

Improving trust in trusts: introducing the Philanthropy.Insight tool

Rupert Graf Strachwitz* and Rolf Alter**

Abstract

Given a general tendency to mistrust larger institutions and increasing queries regarding the legitimacy of private trusts and foundations in modern democratic societies, new tools need to be developed in order to be able to fend off criticism. Concentrating on outcomes and impact alone is arguably not sufficient. This article introduces Philanthropy.Insight, a new and more comprehensive tool by which the work of trusts and foundations may be better assessed.

the financial assistance they can provide to a plethora of causes for the common good, while being mistrusted for the power the larger of them may potentially wield. Low levels of trust are admittedly currently being experienced not just by trusts and foundations.³ All kinds of institutions are exposed to critical questioning; governments, markets, and civil society have to be prepared to respond to scrutiny if they wish to continue to enjoy reasonable levels of trust—or to rebuild it, which seems to be more frequently called for these days. But given trusts and foundations also face a legitimacy issue in democratic societies, they should be particularly aware of a necessity to face both.

Why a new tool

Despite the fact that trusts and foundations¹ have been established organisational instruments for millennia and in every cultural context of mankind, their existence and rationale have never been left unquestioned. And while the last thirty-odd years have seen the number and size of them mushrooming, criticism of a fundamental nature has also become more intense.² What we see is that trusts and foundations are appreciated for

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This is not to say that foundations and trusts are not doing plentiful good, but it would nevertheless seem

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1. There exists a strange old dispute over whether trusts and foundations are basically the same thing or not. Looking at them as a social phenomenon and historical fact, we would argue that there is no substantial difference between assets handed over to pre-existing trustees charged with executing the founder's will and assets handed over to a body constituted specifically for this purpose. Thus, bodies of this kind with and without legal personality have existed since antiquity, exist in Roman and Common Law jurisdictions, and in European, North and Latin American, Muslim, Asian, and other societies. While legal details differ, the basic idea of an asset- and purpose-based body established in perpetuity or at any rate with a long-term perspective is always the same.

2. See, i.e. R Reich, C Cordelli and L Bernholz (eds.), *Philanthropy in Democratic Societies*, University of Chicago Press 2016; A Giridharadas, *Winners Take All – The Elite Charade of Changing the World*, Allen Lane/Penguin 2019.

3. The Edelman Trust Barometer 2020, presented at the World Economic Summit in Davos in February 2020: <https://www.edelman.com/sites/g/files/aatuss191/files/2020-01/2020%20Edelman%20Trust%20Barometer%20Global%20Report.pdf>, last accessed 17 February 2020.

prudent that their executives and trustees do not shy away from these issues before an immediate threat to their very existence arises. Importantly, open societies, to which most trusts, foundations, and other civil society organisations would contend they belong, are built on transparency and accountability as implicit shared values and responsibilities.

In analysing what is behind the questioning of trusts and foundations, a number of arguments are commonly put forward. The first is a very old one, and is used against family trusts as much as against charitable foundations. This is the dead-hand argument, to mean that no generation should immobilise future ones by taking irreversible decisions for them. From the 16th to the 18th century, this argument was used against the established Churches and the many trusts attached to them, on the grounds that they unalienably owned a large share of a nation's real estate, thus effectively impeding reallocation to more productive purposes. It was used again at the beginning of the 20th century, when the first large American general-purpose foundations came into being. And it is used today in observing that huge assets put in trust are required to serve the founder's will in perpetuity, keeping future generations from making their own decisions.

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The second argument came up much later in history, and is about inordinate power vested in the larger ones due to the budgets they command to promote any cause or idea they wish to. Indeed, a large trust or foundation, or any of their trustees for that matter, may draw on much more substantive resources to put papers and books in the hands of decision makers or give an argument or position more clout than other citizens. It could mean competing with governments, but also with the private sector or any other interests for that matter. In extremis, it could crowd out those other actors. Critics would argue that this inequality of chances undermines the very base of what democracy is all about.

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The third argument is about accountability, public purpose, and relevance, and is again used to question the legitimacy of philanthropic engagement in public affairs. In its most extreme form, as used at the time of the French Revolution in the 1790s, this argument would insist on each and every act that could claim to be “public” going through a decision-making and supervisory process by the totality of those affected or their democratically elected representatives. While this to most would seem neither realistic nor desirable (as it would radically reduce the necessary influx of ideas and models for meeting the challenges of the day), the question of whether an asset-based organisation perpetually subjected to an individual's will—and potentially whim—and not accountable even to a membership base, let alone to society at large, may legitimately operate in the public domain, is not so readily answerable. Indeed, an argument may be made that the legality of establishing and running a trust or foundation does not suffice to render them legitimate, no matter whether the outcome of their endeavours is desirable.

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Fourth, building on the previous argument, the case for greater scrutiny and accountability is made—particularly when trusts or foundations benefit from tax advantages. The consequences are twofold: the reduction of tax liabilities implies less public revenues to be spent on public services, the use of tax savings by trusts and foundations amounts to no public decision-making about the allocation of these resources.

Fifth, technology and the exponentially expanding availability of information stimulate curiosity in institutions everywhere. Standards of transparency are

rising to unprecedented levels. Without a proactive attitude to inform and engage with citizens and other societal groups, including within civil society, trusts and foundations risk generating suspicion about their rationale—or indeed losing their licence to operate.

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Finally, it merits mentioning that governments and to a lesser degree the market worldwide are in a process of attempting to crowd out trusts and foundations as much as all other subsections of civil society, in order to preserve what is left of their waning power. Losing out, as they are, in relation to transnational, regional, local, market-driven, civic, and civil society action, attempts to curb the rise of any of these are not restricted to the governments of Egypt, Hungary, Turkey, and other national governments that immediately come to mind, but may also be seen anywhere in Western Europe and North America. In order to achieve their goal, governments will use any of the above arguments that readily present itself—and will in so doing more often than not muster substantial media and public support.

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Added to this, a higher degree of self-awareness might well improve the performance of many of these organisations, many of them being prone to hail their own

successes and achievements, sometimes in a rather exaggerated fashion. Again, these successes are frequently very real indeed, and many foundations contribute to the public good in a very substantial and often innovative way. Yet, we would argue that using output, outcomes, and impact as the sole argument to counter questions about legitimacy and trust leaves important gaps and is not sufficiently sustainable.

Beyond impact

To help close this gap, the Maecenata Foundation⁴ has developed an initiative to support trust-driven philanthropy in the context of its long-standing concern for safeguarding civil society and its space among other actors and stakeholders. Putting trust in the centre of philanthropy, the Philanthropy.Insight process⁵ and its tool are designed to enable founders, board members, trustees, executives, and staff, to gain a clearer view of where their organisation stands in terms of purpose, operations, and relevance, and to improve its inter-action and communication with citizens, government, and economic actors. Clearly, the project does not aim at passing judgement on any individual organisation defined as following the original founder's will for as long as it exists, let alone at ranking them in any way. It is the organisations themselves who should be in a better position to fend off criticism and enter into a debate on their value in 21st-century society, based on self-reflection, awareness, and self-confidence, beside gaining a better insight into their own organisation. While the following proposition primarily addresses public benefit trusts and foundations that commonly—and rightly—enjoy preferential tax treatment in their country of residence, other similar organisations may be equally affected by restrictive legal, fiscal, and administrative measures and thus equally keen to improve their set of arguments.

4. The Maecenata Foundation is a private and independent not-for-profit think tank, based in Berlin, Germany, that focuses on civil society, civic engagement, and philanthropy.

5. The Philanthropy.Insight project was launched by the Maecenata Foundation, Berlin, Germany, within the scope of its Tocqueville Forum in 2019. Phase 1 was completed in 2019. Phase 2 was launched in 2020. To date, the project has received generous support from Carnegie UK Trust and the Gulbenkian Foundation. The results of Phase 1 of the Philanthropy.Insight project are outlined in: R Alter, R Strachwitz and T Unger, Philanthropy.Insight - Work in Progress. Berlin: Maecenata (Observatorium No. 31) 2019: <https://web.maecenata.eu/images/MO%2031%20Philanthropy.insight.pdf>, last accessed 17 February 2020. Parts of this article are adapted from this publication.

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That it may be up to the organisations concerned to argue why they might legitimately enjoy a right to exist in a society that leans heavily on equal participatory rights, is, of course, not an entirely new thought. Since the beginning of the millennium, arguments for their legitimacy have been put forward. However, they have tended to rely on a single approach, their output or impact, and on a cultural context that is increasingly unacceptable to an ever-larger majority of citizens. This approach was certainly a big step forward from operating in complete secrecy and not using any tools to evaluate their work, and has allowed trusts to gain a much better picture of where they stand in the way of their output and where they should be heading. It has done much to establish trusts and foundations as serious public benefit contributors and civil society players. However, in adopting impact measurement as the sole guideline, it was inevitable that they would take on the mindset of the market world. This in itself was considered desirable. Trusts were to be efficient and obtain best possible results for any resources invested, indeed a worth-while goal.

This said, it has become increasingly clear that this approach entailed a number of traps. For one, concentrating entirely on measurable results meant letting other highly desirable outcomes go unnoticed. Also, this type of operating model tended to overrate short-term and underrate long-term outcomes, thus creating a very basic dilemma in an organism that by its very nature needed to look at the latter. And finally, and perhaps most importantly, taking a bird's eye view of society, it would appear that the state, the market, and civil society have differing fundamentals to comply with, both in their output and their input. To name just one of these, civil society relies heavily and importantly on volunteerism and philanthropy, qualities of immense value for a healthy society. In trying to put economic considerations first, this might be misjudged or overlooked. Also, sustainability, a prime asset of any

foundation or trust, might not receive adequate attention when just considering measurable results.

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One other consideration is of the essence. Institutions from the North of the globe have in the past tended to adopt an attitude of superiority that is increasingly unacceptable to citizens, public bodies, and civil society organisations in the global south. Over decades, these have gained their own insights into the issues that present themselves to them and developed their own methods on how to deal with these issues. A learning process directed at establishing a level playing field with partners worldwide is therefore of the essence to ensure that best practices prevail. Furthermore, cultural and historical as well as political differences need to be observed and respected. For this reason if for no other, Philanthropy.Insight is designed to include funding, case study, and research partners from as many regions of the world as possible. Discussions have already taken place with Chinese and Russian experts. The highly important world of Islamic foundations urgently needs yet to be made part of the process. It has already been indicated to the organisers that certain assumptions made and indicators devised do not correspond adequately to the cultural background of one or the other region. Adaptations and adjustments will need to be discussed.

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The Philanthropy.Insight tool

Many trusts and foundations are small and operate at local or regional level or within a close personal or

family sphere. They pursue very specific operating and/or grant-making purposes. There seems little reason to doubt that this is a legitimate exercise which may rely totally on the personal dedication and vision of the donor. However, since general-purpose foundations were first created in the late 19th century, an increasing number of philanthropic institutions have become international players of considerable clout, and are obliged to recognise a special responsibility towards society at large, beyond national boundaries and certainly beyond the legal framework in which they operate. Their licence to operate depends on their acceptance as accountable, and value-driven agents, and it is this type of philanthropic institutions worldwide that the Philanthropy.Insight project described here wishes to address.

Their licence to operate depends on their acceptance as accountable, and value-driven agents

The project is particularly concerned with foundations, albeit a minority, that have become drivers of innovation and change agents. They address and indeed develop public policies and promote and criticise social developments, and do not hesitate to engage in advocacy. The chance offered to foundations, to experiment and accept failures may be seen as key advantages compared to the public and private sectors. Clearly, this does not always render them popular with governments, who object to their advocacy and watchdog role and see them as unwelcome competitors in public affairs.

Philanthropy.Insight proposes to reposition philanthropy against the current environment of social, economic, and political disruption and societal distrust in a two tiers exercise. As a first step, philanthropic action may be assessed, using five fundamental criteria (see below). The criteria were assembled in answering the question of what value-add can philanthropic institutions bring to the table. In a second step, and picking up on the outcome of the first, a closer look may reveal the value base of individual philanthropic activity and permit some judgement as to whether and to what extent a particular philanthropic action is compatible with

societal values. Taking the will of the founder and overall, potentially but not necessarily legal, requirements relating to the boundaries of the public good as starting points, personal experiences, operations failures, successes, and other factors may also be taken into account. Furthermore, given that philanthropy is *value-based* by definition, but lacking a global general agreement on how these values are to be defined, individual cases can be assessed in relation to different value sets.

Strengthening the value-based approach of philanthropy implies respecting common societal principles such as the rule of law, human and civil rights, and democracy, as well as specific civil society principles, such as respect for the individual, refraining from using force, accepting plurality and others. Ultimately, this paradigm may become an instrument of auto-evaluation and monitoring of large-scale trust and foundation action.

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Monitoring criteria

The Philanthropy.Insight criteria are to be understood as a systemic attempt to generate the essential criteria of a trust-driven philanthropy and its working practices. Scholars as well as practitioners from the philanthropic



eco-system across the OECD have worked together in seeking an assessment framework based on the validity of its theoretical contribution as well as its applicability in terms of working practice. Five core criteria have been defined.

Maecenata Foundation: category model for criteria

Each criterion is described briefly depicting its central thoughts. The order in which the criteria are presented reflects a judgement with regard to their contribution to a trust-driven approach. Conscious of the challenge of achieving a common understanding, we are suggesting three central questions for each thought in order to provide a starting proposition for the discussion. This open format reflects the intention of enabling a comprehensive approach to arrive at a shared endorsement of the Philanthropy.Insight criteria:

1. Commitment addresses the question of whether a philanthropic institution is living up to the essentials of the eco-system of philanthropy. Its underpinning qualities are Compassion, Understanding, and Respect.
2. Public Purpose specifies that action has to be tailored to principles of benefit to society. Its supporting qualities are Goals, Responsiveness, and Integrity.
3. Relevance underlines the necessity that action is conducted to make a difference and leave a mark. Its underpinning qualities are Sustainability, Effectiveness, and Impact.
4. Performance refers to internal stakeholders acting in a professional manner. Its underpinning qualities are State of the Art Practice, Leadership, and Dialogue.
5. Accountability accentuates the existent consciousness of a responsibility to society. Its supporting qualities are Transparency, Responsibility, and Compliance.

Having established this model of five categories, each of them needs to be broken down into subcategories, and answerable questions need to be attached to each of these. In order to ensure an even approach to all considerations,

a set of three subcategories per category and three indicators or questions per subcategory were devised.

Commitment

Compassion—ensuring an atmosphere of compassion:

- a. Is the organisation imbued by a spirit of compassion?
- b. Does this compassion permeate to programmes, projects, and actions?
- c. Does compassion consistently take precedence over other goals the organisation may pursue?

Understanding—being devoted to philanthropy and the mission of the organisation:

- a. Is the organisation oriented exclusively towards the well-being of beneficiaries and partners?
- b. Is the voice of the beneficiaries taken into account?
- c. Is the organisation conscious of its mission as a civil society actor?

Respect—fighting notions of superiority on cultural, financial, or other grounds:

- a. Does a spirit of respect for each and every human being pertain to all activities of the organisation?
- b. Are all actions taken in an atmosphere of sincerity and respect for the dignity and priorities of every beneficiary?
- c. Is the organisation respectful of cultural diversity?

Public Purpose

Goals—pursuing public benefit goals:

- a. Are the statutory goals and is the practice of the organisation in accordance with acceptable public benefit goals?
- b. Does the organisation maintain sufficient independence from purposes proclaimed by the State and/or the business sector?

- c. Does the organisation make amends for conflicts of acceptance?

Responsiveness—matching actions to existing needs:

- a. Are institutions, programmes, projects, and actions based on real need?
- b. Are partners, beneficiaries, and experts involved in decision-making processes?
- c. Is the organisation flexible in responding to changes?

Integrity—adhering to accepted standards of integrity:

- a. Does the organisation steer clear of money-laundering and tax evasion?
- b. Do the statutes of the organisation provide for safeguards against corruption and other unlawful activities?
- c. Does the organisation adopt a culture of fairness and integrity?

Relevance

Sustainability—aiming at the sustainability of any action taken:

- a. Do programmes and projects conform to the UN SDGs?
- b. Are programmes and projects devised and pursued to contribute to social change?
- c. Are grant programmes executed with sufficient scope and duration to ensure partners' sustainable organisational development?

Effectiveness—working towards visible (and where applicable measurable) results:

- a. Are methods in place to monitor the outcome of projects?
- b. Do programmes and projects contain mechanisms of adjustment to changing circumstances?

- c. Is the organisation sufficiently experimental, and does it accept failure to promote its effectiveness?

Impact—aiming at results perceived to be beneficial by beneficiaries:

- a. Is a methodology in place to ensure a short- and medium-term non-partisan evaluation of all projects?
- b. Is a discussion process in place to ensure beneficiaries' participation in evaluating projects?
- c. Are failures and mistakes sufficiently and publicly acknowledged?

Performance

State of the Art Practice—following principles of strategic management:

- a. Are strategic goals defined, pursued, and evaluated?
- b. Are specific civil society management skills trained and applied?
- c. Is the management of the organisation committed to the organisation's strategic goals?

Leadership—providing consistent and responsible governance:

- a. Are members of board(s) and staff chosen on the basis of their commitment, leadership abilities, know-how, and trustworthiness?
- b. Does the governance system ensure that decisions are made responsibly and in accordance with the organisation's statutes and mission?
- c. Does the organisation pay attention to the specific abilities, needs, and limitations of donors and volunteers?

Dialogue—being respectful of beneficiaries and partners:

- a. Does the organisation operate on a level playing field with partners and beneficiaries?

- b. Does the organisation provide for short- and long-term relationships as it seems beneficial in pursuing its goals?
- c. Are partners and beneficiaries sufficiently involved in developing strategies, programmes, and projects?

Accountability

Transparency—ensuring a comprehensive accounting and reporting policy:

- a. Do methods of accounting conform to state-of-the-art standards?
- b. Do periodical reports provide sufficient information on the purpose, methodology, practice, and outcome of all operations?
- c. Does the organisation meet requirements by law or by choice to make reports and accounts publicly available?

Responsibility—pursuing a strategy of openness:

- a. Does the organisation actively interact with the public?
- b. Does the website and do publications meet accepted reporting standards?
- c. How does the organisation prepare for and react to comments, criticism, questions, demands, and applications?

Compliance—conforming to standard compliance procedures:

- a. Does the organisation regard itself as a civil society organisation and comply with standard civil society rules and procedures?
- b. Does the organisation abide by the law in pursuing its aims, and in reporting, and publicising?
- c. Does the organisation defend its own and general civil society principles in the face of interference, harassment, and pressure?

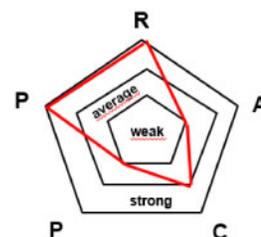
A shared learning process

Broadly speaking, any trust or foundation, in fact, any civil society organisation of whatever type, may test the tool in its present form and see what it tells. The tool may be considered public knowledge (and available for free download⁶). However, it is as yet still in its experimental phase. During this phase, indicators will possibly still be reworded to accommodate new arguments. Establishing a shared understanding of the five criteria and 45 indicators is therefore on the agenda for the next two to three years. During this period,

1. case studies will be conducted in as many foundations as possible around the globe;
2. an advisory board of foundation executives, academics, and foundation partners will meet regularly to supervise and assist the project;
3. a small team at the Maecenata Foundation will coordinate the work performed.

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Ideally, trusts and foundations wishing to participate will assemble two teams: one mixed team of insiders, trustees, executives, staff members, and volunteers and



Maecenata Foundation: example for final assessment: C = Commitment; P = Public Purpose; P = Performance; R = Relevance; A = Accountability

6. Alter, Strachwitz and Unger note 5.

one team of outside stakeholders, beneficiaries, intermediaries, observers, experts, etc. These teams might take a close look at the 45 questions and agree on ranking the answers as good, average, and poor. The teams will then aggregate the rankings by subcategories and then by categories, so that they will end up with a pentagon that may look like this:

Each individual pentagon will, of course, look different from any other and will show which categories are seen by the team as weak, average, or strong. The inside and outside teams should then compare notes and ideally, but not necessarily end up with an agreed pentagon.

The N.B. trust/foundation may decide not to pursue the two-team approach and have one inside or outside team only draw up the pentagon.

The trustees or board will then use these results to assess their strengths and weaknesses. The advisory board of the project will survey results and take note of any difficulties encountered, criticism voiced, and suggestions for improvement made.

As mentioned above, a general ranking of indicators by their supposed importance is neither intended nor to be wished for. Nor should a comparative exercise involving several foundations/trusts be envisaged. Each assessing body is at perfect liberty to draw whatever conclusions it sees fit from the individual picture that presents itself. While a degree of equilibrium may generally be seen as advantageous, individual governing bodies may well put particular emphasis on specific criteria and see whether this emphasis is reflected in the answers to the indicators. It has, however, become apparent that close contact with beneficiaries, be they family, civil society organisations, universities, schools, government agencies, or whatever, is imperative in order to establish a level playing field on which to discuss needs and ways of confronting these needs as well as more general considerations.

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Conclusion

George Washington, the USA's first President, famously wondered if anything could be more "absurd" or "pernicious" than for self-created bodies to censure elected legislatures.⁷ While 21st-century politicians, anxious to preserve what power they have left, may still be of that opinion, reality has changed fundamentally. Civil society players, foundations, and others are demanding an increasing say in matters of public welfare and the public good. The old ideal of a "benevolent" society has given way to a beneficent one with multiple contributors sharing the responsibility for providing as efficient a system of public good as conceivable. No wonder that judgement by output became the rule. No wonder too, however, that public accountability became a demand voiced by the citizenry ever more loudly. Today, foundations' public accountability is still average at best, while trust has waned, and many civil society initiatives are in danger of losing what makes them special, and different from for-profit undertakings. At the same time, governments are envious of those who seem to be picking the best tasks and leaving the dreary ones to them, while making life difficult for them through energetic advocacy. What we are facing is a civil society dilemma. With increasing importance and clout, civil society is more vulnerable, and asset-based players, in particular, are faced with being regarded as undemocratic.

Today, foundations' public accountability is still average at best, while trust has waned

Thus, (re-)building trust is a challenge for trusts and foundations as much as for any other private or public institution. More and more trusts and foundations have come to realise that something needs to be done to

7. J Levy, Altruism and the Origins of Nonprofit Philanthropy; in: Reich, Cordelli and Bernholz note 2, 28.

address this problem in a serious and sustainable way. Associations of foundations are holding conferences and seminars and publishing guidelines. They provide useful insight and underpin the argument that for foundations to carry on in the same way they have been accustomed to, is not a viable option. Clearly, other ways and means of dealing with the issue have been and will be developed. We would not contend that the Philanthropy.Insight methodology is the sole way forward, nor, of course, can we promise it will ultimately be successful in helping them survive and counteracting an imaginable strong popular and political will to the contrary. However, we do feel it is unique in that it starts from the perspective of trusts and foundations being part of civil society and meets the challenge to

keep up with increasing demand for dialogue, transparency, and accountability for its actions and results. It aims at looking beyond a Eurocentric cultural tradition and an all too narrow output perspective. It wishes to bring benevolence and beneficence to an equilibrium and perceive public accountability as a chance rather than as a threat. A big task indeed! But one that with the help of far-sighted and open-minded trusts and foundations might help preserve their place in modern society.

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