. These groups can involve themselves in public policy on behalf of their members, although via what kinds of activities and how deeply are both limited by law. Right away, you can start to see that there are no clear lines between charity and politics.

POLITICAL GIVING

The blurriness between political and charitable issues may help explain why it's increasingly common for organizations to have both (c)(3) and (c)(4) arms.¹⁸ These two-part organizations can be found on every side of almost every issue. For example, access to guns motivates both the (c)(3) National Rifle Association and the (c)(4) National Rifle Association Institute for Legislative Action, and their frequent opponents, the (c)(4) Brady Campaign and (c)(3) Brady Center. Protecting and providing reproductive rights and women's health care is the work of (c)(3) Planned Parenthood and the (c)(4) Planned Parenthood Action Fund; opposition to these services motivates their opponents, including (c)(3) Concerned Women for America and the (c)(4) Concerned Women for America Legislative Action Fund (C4).

All of these organizations are nonprofits, governed by nonprofit corporate law and overseen by state governments and the Internal Revenue Service. The lines that divide the (c)(3)s from the (c)(4)s are hard to see when you look at either the issues or the activities. The only places the lines are clearly drawn are in the laws that apply to these groups regarding taxes and transparency. Rather than get more lost in the weeds of these laws, let's consider why we'd want to treat political and charitable activities differently in the first place.

ANONYMITY AND TRANSPARENCY

Democratic participation includes participating directly in our systems of government, by voting, running for office, or working with politicians to change laws and regulations. It also includes all the ways we participate in communities and in voluntary associations outside of politics. In politics, the need to know who's paying for what is part of both building trust and trying to reduce corruption. So transparency rules. On the other hand, anonymity is an important option for voluntary associations outside of politics.¹⁹ Simply put, disclosing contributions is intended to build trust in politics. Allowing anonymous contributions is intended to build trust in the associational sector. It's tough to draw lines between political and charitable activity, and the laws are not perfect. But this imperfect system is motivated by good intentions—building trust in our institutions. Any efforts to improve these systems should begin from the same intention—broad public trust.

One key issue that is meant to differentiate politics from charity is the question of anonymity. Specifically, can you contribute money without being identified as the giver? There are good reasons that we might want some kinds of giving to be anonymous and some to be identifiable. For example, one core assumption of democratic governance is that people should know who is making the decisions on their behalf. Political activity should be visible to the public, including details about who is funding politicians, political parties, and political campaigns. Your vote is private, but the people and money that make up the electoral system should be visible.

These rules are intended to prevent (or at least reveal) corruption. For the most part, then, there is an assumption that money in politics should be identifiable and transparent.

But we bring a different assumption to promoting participation in associational life. For participation to be a meaningful choice, you need to be able to make it free from interference, based on your own preferences. Privacy is a prerequisite for this: if everyone knows who's in and who's not, then there are many kinds of pressure that can be brought to bear. If you want to make your giving public, if you want your name to be known, that's fine. But many people want to participate in a cause, including by making donations, without drawing attention to themselves. The rules about private participation and contributions to associations and community groups also reflect the influence of Judeo-Christian religious traditions on American law. Both religions (and others) venerate anonymous charitable giving. So our laws allow charitable nonprofits to accept anonymous gifts, while political organizations have to disclose their donors.

Becoming familiar with the values that underpin rules and regulations makes it possible to see why we have a system that allows anonymity when it comes to charitable gifts but not political donations. As givers, we need to understand which giving tools/options/resources provide the degree of anonymity or visibility we value. Sometimes anonymous giving can be effective and necessary. And sometimes it can open the floodgates to undue influence and other forms of corruption.

PRIVILEGING GIVING TO NONPROFITS

These are the principles behind anonymity and transparency in giving, but where do taxes fit in? The US tax code encourages some financial giving by linking it to tax breaks. The history of this goes back to the creation of the income tax in the early twentieth century and a desire to keep wealthy people giving even as they were subject to new taxes.²⁰ Although discussions of the role of these tax breaks has changed over time, their beneficiaries have not. The US tax code has, since 1917, privileged giving by the wealthy through tax incentives. Changes to the tax code in 2017 targeted

charitable tax breaks even more specifically for the wealthy. Because tax breaks for donations are linked to income, they are generally less useful to (and thus less meaningful for) the majority of US taxpayers.²¹ A review by two economists in 2019 found that the 2017 law reduced the percentage of taxpayers claiming the charitable deduction from about 25 percent to 8.5 percent. In the economists' words, low- and middle-income households were "effectively eliminated from any tax benefits."²²

If the tax breaks themselves don't matter to the giving that the rest of us do, are there other reasons to care about the tax laws? Yes. Linked to the tax laws are regulations about reporting on sources of funding. While the financial benefits of the tax law focus on the wealthy, the ability to remain anonymous in your giving depends on whether you give to a (c) (3), to a (c)(4), or to any of the myriad types of organizations specific to campaign politics, such as PACs, super PACs, 527s, political parties, or specific campaigns.²³ Gifts to (c)(3)s can be anonymous; after the IRS changed rules about donor disclosure, several states responded by requiring that donations to (c)(4)s be disclosed. There are lots of details, and lawyers make a lot of money hashing through these requirements. It's also true that the rules for 501(c)(4)s are murky enough to make manipulation of the rules relatively easy. This is what has led to the rise in so-called dark money in political campaigns. Clever donors can find lots of ways to contribute money to political activities and not be identified. One of the most widespread is to make a donation to a (c)(4) that describes its activities in ways that allow it to pass through the regulatory loopholes on donor disclosure, pretending these funds are indistinguishable by donor. Another is for the (c)(4) to contribute its operating budget money to a political candidate or campaign. In the process of moving the money from the (c)(4) to the campaign, the names of donors to the (c)(4) get "washed off," enabling anonymity to reside where disclosure is the rule.

All of these rules were written in the days before the internet made donor disclosure a primarily digital activity. Filing information digitally makes it easier to abide by some of the laws and easier to evade, or potentially violate, others. The digital nature of these reports makes it easier for

third-party reviewers and accountability organizations, as well as journalists, to keep track of who is funding what.

It has also complicated things. For example, both major political parties in the United States have their preferred online fundraising platforms. The Republicans promote the use of Revv and WinRed, whereas many Democrats use ActBlue. These tech companies in turn process payments to groups like Americans for Prosperity or Supermajority. To comply with rules on donor disclosure, the software companies report donations to the Federal Election Commission. Although the disclosure rules apply only to gifts larger than a certain size and for specific activities of (c)(4)s, the easiest choice for the tech companies is to report all gifts to make sure they are in compliance with the law. So small-dollar contributions to (c)(4)s for non-political activity get reported alongside larger, decidedly political contributions. This is a case of our technology systems getting ahead of our laws and potentially disclosing activities that aren't legally required to be made public.²⁴ This kind of reporting infringes on people's privacy and ability to associate with whom they choose. The opposite action—the nondisclosure or obfuscation of big contributions to politics—is arguably the more common and more corrupting problem. The rules are arcane, but they reveal how policy makers use public budgets, tax law, and reporting requirements as a means of rewarding or preventing certain behaviors. They also reveal an entire infrastructure—albeit a broken one—for collecting and reporting data on giving to the public. This is important as we think about reporting requirements for other types of giving, such as crowdfunding or data donations.

THE EFFECTS OF DIGITAL SYSTEMS ON GIVING

Digital systems like mobile phones and networked computers make it ever easier to ask for money and to give it—possibly even too easy, as the Scrooge-like feeling I recounted having at the opening of this book reveals. It should make it easier to track donations, as every online transaction is recorded, whereas we lose track of the coins and bills that we drop in a basket or hand to someone on the street. Ironically, because so many of our

online donations are made on proprietary systems such as GoFundMe, the public doesn't have access to this data.

Online giving has also helped blur the lines between giving to non-profits, for-profits, individuals, or politics as each of these options looks basically the same on a crowdfunding platform. This may be another reason that the tax code, which has played such a big role for nonprofits, seems to be less and less important to givers.

From donating online to donating cryptocurrencies like Bitcoin, the last decade has seen an ever-expanding dependency on digital tools for giving time and money. One mapping conversation participant noted, "I do give money to people on the streets sometimes. But I rarely carry cash anymore." This point was brought home to me on a subway ride not long ago. As happens on subways everywhere, a person came pushing through the doors between cars as the train was moving. As he walked through the crowded car asking for money, he repeated himself, "Need a dollar, please. Help me out. I've got Venmo. Need a dollar, please. I take cash and Venmo."²⁵

For some people, the digital underpinnings of giving are just assumed. It's stranger for them to use cash (for anything) than to be impressed with the ability to give via text message or inside of a gaming platform such as Twitch. For others, online tools are the exception, not the rule. But anytime—and every time—there is a digital technology involved, we face the question of what happens with the digital data.

This assumption of digital facilitation—and dependence on it—is important. Among other things that digital transactions enable is (some) visibility into actions that are harder to see when they happen offline. People put dollar bills into collection boxes every week, but tracking those dollars is hard—either from the perspective of the giver or the recipient. Making a donation online (or via phone, via messaging app, or on a crowdfunding or gaming platform) leaves a trail. The giving isn't necessarily new, but the act is more visible to researchers, to outsiders, and, of course, to the organizations (usually companies) that own the digital platform on which the action occurred.

The ways we give online, especially the growth in crowdfunding, raises questions about how much the tax code and (c)(3)s and (c)(4)s matter to people. Some significant portion (again, we can't get the data) of crowdfunding ignores these structures all together. Five years ago, 75 percent of American taxpayers didn't benefit from charitable tax deductions. The 2017 changes to the law made charitable exemptions irrelevant to more than 90 percent of all tax filers.²⁶ Tax privileges associated with certain behaviors are not a meaningful criterion for how most of us decide to give.

While tax benefits may not actually matter to people's pocketbooks, the categorizations of *nonprofit* and *tax-deductible* still have a strong grip on our collective idea of where good gets done. The value of the tax status of certain nonprofits is not in the financial benefit it provides to most of us as givers but in the signal it theoretically sends regarding purpose and trust. There is an aura of trust associated with nonprofits; we tend to equate them with using money for good and not for profit. But long-term measures of trust in nonprofits show it to be declining, a result of both scandals among nonprofits and a concerted effort by commercial businesses to associate themselves with good causes.²⁷

PHILANTHROPY AS A POLITICAL ARTIFACT

Helping other people is basic human behavior. The laws that shape philanthropy result from political decisions. In her 2020 book, *Civic Gifts*, sociologist Elisabeth Clemens analyzes the relationship between nonprofit organizations and American government, and in the process she forces us to set aside a powerful myth about the philanthropic world: the myth of independence.²⁸ Focusing on nonprofits and philanthropy without talking about the public systems that surround them and the public policy choices that shape them is the equivalent of a young farmer polishing the apples she submits to judges at a county fair while ignoring the health of the soil in which those apples were grown.

Specifically, it's irresponsible to ignore the broader tax code in the United States and its role in privileging philanthropic giving while also

preventing us from being a more equitable society. Current tax laws are very much part of what's driving unprecedented income inequality. The laws allow individuals to become trillionaires and corporations to pay nothing in taxes. These laws enable the amassing of philanthropic fortunes so large that people turn to them when government efforts fail. One particularly egregious example of this form of "philanthropic privatization" came in the 2020 U.S. presidential election when the federal government refused to provide adequate funding for election safety, and so wealthy individuals donated hundreds of millions of dollars to the states to run elections.²⁹

Philanthropic fortunes, created at the expense of shared investment in government programs, will not and cannot remedy issues such as structural racism, inequitable health care, housing, education and employment opportunities, or climate change. Those failures are ours collectively. Only together can we solve them. It isn't simply that the funding doesn't add up—it's that relying on philanthropy and nonprofits to do the public's work is a form of lower-cost outsourcing with less accountability. It's not democratic. And it's not working.

In addition to the choices we each make as individuals, we face some big questions as a society. The convoluted nature of (c)(3)s and (c)(4)s, the rise of dark money and ways in which people skirt the laws on anonymity and transparency, the blurriness of politics and charity, and the rise of crowdfunding are all reasons to question whether our existing rules about donating time and money are working for or against justice.

Because digital data is a new potential philanthropic resource, it's easy to understand that we need to create new rules and regulations for if and how to use it. In the nineteenth century we morphed the corporation (first created in the Netherlands to colonize southeast Asia: the Dutch East India Company) to create nonprofit corporations that would facilitate donations of time and money for public benefit. So it stands that we can ask what kinds of institutions we can create now to facilitate donations of digital data for public benefit. Digital data is collected on us everywhere we go, from our laptops to our public spaces, at school, home, and work. What kinds of protections do we want for this data, our identities, and our intentions?

If we build something new, how will we ensure equitable access and control or consider questions of human dignity and justice? How will we determine who—you or companies—will be making this decision about data from and about you? These questions tie into—and may be useful additions to—ongoing public policy debates about the unbounded commercial control of data on elections, trust, and identity.

Our data represent us, but until now we have had very little say over how the data are used. Now's a chance to change that.

It's important to note that most of the research for this book was completed in 2019, and writing was finished in the summer of 2020. The pandemic, protests against police brutality, economic collapse, a rise in White nationalism, and 2020 US elections happened after most of the writing was done. These events highlighted two things of great importance to this book: first, our public systems are broken; second, people come together to help each other in every crisis and from every walk of life. Some of the ideas in this book—the focus on working together and using every resource you have—took on the urgency of life and death for millions of people during this time. The months of 2020 changed, for at least a period of time, the national conversation about racism, structural inequality, the abandonment or direct sabotage of public systems (like the US Postal Service), and an underinvestment in physical and social infrastructure that was failing children, elders, parents, and workers.

As I am writing, I don't know where the country will be in the fall of 2021, when you will be reading this. I do know that there's no single change that could have fixed all these problems in the time between now and then (although many things that might have made them even deadlier). The practices described in the stories to come—of collective action, activating political and civic power, listening to community experts, repairing the harms of our racist and colonizing systems and assumptions, mobilizing against corporate power and politicians beholden to wealthy donors, and building alliances for justice that are led by those most harmed—will still be necessary. My concern about these issues shapes the stories presented in the chapters ahead. The giving products described in the next chapter are

available across the political spectrum; the stories that follow center people addressing economic, racial, and environmental injustices.

This is the beginning of the story of how we give. In the coming pages, you'll meet people writing the outlines of this future, people who refuse to feel like Scrooge. I hope their stories inspire you to look closely at your practices, find ways for your giving to connect you to others, and help shape a better future for all.