



## When Philanthropy and Justice Clash: How Law Can Bridge the Gap

Matthew Harding – The University of Melbourne

Harding's article explores how philanthropy, despite its good intentions, can inadvertently conflict with fairness and equity. Offers insights into legal mechanisms that can guide philanthropy to better serve justice and generate public benefit.

In what ways can philanthropy undermine the principles of justice, and how can the law mediate or mitigate these tensions?

Some charitable giving comes with justice concerns: uncoordinated donations can produce inequitable outcomes, donor choices may discriminate, large gifts could confer an outsized influence, and some traditional charity practices demean recipients. The law offers partial remedies but cannot fully reconcile these tensions. Notwithstanding, as long as the state itself fails to fully uphold justice, philanthropy will remain a necessary but imperfect solution, ultimately needed to ensure fairness, while allowing innovation and pluralism.

[#Philanthropy](#) [#Justice](#) [#Law](#) [#Inequality](#) [#PowerDynamics](#) [#Discrimination](#)

### Background

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### Context



- **Philanthropy** is widely celebrated for contributing to **the public good**, but **it has also been criticized** for potentially clashing with principles of justice.
- Because charitable giving is voluntary and **often uncoordinated**, some causes may receive abundant donations, while other vital needs are overlooked, raising fairness concerns regarding the distribution of resources.
- Donations typically reflect **donors' personal preferences**; when those preferences favor certain groups or exclude others, they can resemble the discriminatory allocation of benefits, conflicting with contemporary norms of equality.
- Moreover, the idea of the wealthy holding **disproportionate political power** is widely seen as unjust; when philanthropy enables this, it raises serious concerns, **particularly through** mechanisms such as **tax deductions, large-scale donations, and influence over public agendas** - allowing elite donors to shape policy sometimes outside democratic processes.
- Philanthropy can **reinforce social hierarchies and deepen inequality when beneficiaries deprived of agency are reduced** to passive recipients, where gratitude is expected, and dependence is reinforced.
- These debates set the stage for Harding's analysis of how and why philanthropy and justice can be in tension, and **what role the law can play in addressing these challenges**.

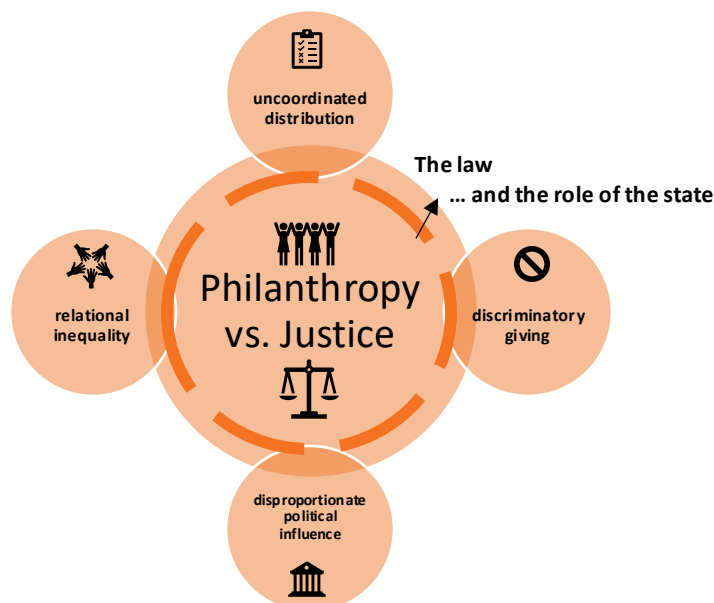
# ERNOP Research Note

Academic articles on philanthropy through a practitioner lens

## Take aways & Learnings



- **Philanthropy and Fairness:** Uncoordinated giving can lead to unequal outcomes, where some causes are overfunded, while others remain neglected. The law can only partially address these imbalances, highlighting **the need for planned, strategic, and collaborative philanthropy**.
- **Inclusion vs. Discrimination:** Donor preferences can (un)intentionally exclude certain groups, raising concerns about fairness and equity. **Some legal frameworks discourage blatant discrimination**; however, philanthropic actors must proactively ensure inclusive and equitable giving.
- **Donor Power and Accountability:** Large donations can shape public agendas, sometimes bypassing democratic decision-making. **Transparency, regulation, and ethical self-governance** are essential for balancing philanthropic freedom with the public interest.
- **Dignity and Power Dynamics:** Traditional charity can create power imbalances between donors and recipients, risking dependency or social hierarchy reinforcement. **Structuring aid through institutions and participatory models** enhances dignity and equal engagement.
- **The Role of the Law and the State:** While **the law can mitigate some** justice concerns in philanthropy, **it cannot fully resolve them** and depends on how each society balances its responsibilities between the state and private giving. **While the state should ensure a baseline of justice, philanthropy can pursue diverse goals** — nevertheless, where vast wealth is concentrated, holding accountability may be necessary.



ERNOP Research Notes provide easy-to-read, practice-oriented summaries of academic articles on philanthropy and are written by practitioner experts. This ERNOP Research Note 1/2025 is published as part of a Special Issue on Justice Philanthropy in collaboration with PHILEA in June 2025 and has been written by Madalena Potes from Nova University of Lisbon. More information can be found at [www.ernop.eu](http://www.ernop.eu).