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INSTITUTIONAL SHORTCIRCUITS

When should philanthropy be incentivised?¹

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1 Introduction

The practice of philanthropy has been sitting uncomfortably with the credentials of the liberal democratic state. One of the main concerns has been with the uneven distribution of political power that philanthropy may entail when the state's political agenda and priorities respond to the particular interests of some wealthy donors rather than to the general interests of the citizenry (Cordelli 2016; Greaves and Pummer 2019; Lambelet et al. 2019; Reich 2018). To the extent that philanthropy exposes the state's political agenda to the uneven influence of certain (individual or corporate) personal agendas, it may even be censored as a form of political corruption (Ceva and Ferretti 2021, 2018, 2017).

Philanthropy can perform many functions in society. It can, for example, address resources to socially innovative practices (e.g., sponsoring new research and start-ups), alert to neglected causes or issues that have fallen out of the state's political agenda (e.g., supporting environmental initiatives), or act quickly to address unexpected social needs (e.g., financing infrastructures to deal with a health emergency). Against this composite background (for an overview, see Anheier 2018), this chapter adopts a normative point of view to discuss the justification of tax incentives for philanthropy when philanthropy performs one particular function. This is a remedial function that philanthropy may be called to perform in the face of institutional failures in the nonideal circumstances of concrete public institutional action. Ideally, public institutional action should be capable of developing and pursuing a political agenda that caters to shared needs (and adjudicates between competing ones). However, in the nonideal circumstances of concrete public institutional action, public institutions may fail, and philanthropic initiatives might inject valuable skills and resources, thus compensating (at least in part) for some institutional failures. The announcement of the commitment of such eminent philanthropists as Bill Gates in the immediate aftermath of the COVID-19 pandemic outbreak to finance the production and distribution of vaccines is but one recent illustration of philanthropy's possible remedial function. Insofar as philanthropy can play this remedial function, the state seems to be justified to incentivise it in nonideal conditions. But when these incentives occur through taxation, they may have the adverse effect of draining resources from the state, thus further undercutting its action (see, e.g., Reich 2016, pp. 70–71). An institutional short-circuit may thus occur.

In this chapter, I set out to assess the fear that offering tax incentives for philanthropy may trigger vicious institutional short-circuits by discussing the justification of philanthropy from the point of view of a liberal democratic institutional ethics. I start from a conception of this institutional ethics as grounded in the normative idea of ‘office accountability’, the idea that officeholders in public institutions should always be in the position of justifying the rationale of the agenda they pursue by their conduct in their institutional capacity as coherent with the terms of their power of office mandate (§2). A public institution that realises office accountability can draw on the interrelated action of officeholders as an *internal* resource to sustain its functioning. When there is a deficit of office accountability, this internal mechanism fails, and remedial action should be taken. I proceed (§3) by distinguishing between two types of remedial action of this sort, internal and external, and present philanthropy as an instance of this latter (§4). I then argue that remedial philanthropic initiatives may be justified within this ethical framework insofar as they occur in such a way that enhances their compatibility with a commitment to office accountability. Failing this condition, such philanthropic initiatives risk being disqualified as a form of political corruption (§5).

This discussion serves as a basis for exploring the boundaries of the justification of tax incentives for a particular set of philanthropic initiatives. While this argument has thus a limited scope, it points at a circumscribed but significant domain of institutional action where the allegiance between the state and philanthropy is fully (albeit nonideally) justified. Within this particular domain, I will argue, remedial philanthropic initiatives play the important instrumental function of upholding public institutional action from the *outside* public institutions when the interrelated action of officeholders fails to sustaining it from their *inside*.

2 Institutional functioning and the ethics of office accountability

To describe an institution means to describe the action of a group of agents, the officeholders, who act in a special capacity in virtue of the powers entrusted to the institutional roles they occupy.² The discussion in this chapter mainly concerns the functioning of public institutions; but this basic description applies to any kind of institution understood as a system of roles. More specifically, institutions are not just a set of *procedural mechanisms* and formal rules, nor may institutional action be identified straightforwardly with the joint action of *individual* institutional members. An institution is a system of *interrelated embodied rule-governed roles* (the offices) to which powers are entrusted with a mandate (Ceva and Ferretti 2021, 2018). Let us pause to consider the elements of this definition.

First, notice that each *role* within an institution is established and governed by a set of *rules* (the constitutive rules of an institution), which spells out the normative powers (the rights and duties) and the tasks associated with each role. Second, take note that each role is *embodied* in the sense that it is occupied by a human person (the officeholder), whose conduct in her institutional capacity is governed by the constitutive rules of an institution. Consider, third, that the embodied rule-governed roles of an institution are *interrelated* in the sense that the capacity of each officeholder to exercise her powers of office and perform her tasks *structurally* depends on the other officeholders’ conduct in their institutional capacity. Finally, note that an institution is grounded in a *raison d’être* which comprises the normative ideals that motivate its establishment and, consequently, its internal structure of roles and related tasks. An institution’s *raison d’être* informs what powers are entrusted to the various institutional roles with what mandate. From all this, it follows that to see whether an institution functions, we should be looking at the officeholders’ interrelated conduct in their institutional capacity, whether the occupants of

institutional roles exercise their powers of office in keeping with an agenda whose rationale is coherent with the terms of their power mandate.

It is important to point out that the very fact of occupying an institutional role entrusts people with normative powers, in the form of rights and duties, that they do not normally have (Rawls 1955; Searle 1995). As a university professor, I have the right to demand that certain people, the students, read and write certain things and to assess their performance on that ground; correspondingly, the students have a duty to read and write what I demand of them and a right to expect a fair evaluation of their work. This set of normative relations does not normally hold between people as ‘bare agents’ – I can recommend a book to friend, but I cannot *demand* that she read it and write a commentary about it. Institutional membership therefore creates an order of rights and duties that binds together the occupants of institutional roles and regulates their interactions *inside* an institutional context. This internal perspective is of paramount importance for the discussion in the chapter; we will revisit it in §3.

There is a further important point about the nature of institutions to revisit: all roles in an institution are interrelated. As anticipated, the interrelatedness of institutional roles means that the performance of any officeholder in her institutional capacity structurally depends on the performances of the other officeholders and the uses they make of the powers entrusted to their roles. To understand officeholders’ actions, and assess the uses of powers they make, it is essential to see them in the context of and as interrelated with the other officeholders’ actions and the performance of their tasks. This perspective of interrelatedness gives meaning to the officeholders’ actions in their institutional capacity, whose interrelated work is definitive of institutional action. So, for example, to assess the functioning of an authority responsible for the marketing of new drugs, it is not enough to look at its statutory regulations and the formal rules that govern its procedural mechanisms on paper. We need, rather, to look at the interrelated conduct of the holders of the various offices implicated in the authorisation procedure, from those entrusted with the power to seek experts’ opinions on the health risks of the drug or on its marketability, including those who are called to collect and analyse those opinions, down to those responsible for signing off the final authorisation. None of these tasks can be appropriately understood, exercised, or assessed in isolation, as the failure of one of them may cause the failure of all the others and therefore of the entire institution (for example, when a decision on a drug’s marketability is based on a more or less intentionally biased analysis of the experts’ opinion). To understand and assess an institution means, therefore, to look at how it works in practice through the interrelated action of the officeholders. To wit, this understanding and assessment require taking an internal perspective capable of offering an insight about the actual interrelated conduct of the officeholders in the exercise of their institutional tasks.

From the general consideration regarding the interrelatedness of institutional roles, two more specific claims follow. First, the functioning of an institution depends on the capacity of the officeholders’ interrelated action to honour the *raison d’être* of their institution by acting in keeping with the terms of their power mandate. Second, the exercise of one officeholder’s rights and duties in her institutional capacity (as established by the power mandate entrusted to her role) structurally and fundamentally requires that the other officeholders perform their rights and duties in keeping with the terms of their power mandate. The main entailment of this claim is that, when officeholders act in their institutional capacity, they are *mutually accountable* for the uses they make of their powers of office. This is the idea of ‘office accountability’ (Ceva 2019). Office accountability is thus the pivot of an institutional ethics of office because it is the normative practical principle that ought to guide the action of officeholders in their institutional capacity. Taken together, these claims result in the statement that the functioning of an institution is premised on an institutional ethics of office accountability.

What we have seen so far is sufficient to qualify a necessary condition for an institution to be well functioning. A well-functioning institution is necessarily one in which the officeholders are in the position of giving each other an account of the rationale of the agenda that underpins the uses they make of their power of office *when they act in their institutional capacity* and show its coherence with the terms of that power mandate (see also Applbaum 1999; Ceva and Ferretti 2021; Emmet 1966; Winston 1999). We can now get a better grasp of the meaning of the condition that officeholders are mutually accountable when they act in their institutional capacity as a requirement of an institutional ethics of office. Notably, office accountability is the centrepiece of a set of normative prescriptions that guide the officeholders' interactions *inside* an institutional context. As participants in such a context, officeholders share the normative standing to require one another to 'give an account' of their action (see also Bovens, Goodin and Schillemans, 2014, p. 6). I call this ethics of office 'institutional', as it refers to the terms of mandate within an institution and is, thus, different from the 'personal' ethics that may guide people's interaction in other capacities, for instance, as friends or lovers.

3 Institutional failures and their internal correction

To summarise the argument so far, a well-functioning institution is one sustained by an institutional ethics of office accountability; it is an institution where the officeholders are in the position of giving to each other an account of the rationale of their action in their institutional capacity which is coherent with the terms of their power mandate. In so doing, their interrelated conduct can uphold the *raison d'être* of their institution. An institution that realises office accountability can draw on the interrelated action of officeholders as an *internal* resource to sustain its functioning. In this sense, think of institutional functioning as that of a sports team, structured according to various rule-governed interrelated specific roles, which are definitive of the team's action. In this context, what a player does (how she makes use of the powers given to her by occupying a certain role) necessarily affects the action of the whole team and its capacity to perform its function.

Unfortunately, in the nonideal circumstances of concrete institutional action, institutional functioning hardly ever proceeds so smoothly. In many circumstances, institutions may fail, including because of a lack of material resources, incompetence, systemic inefficiencies, as a result of the malicious intent of some bad apple, or because of the deterioration of the institutional patterns of officeholders' interaction (Ferretti 2019; Ceva and Ferretti 2021). For instance, institutions may fail as the summative result of the officeholders' individual actions. When several officeholders individually fail to perform their tasks (on various grounds), the institution as a whole may fail. Consider the example of a border control agency where a good number of inspectors regularly allow bulk cash smuggling, so that the borders supposedly controlled by the agency become a safe channel for money smugglers, and an informal bribe-and-smuggle practice becomes characteristic of the work of the entire agency. This practice, initiated by the discrete actions of a number of individuals, impairs the agency's functioning as a whole by working from its inside.

On a different count, an institutional failure may depend on the particular morphology of the interrelatedness of roles within an institution. Consider, for example, the case of an authority for the marketing of new drugs (Ceva and Ferretti 2021, pp. 65–67). The officeholder who has the task of selecting the experts to seek advice on the drug's weighted dangers is the husband of the head of a pharmaceutical company that is leading the research on the drug. He selects the experts in such a way to obtain a favourable advice on its safety. Now, some of this officeholders' colleagues who have not been involved in the selection procedure are called to decide

on the drug's marketability. Per their power mandate, they base their judgment on the experts' report and find evidence in support of the marketing authorisation. In doing so, the marketing officeholders act according to the rules of their office. However, the rationale of the entire institutional action has been compromised by the behaviour of the first officeholder, who acted in the pursuit of a familistic agenda that is totally extraneous to the rationale of his power of office mandate (which is certainly not that to favour his dear and near ones by his institutional action). Because of the interrelatedness of institutional roles, the officeholders responsible for the marketing authorisation procedure can function or fail only together. Because, as seen in the previous section, an institution *is* a system of interrelated rule-governed embodied roles, and the assessment of institutional action *is* the assessment of the officeholders' interrelated conduct, when this latter fails, the institution itself fails.

The illustration of institutional failures suggests the importance for institutional functioning that officeholders be constantly vigilant not only as concerns their own conduct but also, and perhaps most importantly, with respect to the conduct of the other occupants of institutional roles in their institutions. The primary resource for counteracting institutional failures should therefore come from the inside of an institution. This thought reinforces the idea that institutional functioning (and the correction of institutional failures) is first and foremost a matter of an institutional ethics of office accountability. As seen, at the core of this institutional ethics is a general commitment to making officeholders mutually accountable for their conduct in their institutional capacity. I want to add now that, whenever a deficit of office accountability is suspected, this general commitment translates into the specific requirement that officeholders engage in good faith in practices of *answerability*.

To ensure its functioning and address possible partial or systemic failures, institutions should set up internal answerability practices through which officeholders may call on each other to honour their professional duties and sustain institutional action as an interrelated body of agents. Such practices may include organisational codes of conduct, transparency mechanisms, and whistleblowing (Ceva and Bocchiola 2018). These practices are aimed at establishing and assigning retrospective and prospective responsibilities for institutional failures to officeholders, severally and as interrelated agents (for instance, per the summative and morphological patterns of interaction illustrated previously). This exercise is crucial to engage officeholders in a communicative practice, thus calling them to respond to the threats that their conduct may pose to the capacity of their institution to be faithful to its *raison d'être*. By engaging in this practice, officeholders can either rebut, in part or in full, or accept their implication in institutional failures and also take up the prospective responsibility of sustaining the functioning of their institution in the future.

4 Institutional failures and their external correction: the contribution of philanthropy

While the presence of internal answerability practices is essential to mobilise an institution's internal resources of self-correction, sometimes the relationships between officeholders and their dynamics of interaction are compromised to an extent that makes the resort to external resources necessary, too. To be sure, for starters, in any institutional setup, officeholders are generally expected to respond for their institutional action to third-party authorities such as the judiciary or, in a democracy, the citizenry. In some such major instances of institutional failure as in cases of systemic corruption, for example, it seems hard to imagine that an entrenched system of dysfunctional interactions that is prey – say – to clientelism or other forms of regulatory capture may be transformed without an external 'shock'. This predicament

may be due to very high peer pressure to maintain the corrupt network in place to salvage the privileges of sharing the profits that derive from a well-established network of personal connections, which sometimes also sees collusion with organised crime. A change of pace requires a substantial transformation, possibly including the appointment of new officials with a clean personal record.

On other occasions, external hurdles may join such internal obstacles as the deterioration of the officeholders' relationships dynamics to exacerbate the difficulty of initiating the officeholders' reaction to institutional failures. Relying on an institution's internal resources of self-correction might prove particularly difficult in circumstances plagued by a scarcity of material resources or the lack of the infrastructural and planning capacity to implement certain actions in a given territory; external and extraordinary circumstances, including natural calamities or a pandemic, may strain the context in which officeholders operate and undercut their capacity to undertake corrective actions by their own efforts. When such factors impinge upon the functioning of public institutions and their internal reactive resources, as it were, philanthropic individual and corporate initiatives may enter the picture to sustain public institutional action. Such nonideal circumstances thus provide a fruitful context to explore the justification of a particular form of philanthropy consisting of remedial initiatives.

In broad brushes, I take philanthropy as essentially characterised by the voluntary commitment of someone's private resources for the pursuit of some public goal (or to sustain an agency engaged in such a pursuit).³ Philanthropic initiatives are manifold. They may be individual, in the form of gifts by single wealthy donors, or corporate, when they see the engagement of charitable organisations or private foundations. Philanthropy may not only take many different forms, but it can perform various functions in society that are more or less complementary to the action of public institutions (see, e.g., Anheier 2018). I shall expound on and revisit the many possible functions of philanthropy in the next section. I would like to draw the reader's attention now to one particular function that philanthropy may perform in the context of the nonideal circumstances of institutional action we have just seen. An immediate illustration of this particular function comes by observing the COVID-19 pandemic context, which has clearly opened a window on one particular form of philanthropy's contribution to public institutional action. In that exceptional context, nonprofit agencies, foundations, or single donors have sustained the development (and committed to the distribution) of vaccines, as well as offering contributions for the assistance of the most vulnerable sectors of the population (e.g., homeless people or the elderly). This contribution has proved particularly important given the difficulties of coordinating and activating prompt institutional responses to an unprecedented and (partially) unforeseeable emergency. For example, philanthropy's contribution has been crucial in this sense to complement and sustain the action of public institutions, which has sometimes left vulnerable minorities behind in an effort to manage the sanitary situation for the majority of the population. This particular complementary function qualifies what I call 'remedial philanthropic initiatives'.

To be true, philanthropy's complementary contribution to public institutional action is far from being a novel phenomenon that emerged in the pandemic times. From being primarily a church- or religion-based initiative, philanthropy has gradually come to permeate many domains traditionally the preserve of public institutional action, including education, health, arts, science, and innovation, as well as the protection of people's social and civil rights (Bremner 1988; Hall 2006). Because of its enhancing contribution to many domains of people's personal, social, cultural, and political life, the role of individual philanthropists and of philanthropic foundations may be seen as an important complement to the action of public institutions. In a democracy, philanthropy may have the additional value of sustaining and

moving forward specific projects or endeavours that might be too marginal or controversial to be pursued by public institutional action or whose priority is not recognised by the political and social majority of citizens. The action of advocacy and social campaigning that may be sustained by philanthropic initiatives may thus contribute also to enrich the democratic public sphere and contribute to a pluralistic political discourse in keeping with one of the pivotal commitments of a democratic institutional setting (Reich 2016, pp. 73–76, 2018).

In view of these positive grounds for the assessment of philanthropy's contribution to public institutional action, good reasons seem to hold to justify the public incentivisation of philanthropic initiatives, especially in nonideal circumstances that threaten the functioning of public institutions (both from the inside and the outside, as seen previously). Incentives for philanthropic initiatives may be manifold, but they almost ubiquitously include provisions of tax incentives for private and corporate donors. Tax incentives may take the form of either tax reductions or tax credits, and they may concern either income or estate taxes. Moreover, tax incentives may come in degrees depending on the fiscal level where they occur – federal, state, or local (see Greene and McClelland 2001). Among the countries where tax incentives for philanthropy are sizable and widespread are certainly the United States of America and the United Kingdom. But Switzerland, where philanthropy is a major instance of the general commitment to subsidiarity, also provides an illustration of the multiple layers of this mode of incentivisation for philanthropic initiatives. In the confederation, tax deductions for philanthropic donations apply to foundations and individual citizens. Philanthropic foundations enjoy a total tax exemption from the federal income tax and may also benefit from variable tax exemptions on a cantonal and communal level. These exemptions may concern the income and/or capital tax and the real estate income tax as well as the inheritance tax. The exemptions for individual citizens who donate to philanthropic foundations apply at the same twofold federal (up to 20% of the total taxable income) and cantonal/ municipal level.

However, the story of the supposed allegiance between philanthropic and public institutional actions is far from being rosy. In periods of fiscal austerity and political polarisation, the choice of what social causes and interests to promote and prioritise is particularly arduous, and philanthropic initiatives may seem a way to force the hands of public institutions in particular directions, as they sidestep the ordinary democratic process for giving political orientation. The criticism may be pressed to the point of pinpointing the essential incompatibility between democracy and philanthropy as an instance of plutocracy (Reich 2013). The question concerns whether and to what extent democracies may afford the condition that private property and wealth become the guidance for the promotion and prioritisation of public purposes, thus sanctioning the influence of background inequalities on public decisions. The very freedom of philanthropic initiatives to choose what issues to press and sustain by the employment of private funds is frequently indicated as a source of democratic risk. Sometimes pet causes or marginal cultural initiatives may erratically get pride of place, overshadowing more urgent economic or social needs. Moreover, there is a risk of cacophony, as the most disparate initiatives may attract donors' idiosyncratic support, thus causing inefficient expenditures that a careful political strategy of coherent public investments could easily avoid. The underlying fear concerns a general lack of public control and transparency on philanthropic initiatives that risks exposing public institutional action to private and partisan interests, outside the usual mechanisms of checks and balances proper of a democracy.

These shadows over the justifiability of the allegiance between philanthropic and public institutional action have also cast more than a doubt concerning the justification of such forms of support as tax incentives for private (individual or corporate) donors. At a basic individual-centred level, one may ask why and to what extent the state is ever justified to subsidise (with

a loss of tax revenue) people's exercise of their freedom to give their private money away (see Reich 2011). To use Rob Reich's eloquent words, in reference to the American context, philanthropy

is not just the voluntary activity of a donor, the result of people exercising a freedom to do what they wish with their private property. Philanthropy . . . is generously tax subsidized. . . . So foundations do not simply express the individual liberty of wealthy people. Citizens pay, in lost tax revenue, for foundations, and, by extension, for giving public expression to the preferences of rich people.

(Reich 2016, pp. 70–71)

But this individualistic, broadly liberal questioning does not exhaust the qualms with justifying tax incentives for philanthropy. From the institution-centred internalist perspective I have adopted in this chapter, more can be said to explore the possible tensions between philanthropic and public institutional action. For starters, there is a risk that by 'throwing money at' certain causes, philanthropy more or less subtly interferes with an institution's self-control on how its action furthers its grounding ideals (and perhaps even questions such ideals on grounds of pleasing the philanthropist). Also, philanthropy may endanger the mutuality of the accountability relations we have seen as pivotal to an institutional ethics of office. To be sure, any philanthropist would want to know what has been done with their money and so hold the officeholders accountable to them in ways in which the philanthropists are not really accountable to the officeholders (in view of their freedom to donate for causes of their choosing). Finally, especially when philanthropy steps in to respond to institutional failures, tax incentives for philanthropy may come under attack as the source of a potential viciously self-defeating institutional short-circuit. Fiscal benefits of this kind, especially if widespread, may have the adverse effect of draining resources from the state, thus further undercutting public institutional action. An institutional short-circuit may thus occur by which public institutional action risks being entangled in a viciously self-defeating circularity, thus surrendering its *raison d'être*.

In the remainder of the chapter, I address these criticalities concerning the justification of the allegiance between philanthropic and public institutional action and the sanctioning of such an allegiance by means of tax incentives. I will do that with reference to a specific remedial function that philanthropy may perform in the face of institutional failures within the framework of an institutional ethics of office accountability (as presented in the first part of the chapter).

5 Remedial philanthropic initiatives as external props for public institutional action

The question of whether tax incentives for philanthropy are justified necessarily depends on the answer we give to the more general question of the justification of the very place of philanthropy in the context of public institutional action. I want to suggest a particular answer to this general question with reference to a specific remedial function that philanthropy can perform within the institutional ethics of office accountability I have presented in the first part of the chapter. I have argued there that the key structural feature for having a functioning public institution is that the officeholders within it always act in their institutional capacity for the pursuit of an agenda whose rationale may be vindicated as coherent with the terms of their power mandate. This thought is summarised in the normative idea of office accountability. The commitment to office accountability is key to institutional functioning because it emphasises the importance of officeholders' mutual reliance to uphold by their interrelated action the

raison d'être of their institution. As we have seen in §3, when public institutional action fails, office accountability grounds the expectation that officeholders be ready to engage in practices of institutional answerability as a self-reflective communicative exercise aimed to gain a shared understanding of what went wrong and how it could be remedied.

However, sometimes internal or external hurdles may impair the mobilisation of an institution's internal resources of self-correction. When these predicaments occur, the prompt for remedial action may well come from outside a failing public institution. My suggestion is that one important ground for the justification of philanthropy emerges whenever philanthropy takes on such a remedial function in the face of failures of public institutional action. This is a *normative*, not a descriptive, claim, and, most importantly, it concerns a *particular* set of philanthropic initiatives. Of course, we may have philanthropic initiatives of other kinds that claim for themselves either a more or a less ambitious role. More ambitious philanthropic initiatives would claim a more pronounced action-guiding function as they offer their support for activities aimed at (re-)orienting political action or (re)setting political priorities (e.g., through advocacy or lobbying).⁴ Other forms of philanthropy may have greater modesty as they operate to sustain 'additional' activities that are normally not considered definitional of public institutional action (e.g., artistic activities or sports events).⁵ Of course, we may have reasons to cherish (or, in fact, dread) philanthropy even under such richer or more modest descriptions. We should also be mindful of the general liberal presumption in favour of people's freedom to dispose of their own personal resources as they see fit (within basic limits such as those set by the harm principle). My argument is more specific. Whatever we may think about the general complementarity between philanthropy and public institutional action (in a democracy or more in general), there are reasons for justifying certain philanthropic initiatives in the nonideal circumstances of institutional failures, which require an external prop to be addressed and redressed in ways capable of sustaining institutional functioning.

To the extent that philanthropy serves this circumscribed but important remedial role for the functioning of the public institutional system, it is justified, and so are provisions that incentivise it, including by means of tax incentives. The simple thought behind this seemingly bold claim is that taxation should serve to sustain the basic functioning of public institutions; there is nothing surprising about this thought, as we normally accept that taxpayer money is used, *inter alia*, to pay officeholders' salaries and cover the indirect costs of their action (by catering to their working tools and facilities). To the extent that some philanthropic initiatives target failures of public institutional action, they attend to a sufficiently analogous role of propping up institutional functioning from the outside. From this point of view, there does not seem to be anything outrageous in the thought that those who use their own private resources to this end should be sustained, encouraged, and relieved from paying twice, as it were, for their contribution to the functioning of the public institutional system in which they partake.

The claim can be made in yet stronger terms. To the extent that a well-ordered society rests on a network of functioning public institutions, we can safely say that all those who value living in such a society have reasons to be vigilant about and responsive to institutional failures that may threaten the general social order. When the officeholders, who are directly implicated in the action of public institutions, fail to sustain institutional functioning by their interrelated conduct, the members of that society acquire a reason to act to ensure that the institutional system as a whole is functioning, which entails their having reasons to sustain public institutional action by their conduct, including through donations. Because such donations become a crucial prop for institutional functioning, they are not only justified, but there are general reasons to incentivise them (e.g., through tax benefits). Seen in this light, remedial philanthropic initiatives do not necessarily indicate the surrender of public institutional action or the 'outsourcing' of

citizens' responsibilities to some private provider (Beerbohm 2016). Insofar as philanthropists are members of a well-ordered society, they have stakes and certain obligations in upholding the functioning of the public institutional system. Many (but not all) of their initiatives may therefore be rightfully justified and incentivised in this contributive spirit.⁶

Two corollaries immediately follow from my claim about the justification of remedial philanthropic initiatives and their incentivisation. The first corollary concerns the *site* of my proposed normative view. The argument I have offered for the justification and incentivisation of philanthropy is situated within a nonideal theory of institutional action. In ideal circumstances, characterised by a perfect officeholders' compliance with office accountability, the functioning of public institutions rests on internal resources, as it relies upon the officeholders' interrelated action. Deficits of office accountability in the officeholders' conduct trigger institutional dysfunctions that undermine the capacity of an institution to engage in a reflexive process of self-correction. These threats to institutional functioning mark the transition to a nonideal situation, which sets the condition for initiating a corrective action of institutional dysfunctions to (re-) establish office accountability. I have suggested that we can understand and justify the remedial role of philanthropy and of provisions intended to encourage it in these conditions as an external prop for institutional functioning.

This first corollary signposts one specificity of the argument I have put forward in this chapter: Specific measures to sustain certain philanthropic initiatives through (fiscal) incentives are justified as a remedial (possibly transitory?) measure in support of the action of public institutions when office accountability fails to sustain institutional functioning from the inside of those institutions. The incentivisation of remedial philanthropic initiatives through the investment of public funds (e.g., in the form of subsidies granted through tax benefits) is thus a measure justified in special nonideal circumstances. This said, to the extent that such nonideal circumstances are frequent (and easily predictable) in normal politics (whereas ideal conditions are hardly ever satisfied), the incentivisation of remedial philanthropic initiatives may be rightfully considered part of the ordinary business of a well-ordered society.

The second corollary of my proposed normative view of philanthropy concerns the *type* of philanthropic initiatives that are justifiably the object of incentives. The type of philanthropy justifiable on the institution-centred grounds I have presented (and for which tax incentives are equally justified) is that specifically targeted at enhancing institutional functioning by remedying the failures of the officeholders' interrelated action and that is itself informed by an agenda whose rationale may withstand public scrutiny as coherent with the *raison d'être* of the institution in question.⁷ This corollary has two specific implications. First, as anticipated, whatever specific form they take, remedial philanthropic initiatives are justified within this framework insofar as they contribute to remedying deficits that may make a public institution fail its *raison d'être*. Justifiable remedial philanthropic initiatives should aim at upholding office accountability by sustaining officeholders in their effort to discharge their tasks, exercise their powers of office in keeping with the terms of their power mandates, and therefore uphold the *raison d'être* of their institution. This implication is not to suggest that other forms of philanthropy are necessarily unjustifiable on any normative ground. What it certainly means is that the normative resources for justifying them must be found elsewhere.

Moreover, remedial philanthropic initiatives may be justified within this institutional framework insofar as they are organised in such a way that enhances the compatibility with a commitment to office accountability. To wit, philanthropic initiatives should themselves be moved by the pursuit of agendas whose rationale may be vindicated as coherent with the *raison d'être* of the targeted institution. This requirement is of the utmost importance to resist two allegations that may be levelled against philanthropy. The first concerns the frequently

heard challenge that philanthropy is unjustifiable, as it defies normal standards of accountability (Reich 2016, pp. 68–69). Because, by definition, philanthropy consists in a voluntary donation of private resources, donors are (and claim to be) characteristically free to choose the causes they want to support and, in so choosing, they are not expected to respond to any particular public commitment, democratically deliberated agenda, or – in fact – constituency. This characteristic unboundedness of philanthropic action has often been presented as a source of tension with the democratic ethos. The argument I have offered in this chapter shows that there are in fact solid normative bases to justify and incentivise certain forms of philanthropy that honour a specific form of office accountability. For instance, one may think of ways to engage officeholders to draw up a list of institutional problems that need outside help from which philanthropists can choose. In this way, philanthropists' commitment to office accountability could be enhanced in keeping with the commitment to maintaining the officeholders' responsibility engaged.⁸ Philanthropists might still not be accountable in the same sense in which elected officials are accountable to their constituency in a democracy. But this does not mean or entail that they can do away with being called to account for the causes they choose or claim for being recognised and supported only to the extent that they pursue certain causes in certain ways.

Second, the specifications I have hitherto introduced are geared to ensuring that remedial philanthropic initiatives uphold without hijacking public institutional action, thus steering clear of the allegation of being tantamount to a form of corruption. Quite apparently, philanthropy runs the risk of being categorised as a form of corruption on either of the primary understandings of this pathology of the public function in the current philosophical debate. On one count, philanthropy may be viewed as a form of 'institutional corruption' to the extent that public institutions become dependent on the undue influence of the donors' private interests, thus compromising their integrity as they are distracted from the pursuit of the public good (Lessig 2013, 2018; Miller 2017; Sandel 2012; Thompson 2018). But philanthropy may also be seen as instantiating a form of 'political corruption' insofar as it advocates for certain partisan causes that pressure officeholders to make use of their powers of office in ways incoherent with the terms of their mandate (Ceva and Ferretti 2021, 2018). The restricted view and justification of philanthropy I have laid out in these pages has the resources to resist both allegations because it does not lend support to the justification (let alone the incentivisation) of philanthropic initiatives that have the ambition of either giving new direction to public institutional action by playing with its agenda or in fact accomplishing certain tasks instead of public institutions. To steer away from the risk of initiating viciously self-defeating institutional short-circuits, remedial philanthropic initiatives are themselves justified and may be justifiably incentivised when they work as an external prop to enable officeholders to perform their tasks and uphold the functioning of their institution, not when they replace their actions.

While my defence of philanthropy and its incentivisation is conditional and targeted to specific types of initiatives, it is by no means marginal or residual. There are many instances of philanthropy that could qualify (whereas some, as seen previously, are excluded). For example, a growing number of foundations has long recognised the importance of investing in leadership development, capacity-building, and innovation. While this recognition has primarily originated and been consolidated in the domain of private corporations, it also matters for governmental action. The Broad Foundation,⁹ for example, is characterised by a commitment to developing leadership- and capacity-building programmes for government employees. In particular, the Broad Residency in Urban Education and the Broad Superintendents Academy have gradually come to uphold the American public educational system as concerns the provision of training for central-office executives. By upholding the development of officeholders' skills, this action seems to qualify as a form of external prop for public institutional action along

the lines I have suggested previously. Because public education is one of the main government's expenditures, the support of this type of philanthropic action through such incentives as fiscal benefits seems by no means misplaced.

Remedial philanthropic initiatives may also work to support the working of political processes. Another example from the American context is helpful here. In 2007, five major foundations joined forces to examine the hurdles in the decision-making process that were causing the California state government to make fewer and fewer major policy and budgetary decisions. The joint efforts of these foundations managed to attract more than \$30 million from private donors willing to launch California Forward,¹⁰ a bipartisan organisation aimed to promote actions of revision and enhancement of the state government's capacity to make pragmatic, fiscally sound public policy decisions capable to respond to Californians' claims and needs. Also in this case, we can see a remedial philanthropic initiative that, far from forcing the hand of public institutions into specific directions, contributes to making officeholders more responsive to popular demands, coherently with the *raison d'être* of a governmental institution in a democracy. In this case, too, philanthropy seems to perform an important remedial task, which is reasonable to incentivise, as it upholds an institutional ethics of office accountability, thus propping public institutional action.

These two examples serve the illustrative purpose of showing how the institution-centred argument I have presented in this chapter, while targeted at specific types of philanthropic initiatives in the nonideal circumstances of public institutional failures, may make some normative space for the justification of philanthropy and its incentivisation within an ethics of institutional action for democracies. The main claim I have defended in the chapter is that when remedial philanthropic initiatives are within the boundaries of office accountability, they fall short of generating any viciously self-defeating institutional short-circuit. What is more, there are general normative reasons to uphold remedial philanthropic initiatives that meet this condition as a means to uphold public institutional action from the *outside* a public institution when the inter-related action of officeholders fails to sustain it from the *inside*.

Notes

- 1 An earlier version of this chapter was discussed at the Taxation and Philanthropy conference organised by the Geneva Centre for Philanthropy. I am particularly grateful to Pamala Wiekking for the comments offered on that occasion. I am indebted also to Andrei Poama for his detailed written comments on an earlier draft.
- 2 For a classic presentation of an institution as a 'pattern of roles', whereby roles are capacities 'in which someone acts in relation to others', see Emmet 1966. For an overview, see Miller 2014.
- 3 For an analytical philosophical discussion of what philanthropy is see Reich, Cordelli and Bernholz (2016), where philanthropy is presented as an act or a structure consisting of a 'voluntary donation aimed at providing some other-regarding or prosocial benefit' (p. 7).
- 4 For example, Reich (2016, pp. 73–81) defends the role of foundations in democracies on the ground that the freedom of philanthropic initiatives may enrich the pluralism of the political agenda and enhance the discovery capacity of the payoffs of new approaches to social policy precisely by virtue of the foundations' more ambitious function of giving visibility to marginal or neglected causes and resources for social innovation.
- 5 In this spirit, for instance, Pevnick (2016, pp. 232–238) sees philanthropy as a particularly apt provider of cultural goods. Because of the egalitarian commitment that should inform the direct action of democratic governments, the support of particular cultural initiatives may be discriminatory or disrespectful. However, for Pevnick, insofar as we recognise the importance of furthering cultural interests, philanthropists may perform this role free from the constraint of government action.
- 6 In this sense, my argument can be seen as addressed to the justification of what Horvath and Powell (2016) have called 'contributive philanthropy', as distinguished from 'disruptive philanthropy', which is

- instead ‘an activity that through the magnitude of donations either explicitly or by consequence alters the public conversation about which social issues matter, and specifies who is the preferred providers of services to address these issues without any engagement with the deliberative processes of civil society’ (p. 90).
- 7 This restriction concerning the type of justifiable philanthropic initiative goes in the direction of taking issue with what Cordelli (2016) has called the ‘discretionary view’ for which philanthropy should be the expression of individual free decisions to support whatever cause is closer to their hearts, as it were (p. 245).
- 8 I owe this suggestion to Andrei Poama.
- 9 See <https://broadfoundation.org>. Discussions in this direction are happening in Europe, too, where the role of philanthropy as a complement to state’s action has so far been less explored – see, for example, the European Economic and Social Committee (EESC)’s 2019 opinion on ‘European philanthropy: An untapped potential’, <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/european-philanthropy-untapped-potential-exploratory-opinion-request-romanian-presidency>
- 10 See <https://www.cafwd.org>

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