

AN ECONOMIC ANALYSIS OF
DEFERRED GIFTS

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The chief purpose of this paper is to provide a descriptive theory of the deferred giving of gifts. In particular, the following questions will be addressed. First, why may donors² often choose to defer giving gifts rather than give them immediately? Second, if donors want to defer giving gifts, why may they sometimes decide to announce in advance to donees their intentions to give gifts?³ Third, why may donors sometimes desire to be legally bound to give gifts? Finally, what will be the effect of a legal rule that renders donors legally bound if they state their intentions to give gifts?

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² The term "donor" will be employed throughout to refer to a party who contemplates making a gift and "donee" to refer to a party who might receive a gift; this should cause no confusion, even though, in strict logic, use of the more cumbersome terms "potential donor" and "potential donee" is called for. Donors and donees can be either single persons or multi-person organizations.

³I will generally refer to statements of intent to give gifts rather than to "promises." A promise is often taken to mean something more than a statement of intent, whereas one of my purposes is to explain when a donor would want to go beyond stating his intent and bind himself to give a gift.

In addition to these descriptive questions, the paper will consider the normative question of whether donors' statements of intent to give gifts ought to result in their becoming legally bound.

The ideas to be elaborated, and the main conclusions to be drawn, may be stated at the outset. First, a donor may wish to defer giving a gift because doing so immediately may be financially difficult or inconvenient, or because circumstances may arise leading him not to want to give a gift after all.

Second, if a donor desires to defer a gift, he may still want to announce his intentions to give a gift. For if the donee is made aware of the donor's intentions, the donee may be able to act in ways to increase the value of the gift to him. This, in turn, will inure to the benefit of the donor if he is altruistic. However, an altruistic donor would not always want to announce his intentions to give a gift because, as will be explained, that might result in the donee's relying excessively on obtaining a gift.

A donor who defers a gift may want to announce his intentions in advance for a reason logically distinct from that just noted: to be treated with appreciation during the period preceding the actual giving of the gift.

Third, donors who are altruistic will not wish to bind themselves to give a gift, assuming that there are not other individuals who would choose to masquerade as altruistic donors. But donors whose object is to obtain appreciative personal treatment may want to bind themselves to give gifts.

Fourth, a rule obligating donors to give gifts if they state their intentions to do so can only hurt donors, since it reduces their freedom of choice. Such a rule may also work to the disadvantage of potential donees.

For the rule may discourage a donor from announcing his intentions to give a gift, meaning that the donee will not know to take beneficial actions in reliance on receiving a gift. Moreover, the rule may discourage a donor from actually giving a gift (a gift that has not been announced in advance may not be sufficiently valuable to make it worth the potential donor's while to give).

The initial part of the paper presents an informal analysis of the deferred giving of gifts, the next part contains a formal analysis, and the last part offers concluding remarks.⁴

I. Informal Analysis

Motives for giving gifts. Two major motives for giving gifts are apparent. The first is altruism; a donor may care about the well-being of a donee. For example, an uncle may be concerned about the welfare of his

⁴Although there are no studies of which I am aware that attempt to develop a model in which the four questions I mentioned are answered, two recent economically oriented articles are of interest: Richard A. Posner, "Gratuitous Promises in Economics and Law," 6 Journal of Legal Studies (1977), 411 - 426; and Charles J. Goetz and Robert E. Scott, "Enforcing Promises: An Examination of the Basis of Contract", 89 Yale Law Journal, (1980), at 1276 - 1283. Posner's article emphasizes, among other points, why a donor may want to make a binding promise to give a gift; on this, see note 9. Goetz and Scott's article deals in a section with donative promises (along lines similar to Posner). The contribution the present paper makes to Posner's and Goetz and Scott's very suggestive work is in setting out explicitly the motives of both donors and donees, the information they possess, communication between them, and their rational-within-the-model courses of action. This more detailed treatment sometimes leads to conclusions that have not previously been reached (notably, that in a natural model for study, altruistic donors will not want to bind themselves to give gifts) and, in any case, offers what I hope is an enhanced understanding of deferred gifts.

Another article the reader will find of particular interest is Melvin Eisenberg, "Donative Promises," 47 University of Chicago Law Review (1979), 1 - 33. This article contains a valuable general discussion of where donative promises should and should not be enforced, and is useful as well as a reference on the subject of donative promises.

nephew and want to finance his college education. The second motive is the expectation of receiving appreciative personal treatment, in the form of gratitude, honor, respect, and the like. For instance, a person may contemplate giving a large sum to a symphony orchestra because he looks forward to enjoying general social approval (even if he does not care about the symphony orchestra per se).

While there may be other reasons for giving gifts, only these two will be investigated here.⁵ In Section IA below I assume that a donor's motive is purely altruistic and in Section IB that it is solely the expectation of receiving appreciative treatment. Of course, both motives will often be relevant in fact, and I briefly discuss this possibility in Section IC.

Since the answer to the basic question of why donors may wish to defer giving gifts depends very little on the nature of a donor's motive, it is best to consider this question first.

Why gifts may be deferred. Three reasons why donors may wish to defer giving gifts suggest themselves. The first and most obvious is simply that a donor's assets may not be liquid; he may own property or securities that cannot readily be sold or that it would be very costly to sell immediately.

Second, a donor may be able to earn a higher rate of return on his

⁵ A gift could be an implicit payment for something from the donee (apart from an expression of gratitude). For example, a businessman may make a gift to a university in the expectation that the university will later make purchases from his company. An employer may promise a gift to an employee in the expectation that this will induce the employee to work hard and stay with the firm. Analysis of such "gifts" requires assumption of selfish motives rather than the two motives of present concern and, in any case, a different model from that to be examined here.

assets than a donee. If so, it will be to their mutual advantage that the donor hold the assets until the donee actually needs to use them.⁶

Third, a donor may want to allow for contingencies that would lead him to change his mind. He might suffer a financial reverse, find that his need for money has suddenly risen (say for medical treatment), or learn of an unexpectedly good investment opportunity. The occurrence of such contingencies may lead a donor to decide not to give a gift because they make money more valuable to him for his own use. Other types of contingencies that may lead a donor not to want to give a gift have to do with donees; for example, a donee might obtain funds from someone other than the potential donor, or a donee might behave in a way that alters the donor's assessment of his character. By deferring gifts, donors preserve their options; they are able to give gifts only if problematic contingencies do not arise.

Bearing in mind these reasons why a donor may rationally want to wait before giving a gift, let us assume henceforth that donors do want to wait.⁷

A. Donors Are Altruistic

In this section, and throughout, it will be supposed that donees are not able to distinguish between donors and nondonors in the absence of any communications with donees. Donors will be assumed to be altruistic and, for simplicity, to be alike. Nondonors will be assumed to be disinterested

⁶Of course, the situation could be reversed. If a donee is able to earn a higher rate of return, there would be a reason for the donor to make his gift immediately. (Consider a financially unsophisticated donor and a financially sophisticated donee, such as a university with an experienced portfolio manager.)

⁷If donors give gifts immediately, there is nothing interesting to analyze because questions concerning whether donors state their intentions to give gifts, whether they want to be bound to give gifts, and so forth become moot.

in donees and thus will neither give gifts nor make any statements about doing so.

Hence, two assumptions will be made. First, if a person tells a donee he intends to give him a gift, the donee will infer that the person is an altruistic donor. Second, if a person makes no statement to a donee about giving a gift, the donee will infer that the person is a nondonor or, possibly, a donor who does not want to make a statement about his intentions.⁸

Why altruistic donors may announce their intentions to give gifts. Why would an altruistic donor want to announce his intention to give a gift? The answer must be to increase the well-being of a donee, for if the donor's announcement would not benefit the donee, then by hypothesis it would not benefit the donor either.

Knowing in advance that he will be likely to receive a gift will help the donee if there are actions he can take that will raise the value of the gift to him. Knowing in advance that he will be likely to receive a gift of tuition may benefit the nephew by leading him to apply to a different and more suitable range of colleges or to study harder so he will be accepted at these colleges. Similarly, foreknowledge of a gift could benefit the symphony orchestra. If a gift were to be used to finance a summer workshop, foreknowledge would allow the orchestra to arrange a better location for that purpose, enable the orchestra members to coordinate their offseason teaching and performance plans with the workshop schedule, and in other ways enhance the value of the workshop. Actions taken in advance of receiving a

⁸The reason for studying the assumption that donees are not able to distinguish donors from nondonors in the absence of communications is, of course, exactly that one of the questions of interest in this paper concerns communications by donors.

gift that will tend to raise its value will be referred to as "reliance" (since the actions are taken relying on receiving a gift).

When a donee can benefit from foreknowledge of a gift through reliance, an altruistic donor may wish to announce his intention to give a gift, since he can benefit indirectly from a reliance-related enhancement in the value of the gift. When the nephew can probably benefit substantially from altering the colleges to which he applies, the altruistic uncle may wish to tell the nephew that he will be likely to receive a gift of tuition, since this may make him and thus the uncle better off.⁹

A donor will not necessarily announce his intentions, however. There is a potential disadvantage from doing so: a donee may engage in reliance when a donor would not have wanted that (or rely to a greater extent than a donor would have wanted).

To understand why this possibility arises, observe that once a donee relies, a donor will have a stronger motive to give a gift because a gift will then be more valuable to the donee, and not receiving a gift may leave the donee badly off. The donee may decide to engage in reliance just because of this effect of his reliance on the donor's willingness to give a gift.

⁹The reason given here for a donor to promise to give a gift -- augmenting the value of the gift by inducing the donee to engage in reliance -- may be compared to that given by Posner, supra, note 4, especially in his discussion at 412 of the example of a gift to a symphony orchestra. Posner says that a donor may decide to make a promise (and indeed to make an enforceable promise) to give a gift to the symphony because, if the symphony knows it is likely to receive a gift, it will be better off. But Posner does not mention reliance. He appears to assume that the symphony's foreknowledge of a gift will itself benefit the symphony and the donor -- independently of whether the symphony can raise the value of the gift through reliance. The only explanation I can imagine for why the donor would benefit in the absence of the symphony's engaging in reliance is that the donor might receive what I have called appreciative personal treatment from the symphony or the music-going public. However, this is not mentioned by Posner.

The donor, for his part, may not want the donee to engage in reliance because of the possibility of facing a problematic contingency (such as a financial reverse). Taking into account this chance and the value of money to him for his direct use, the donor might conclude that reliance does not enhance the value of a gift to the donee sufficiently to warrant his engaging in reliance.¹⁰

Why altruistic donors will not want to bind themselves to give gifts.

Let us now turn to the question of whether an altruistic donor would ever want an announcement of his intentions to give a gift to be legally enforceable.¹¹ The answer to this question is, perhaps surprisingly, "no"

¹⁰An elaboration of the example concerning the uncle and the college-bound nephew may be helpful. Suppose that the likelihood that the uncle will lose a significant amount on the stock market is not trivial; that the nephew is currently planning to apply to a perfectly suitable range of colleges and to work over the summer to earn enough to pay his first year's tuition; and that if the nephew knew with certainty that he would receive a gift of tuition he would not work over the summer (this would constitute reliance). Assume also that the uncle would not want his nephew to refrain from working during the summer because of the likelihood of the uncle's suffering stock market losses and the modest value he attaches to his nephew's being able to enjoy a work-free summer. If, however, the uncle tells the nephew of his intentions, the nephew may decide not to work over the summer. He may correctly believe that even if his uncle suffers stock market losses, the uncle will not want him to have to put off college for a year and will therefore probably give him a gift. Hence, the uncle will decide not to announce his intentions to his nephew.

In considering this example, it is not necessary (and presumably would usually be inappropriate) to view the uncle and the nephew as persons who always endeavor to act in the strategically best way, as persons who are self-consciously manipulative. However, this still allows one to view them as persons who are aware of each other's tastes and proclivities and who will, at some level of their consciousness, predict each others' actions.

¹¹Enforcement could be accomplished with different types of remedies (for example, by making a donor who fails to give a gift pay the donee for his reliance), but in the present informal analysis it will not be necessary to distinguish among remedies. The formal analysis will do so.

under present assumptions.¹² Consider the advantage that we might believe an altruistic donor could secure from making enforceable a statement of intent to give a gift: the enforceability of the statement would increase the donee's confidence that he would obtain a gift. And this increased confidence, we might think, could induce the donee to engage in reliance when he would not otherwise have done so but when the donor would have wanted him to do so.

It turns out, however, that when a donor wants a donee to engage in reliance, it is not necessary that the donor increase the donee's confidence by binding himself to give a gift. It is sufficient for the donor merely to announce his intentions. The argument establishing this assertion depends on two points. First, when the donor merely announces his intentions, the donee infers that the donor is in fact a donor, and thus assesses the true likelihood that he will give a gift.¹³ And second, this likelihood will be high enough to induce reliance whenever the donor wants the donee to engage

¹²However, under the assumptions made in Sections IB and IC, reasons why a donor might want to bind himself will be discussed.

¹³As the reader will recall, it is assumed that there is only a single type of altruistic donor. Therefore, once a donee infers that he is in contact with a donor rather than a nondonor, he will be able to ascertain the likelihood of his receiving a gift. The reader may, wonder, however, about a model with different types of altruistic donors -- some who have a higher probability of giving a gift than others. In such a model, would the donors who would give a gift with higher probabilities want to bind themselves because donees would not believe statements that they are highly likely to receive gifts? The answer is in the negative since an altruistic donor who would give a gift with a lower probability would not want to exaggerate that probability (he would not want to induce the donee to rely unnecessarily -- just because he is altruistic). Thus an altruistic donor who states that he is very likely to give a gift would rationally be believed; see the discussion in Comment (2) in Section IIA. For an altruistic donor to want to bind himself, there must be non-altruistic individuals who would pose as altruistic donors. This is the situation described in Section IC.

in reliance (if the likelihood of his giving a gift were low, the donor would not want the donee to engage in reliance). The details of the argument are best supplied in the formal analysis.

While there is no affirmative reason for a donor to bind himself to give a gift, there is a clear disadvantage. If he were bound, the donor would not be able to avoid giving a gift should a problematic contingency occur (and the donee might rely excessively). Therefore, a donor will not wish to bind himself to give a gift.

The effect of a rule rendering statements of intentions to give gifts legally enforceable. Note first that an "enforcement rule" rendering a promise to give a gift legally enforceable will have no effect where an altruistic donor does not want a donee to rely, since in such a situation the donor will not announce his intentions to give a gift.

Hence, an enforcement rule can be of relevance only where a donor desires a donee to rely and would thus announce his intentions to give a gift in the absence of an enforcement rule. In this situation, there are two cases to consider. One case is where the importance of reliance in raising the value of a gift is enough to outweigh the disadvantage to a donor of announcing his intentions and binding himself. In this case, the donee will be made better off by the enforcement rule and the donor will be made worse off.

The second case is where a donor will prefer not to announce his intentions to give a gift to avoid binding himself. In this situation, the donor may decide not to give a gift because the value of the gift in the absence of reliance may be too low to make it worth the donor's while. Thus, both the donor and the donee will be made worse off by the rule. The other possibility is that the donor will give a gift later. In this instance

too, the donee will be made worse off by the rule since he will not engage in reliance, and the donor will be made worse off as well (since the donee will not engage in reliance).

To summarize, an enforcement rule may lower, leave unchanged, or raise donees' welfare, and may lower or leave unchanged donors' welfare.

B. Donors Seek Appreciative Personal Treatment

In this section it will be assumed that a donor's sole motive in giving a gift, or in announcing his intention to do so, is to receive appreciative personal treatment from a donee or other individuals. Because a donor will be presumed not to care about the well-being of a donee per se, he will be referred to as non-altruistic.¹⁴

Whether a non-altruistic donor receives appreciative personal treatment before he gives a gift will be supposed to depend on how likely the gift is perceived to be by the donee or relevant others. If the music-going public believes that a person is very likely to give a gift to a symphony orchestra, the person may expect to receive appreciative treatment.

Let us now briefly reconsider the questions from the last section. (In so doing, it will be assumed for simplicity that the value of the gift is not augmented by reliance.)

Why non-altruistic donors will announce their intentions to give gifts.

A non-altruistic donor will generally want to announce his intention to give a gift to raise the likelihood in a donee's opinion that he will give a gift

¹⁴I do not want the use of this term to be misleading, however. The points made in this section depend not on a donor's lack of altruistic feelings but on his possessing a desire for appreciative treatment. It will be clear to the reader that much of what is said will also hold true when a donor has both altruistic motives and a desire for appreciative treatment.

and thus to obtain appreciative personal treatment.¹⁵ By announcing his intention, a donee distinguishes himself from disinterested parties who will not give gifts.

Why non-altruistic donors may want to be legally bound to give gifts. A non-altruistic donor may want to be legally bound to give a gift because merely announcing himself as a potential donor may not be enough to convince a donee that he will probably give a gift. Suppose the person contemplating giving a gift to the symphony does not expect to obtain much appreciative treatment after giving the gift. (Perhaps by the time he gives the gift he will have retired to a different community, or his life expectancy will be short.) If this person announces that he intends to give a gift but does not bind himself, he may not be believed, and correctly so. For when the time comes to give the gift, he may decide not to give it -- at that point he can look forward to enjoying little appreciative treatment. If failing to bind himself means that he will be thought unlikely to give a gift, the person will not receive appreciative treatment beforehand and, consequently, may wish to bind himself.

On the other hand, this motive for the non-altruistic donor to bind himself to give a gift may not be present. A donor's statement that he intends to give a gift might be believed if the donor seems to have a sufficient reason to do so at the time he says he will (perhaps because after giving the gift the donor will remain near the donee and can thus enjoy continuing appreciative treatment). In this case, as his announcement

¹⁵If we were to take reliance into account, a donor would have another motive to announce his intention. He would increase the value of his gift by inducing the donee to engage in reliance. The donor might, therefore, expect to receive a greater degree of appreciative treatment, presuming that the degree of appreciative treatment depends on the value of the gift as well as on the perceived probability of its receipt.

would be believed, a donor would receive appreciative treatment before giving a gift without binding himself. And since he would not suffer the disadvantage of having to give a gift if a problematic contingency arose, the donor would choose not to bind himself.

The effect of a rule rendering statements of intentions to give gifts legally enforceable. If a non-altruistic donor wants to be legally bound to give a gift, then an enforcement rule will have no effect since he will elect to be bound.

If, however, a non-altruistic donor does not want to be bound to give a gift, an enforcement rule will have one of two consequences. First, a donor may decide not to announce his intention to give a gift in advance and thus forfeit receiving appreciative treatment during the period before he gives a gift. In this case the donor will be made worse off by the enforcement rule.¹⁶ Second, a donor may decide to announce his intention to give a gift in order to receive appreciative personal treatment, despite the fact that he will then be bound to give a gift. In this case, as in the last, the donor will be made worse off by the enforcement rule, but the donee will be made better off.

In summary, an enforcement rule may lower or leave unchanged non-altruistic donors' welfare, and may leave unchanged or raise donees' welfare.

C. Some Donors Are Altruistic, Others Seek Appreciative Treatment

It will now be assumed that some donors are altruistic and that other donors seek appreciative personal treatment. Moreover, it will be supposed

¹⁶The donee will, however, receive a gift in exactly the same circumstances as in the absence of an enforcement rule. For whether a non-altruistic donor announces his intentions to give a gift will not influence his decision later about actually giving a gift.

that donees cannot distinguish directly between the two types of donors or nondonors, but that donees can make inferences as in Sections IA and IB. For example, if a person says that he intends to give a gift to a donee, the donee will know that the person is a donor but not whether he is altruistic.

What is of special interest about the present case is that donors who seek appreciative treatment may have a motive to masquerade as altruistic donors, and that this may lead altruistic donors to bind themselves to give gifts.¹⁷ (By contrast, recall from Section IA that altruistic donors never choose to bind themselves when they are the only type of donor.)

Specifically, suppose that altruistic donors want donees to know they are likely to receive gifts, since donees will then be induced to engage in reliance. Now consider the situation if altruistic donors state their intentions to give gifts but do not bind themselves. In this situation, non-altruistic donors can be expected to pose as altruistic donors in order to make donees think that they, the non-altruistic donors, are as likely as the altruistic donors to give gifts, and thus to secure appreciative personal treatment. In this case, donees' expectations of receiving gifts from donors who merely profess that they would give gifts are reduced. If donees' expectations are reduced, they may decide not to engage in reliance, which would hurt altruistic donors. To prevent this problem, altruistic donors may decide to bind themselves to give gifts.¹⁸

¹⁷It will be apparent from the argument to be made that the point here about some donors masquerading and others binding themselves is not special. The point will often apply when there is more than one type of donor and the donors' reasons for making gifts differ.

¹⁸Whether altruistic donors will choose to bind themselves depends, among other variables, on the percentages of altruistic and non-altruistic donors in the relevant population, as is

II. Formal Analysis

The assumptions are essentially as were described in the informal analysis. Donees -- parties who may receive gifts -- are in contact with individuals who are either donors -- parties who may give gifts -- or are nondonors -- disinterested individuals who will not give gifts or make statements about giving gifts. Donees are unable to distinguish directly between donors and nondonors. However, a donee may make inferences about the individual with whom he is in contact, and donees know the utility functions of donors and all the parameters of the model.

Section IIA considers the case where donors are identical and are altruistic; Section IIB considers the case where donors are identical and seek appreciative personal treatment; and Section IIC briefly discusses the case where some donors are altruistic and others seek appreciative treatment from donees or relevant third parties.

In each case, the sequence of events is the same. First, a donor decides whether to make a statement to a donee about his intentions. Second, the donee chooses whether to take an action: the donee decides whether to engage in reliance, or he (or a relevant third party) decides whether to extend appreciative personal treatment. Third, uncertainty concerning the donor is resolved. For simplicity, this uncertainty is assumed to be over the donor's wealth, which will be either high or low.¹⁹ Fourth, the donor either gives a gift or does not. (Note from this description that it is implicitly assumed that the donor does not give a gift at the outset; this is justified as explained in Part I.)

discussed in Section IIC.

¹⁹Recall the discussion of different sources of uncertainty in Part I.

A. Donors are Altruists

Define the following notation.

$u(.)$ = utility of wealth of a donor; $u' > 0$; $u'' < 0$;

w_h = high level of donor wealth;

w_l = low level of donor wealth; $w_l < w_h$;

p = probability of w_h ;

x = cost of a gift to a donor (assumed to be fixed)²⁰;

a = multiplicative weight reflecting the degree of a donor's altruism.

A donor's utility is assumed to equal the sum of two components: his utility from use of his own wealth plus an indirect component equal to the weight a multiplied by the utility of the donee. If, for instance, a donor's wealth is high and he gives a gift, his utility will be $u(w_h - x) + a(\text{donee's utility})$.

A donee's utility is assumed to equal the value of a gift, if he receives one, less the cost of reliance, if he engages in reliance. If he engages in reliance, the value of the gift will be augmented. (See Part I for further description of reliance.) Specifically, let

v_0 = value of a gift to a donee if he does not engage in reliance;

v_r = value of a gift to a donee if he does engage in reliance; $v_r > v_0$;

r = cost of reliance to a donee.

Thus, if a donee does not engage in reliance, his utility will be v_0 if he receives a gift and 0 if he does not receive a gift; and if he does engage

²⁰The assumption that the gift, if made, will be of fixed rather than variable size is made for simplicity; I will comment on the case where the gift size is variable below.

in reliance, his utility will be $v_r - r$ if he receives a gift and $-r$ if he does not.

Let us now describe whether a donor will want to give a gift, as a function of his level of wealth and a donee's choice about reliance. Whether a donor will want to give a gift may depend on his wealth, since if his wealth is high, the utility cost of the gift will be smaller than if this wealth is low. And whether a donor will want to give a gift may depend on whether a donee has engaged in reliance, since if the donee has done so the value of the gift will be enhanced. For example, if a donor's wealth is high and a donee has engaged in reliance, the donor's utility will be $u(w_h - x) + a(v_r - r)$ if he gives a gift and $u(w_h) - ar$ if he does not. Thus the donor will give a gift if $u(w_h) - u(w_h - x) \leq av_r$, in other words, if the utility cost of the gift to the donor is less than or equal to the weight a multiplied by the value of the gift to the donee.²¹ More generally, if i denotes either h or l , and j denotes either o or r , a donor will want to give a gift if

$$(1) \quad u(w_i) - u(w_i - x) \leq av_j.$$

Since $u(w_h) - u(w_h - x) < u(w_l) - u(w_l - x)$, (1) implies that if a donor wants to give a gift given w_l , he will certainly want to do so given w_h . Similarly, since $v_o < v_r$, if a donor wants to give a gift given v_o , he will certainly want to do so given v_r . It follows that there are five cases in which a donor will want sometimes to give a gift. (The case in which he will never want to give a gift is not interesting.) (a) A donor will always want to give a gift (that is, whether his wealth is w_h or w_l and whether or not a

²¹I will assume for concreteness that the donor will give a gift if he is indifferent between doing so and not, and I will adopt similar conventions elsewhere in the analysis without further comment.

donee has relied). (b) A donor will want to give a gift whenever his wealth is w_h (that is, whether or not a donee has relied). (c) A donor will want to give a gift when his wealth is w_h and a donee has relied. (d) A donor will want to give a gift whenever a donee has relied. (e) A donor will want to give a gift whenever a donee has relied; and when the donee has not relied, provided that the donor's wealth is w_h .²²

For each of these cases, I will identify whether a donor wants a donee to engage in reliance, that is, whether a donor's expected utility will be raised if a donee engages in reliance. Then I will analyze what the outcome will be if a donor tells a donee that he is a donor and intends to give a gift, as opposed to what the outcome will be if the donor remains silent. This will allow us to determine whether a donor will want to reveal his intention. Next I will ask what will occur if a donor makes a binding contract to give a gift and whether he would want to do so. Finally, I will ascertain what will occur under what was called the enforcement rule in the previous section: the rule that renders a donor legally bound to give a gift if he says that he intends to give a gift.

Case (a): a donor will always want to give a gift. Here a donor's expected utility will be $[pu(w_h - x) + (1 - p)u(w_l - x)] + a[v_r - r]$ if a donee engages in reliance, and $[pu(w_h - x) + (1 - p)u(w_l - x)] + av_o$ if a donee does not. Therefore, a donor will want a donee to engage in reliance when and only when

(2) $v_r - r > v_o$.

²²The reader can easily verify that these five cases are the only possible cases. For example, it cannot be that a donor will wish to give a gift only if his wealth is w_l , since if a donor wants to give a gift when his wealth is w_l , he will want also to give a gift when his wealth is w_h .

If a donor reveals his intention to give a gift to a donee, the donee will rely if and only if (2) holds. The reason is two-fold. First, the donee will believe that the donor is truly a donor, since the donee knows that a nondonor would not make a statement about giving a gift. Second, the donee knows the donor's utility function, and also w_1 , w_h , p , x , and a ;²³ thus, the donee is able to calculate that he will receive a gift with certainty. Therefore, the donee knows that his utility will be $v_r - r$ if he relies and v_0 if he does not, so that he will indeed engage in reliance when and only when (2) holds.

If a donor does not reveal his intention to a donee, the donee will not engage in reliance. To understand why, note that there are two possible equilibrium beliefs the donee could have: either that the person with whom he is in contact is definitely not a donor; or that he is a donor with a probability q equal to the proportion of donors in the population.²⁴ If the donee thinks the person is definitely not a donor, he will obviously not engage in reliance. If the donee thinks the person is a donor with probability q and q is sufficiently small (an assumption I make for

²³Recall that it is assumed that donors are identical. Hence, once the donee determines that the person with whom he is in contact is a donor, he knows the utility function, levels of wealth, p , and a . However, see Comment (2) below.

²⁴An equilibrium belief about parties who do not announce their intentions is a belief that is justified by actual donor behavior. Since donors are assumed to be identical, all will act identically in equilibrium (barring the improbable case where they are indifferent between different actions), either revealing their intentions or remaining silent. In equilibrium, therefore, donees will either believe that a person who does not reveal his intentions is a donor with probability 0 or with probability q . (In the improbable case where some donors reveal their intentions and some do not, donees would believe a person who does not reveal his intention is a donor with a positive probability less than q .)

simplicity), then again the donee will decide against engaging in reliance.²⁵

The question whether donors will announce their intentions can now be answered. If (2) holds -- donors want donees to engage in reliance -- then donors will announce their intentions, since that will lead donees to engage in reliance, whereas if donors do not announce their intentions donees will not engage in reliance.

If (2) does not hold -- donors do not want donees to engage in reliance -- donors will not have a positive reason to announce their intentions. (But neither will they have a reason to refrain from announcing their intentions, since announcing their intentions will not lead donees to engage in reliance.)

Consider next the outcome if a donor announces his intention and legally binds himself definitely to give a gift to a donee. Legally binding himself will not affect when the donor gives a gift since in the present case (a) he will always want to give a gift. Also, since the donee will know that the person with whom he is in contact is a donor, the donee will be led to engage in reliance when and only when (2) holds. Therefore, the outcome will be identical to that when a donor announces his intention but does not bind himself.

Now consider the outcome if a donor announces his intention and binds himself to give a gift through use of the "reliance measure" of damages. Under the reliance measure, a donor who fails to give a gift must pay the donee his reliance r if the donee has engaged in reliance. A donee's choice about engaging in reliance under this measure will be made knowing that he

²⁵If the donee thinks the person is a donor with probability q , then he will not engage in reliance if $qv_r - r < qv_o$, which is to say, if $q < r/(v_r - v_o)$.

will be given a gift with certainty. Therefore, the donee will engage in reliance when and only when (2) holds, so the outcome will again be identical to that when a donor merely announces his intention.

Last consider a rule under which a donor would be rendered legally bound to give a gift if he merely announced his intention to do so. A donor will not care whether this rule applies in the present case. This is because, as just explained, whether the donor is definitely bound or bound under the reliance measure, the outcome will be identical to that when the donor announces his intention but does not bind himself, and will also be the outcome the donor wants. Additionally, the donee will not care whether the enforcement rule applies, since it will not affect the outcome.

The following summarizes the conclusions.

Proposition 1(a). In case (a), where a donor will want to give a gift under all circumstances:

(i) The donor will have an affirmative reason to announce his intention to give a gift if he wants the donee to engage in reliance. For if the donor announces his intention, the donee will engage in reliance if the donor wants that; but if the donor does not announce his intention, the donee will not engage in reliance.

(ii) The donor will be indifferent between binding himself to give a gift -- either definitely or under the reliance measure -- and not doing so. For the outcome if he binds himself will be the same as the outcome if he merely announces his intention to give a gift.

(iii) The donor will therefore not care whether he would be subject to a rule rendering him legally bound to give a gift if he merely announced his intention to do so -- nor will the donee care.

Case (b): a donor will want to give a gift whenever his wealth is w_h but not otherwise. In this case, a donor's expected utility will be $[pu(w_h - x) + (1 - p)u(w_l)] + a[pv_r - r]$ if a donee engages in reliance; and it will be $[pu(w_h - x) + (1 - p)u(w_l)] + apv_o$ if a donee does not engage in reliance. Hence, a donor will want a donee to rely if

$$(3) \quad pv_r - r > pv_o.$$

Note in particular that p must be sufficiently high (larger than $r/(v_r - v_o)$) for a donor to want a donee to engage in reliance, since reliance will be wasted with likelihood $(1 - p)$.

If a donor announces his intention to a donee, the donee will know that he will receive a gift with probability p . The donee will thus calculate that his expected utility will be $p v_r - r$ if he engages in reliance and $p v_o$ if he does not. Hence, the donee will engage in reliance if and only if (3) holds.

If a donor does not announce his intention, then (for the reasons discussed in case (a)) the donee will not engage in reliance.

It follows that if donors want donees to engage in reliance ((3) holds), donors will announce their intentions; for otherwise donees will not engage in reliance. If donors do not want donees to engage in reliance, donors will not have a reason to announce their intentions (they will be indifferent about doing so).

If a donor binds himself definitely to give a gift, then since a donee will know that he will receive a gift with certainty, the donee will engage in reliance when (2) holds rather than only when (3) holds. Hence, a donor will be worse off if he binds himself definitely for two reasons: he will

have to give a gift when his wealth is low, whereas he will not want to do so;²⁶ and the donee might engage in reliance when the donor would not have wanted that.

If a donor binds himself to give a gift under the reliance measure, a donee will reason as follows. If he does not engage in reliance, the donor will not have to pay damages if the donor does not give a gift, so the donor will give a gift only if his wealth is w_h ; thus the donee's expected utility will be pv_0 . If the donee does engage in reliance, the donor will give a gift when $u(w_i - x) + a(v_r - r) > u(w_i - r)$, where $i = l$ or h ; thus the donor will definitely give a gift when his wealth is w_h , and he might do so as well when his wealth is w_l . Hence, there are two cases the donee must consider in evaluating what will occur if he engages in reliance, and whether he should do so. The first case is where the donor will give a gift only if his wealth is w_h . In this case the donee's expected utility will be $p(v_r - r)$, so he will decide to engage in reliance if $p(v_r - r) > pv_0$, which is equivalent to (2). The other case is where the donor will always give a gift. In this case, the donee's utility will be $v_r - r$, so he will engage in reliance if $v_r - r > pv_0$, which is even more often than when (2) holds. This completes the description of the behavior of donors and donees under the reliance measure. It is clear from the description that a donor will be worse off if he binds himself under this measure than if he does not bind himself because he might pay damages or be induced to give a gift when his

²⁶One could imagine the donor binding himself to give a gift only if his wealth were high. For simplicity, I do not consider such an arrangement, although the interested reader will have no difficulty in analyzing it. (For example, in the present case (b), the arrangement would be equivalent to a donee's merely announcing his identity.) I also observe that to enforce such an arrangement, a court would face the problem of having to verify the donor's level of wealth.

wealth is low and he does not want to give a gift, and also because the donee may decide to engage in reliance when the donor would not want that.

Under a rule that renders a donor legally bound to give a gift if he announces his intention to give a gift, the following would be the result. If a donor does not want a donee to engage in reliance, the donor will not announce his intention. If a donor does want a donee to engage in reliance, the donor might announce his intention even though this means he will be bound; or he might not announce his intention even though this means that the donee will not engage in reliance. In either case, the donor will clearly be made worse off. Additionally, it should be observed that a donor would generally be worse off if rendered definitely bound to give a gift than bound under the reliance measure. For under the reliance measure the donor can decide against giving a gift if his wealth is low, paying at most r , whereas otherwise he must give the gift.²⁷ Finally, it should be noted that the donee will be made worse off by the rule if it results in the donor not announcing his intention when he otherwise would; and the donee will be made better off by the rule if the donor chooses to announce his intention.

Proposition 1(b). In case (b), where a donor will want to give a gift if and only if his wealth is high:

²⁷More precisely, this statement means only that the donor would prefer the reliance measure conditional on the donee's choice about reliance. However, we know that the donor will not announce his intention unless he wants the donee to engage in reliance, so that in fact the donor will be bound only when the donee engages in reliance. Furthermore, we know that the donor will announce his intention at least as often under the reliance measure as he would if definitely bound. It follows from these facts that the donor will, if anything, prefer to be bound under the reliance measure.

(i) The donor will have an affirmative reason to announce his intention to give a gift if he wants the donee to engage in reliance. For if the donor announces his intention, the donee will engage in reliance if the donor wants that; but if the donor does not announce his intention, the donee will not engage in reliance.

(ii) The donor will not want to bind himself to give a gift -- either definitely or under the reliance measure -- because this could result in the donor giving a gift when he would not want to do so and in the donee engaging in reliance when the donor would not want that.

(iii) The donor will not want to be subject to a rule rendering him bound to give a gift if he merely announces his intention to do so; for if the donor wants the donee to engage in reliance and thus the donor wants to announce his intention, the donor will be made worse off by the rule. However, were the donor subject to the rule, he would prefer to be bound under the reliance measure than definitely. The donee might be made worse off by the rule (if the donor decides not to announce his intention because of the rule) or better off (if the donor announces his intention in spite of the rule).

Case (c): a donor will want to give a gift only if his wealth is w_h and a donee has engaged in reliance. Here a donor's expected utility will be $[pu(w_h - x) + (1 - p)u(w_l)] + a[pv_r - r]$ if a donee engages in reliance; otherwise, it will be $[pu(w_h) + (1 - p)u(w_l)]$. Hence, a donor will want a donee to rely if

$$(4) \quad a[pv_r - r] > p[u(w_h) - u(w_h - x)],$$

that is, if the expected net value of the gift to the donor exceeds the expected utility cost of the gift to him. (The reason that the expected utility cost of the gift enters this condition, but did not enter the

analogous conditions (2) and (3) in cases (a) and (b), is that in the present case the donor will be led to give a gift if the donee engages in reliance.)

If a donor announces his intention to give a gift to a donee, the donee will know that his expected utility will be $pv_r - r$ if he engages in reliance and 0 if he does not. Hence, the donee will engage in reliance if

(5) $pv_r - r > 0$,

which holds more often than (4). (The explanation is that the donee does not take into account as a cost to himself that engaging in reliance will result in an expected utility cost to the donor of $p[u(w_h) - u(w_h - x)]$.)

If a donor does not announce his intention, the donee will not engage in reliance.

Hence, if donors want donees to engage in reliance ((4) holds), donors will announce their intentions to induce donees to engage in reliance. But if donors do not want donees to engage in reliance, donors will not announce their intentions if doing so would lead donees to engage in reliance ((5) holds even though (4) does not). If donors do not want donees to engage in reliance and the latter would not engage in it even if told donors intentions (neither (4) nor (5) hold), then donors will be indifferent about telling donees their intentions.

If a donor binds himself definitely to give a gift to a donee, the

donee will engage in reliance if (2) holds rather than only if (4) holds.²⁸
 And as before the donor will be worse off than if he did not bind himself.

If a donor binds himself to give a gift to a donee under the reliance measure, then the donee will know that if he engages in reliance, he will receive a gift with positive probability and if not a payment equal to r , whereas if he does not engage in reliance he will not receive a gift nor any payment. Therefore, the donee will definitely decide to engage in reliance. The donor will give a gift if his wealth is w_h and possibly also if his wealth is w_l . Also, for the reasons given in case (b), the donor will be worse off than if he did not bind himself.

Under a rule that renders a donor legally bound to give a gift if he announces his intention to do so, the situation will be much as described in case (b). In particular, the donor will not announce his intention if he does not want the donee to engage in reliance. If the donor does want the donee to engage in reliance, however, he might not announce his intention, he will not give a gift if he does not announce his intention (a difference from case (b)), and he will be made worse off by the rule.

Proposition 1(c). In case (c), where a donor will want to give a gift if and only if his wealth is high and the donee has engaged in reliance:

(i) The donor will have an affirmative reason to announce his intention if he wants the donee to engage in reliance; for if the donor announces his

²⁸To show that (2) holds more often, let us demonstrate that (4) implies (2). Now (4) is equivalent to $pv_r - r > (p/a)[u(w_h) - u(w_h - x)]$, which is equivalent to $v_r - r > (p/a)[u(w_h) - u(w_h - x)] + (1 - p)v_r$. But in the present case we know that the donor will not give a gift if the donee does not rely. Hence $[u(w_h) - u(w_h - x)] \geq av_o$. Thus $(p/a)[u(w_h) - u(w_h - x)] + (1 - p)v_r \geq pv_o + (1 - p)v_r$, which exceeds v_o , so that $v_r - r > v_o$, that is, (2) holds.

intention and wants the donee to engage in reliance, the donee will be led to do so but would not otherwise. If, however, the donor does not want the donee to engage in reliance, the donor may have an affirmative reason not to announce his intention; for if the donor announces his intention the donee might be led to rely even though the donor does not want that.

(ii) The donor will not want to bind himself to give a gift -- either definitely or under the reliance measure -- because this could result in the donor giving a gift when he would not want to do so and in the donee engaging in reliance when the donor would not want that.

(iii) The donor will not want to be subject to a rule rendering him bound to give a gift if he merely announces his intention to give a gift; for if the donor wants the donee to engage in reliance and thus the donor wants to announce his intention, he will be made worse off by the rule. However, were the donor subject to the rule, he would prefer to be bound under the reliance measure than definitely. The donee might be made worse off by the rule (if the donor decides not to announce his intention because of the rule) or better off (if the donor announces his intention in spite of the rule).

Case (d): a donor will want to give a gift if and only if a donee has engaged in reliance. In this case, a donor's expected utility will be $[pu(w_h - x) + (1 - p)u(w_l - x)] + a[v_r - r]$ if a donee engages in reliance, and $[pu(w_h) + (1 - p)u(w_l)]$ otherwise. Therefore, a donor will want a donee to engage in reliance if

$$(6) \quad a[v_r - r] > p[u(w_h) - u(w_h - x)] + (1 - p)[u(w_l) - u(w_l - x)].$$

(As in case (c), the expected utility cost enters into this condition

because the donor will be led to give a gift if the donee engages in reliance.)

If a donor announces his intention to give a gift to a donee, the donee will know that his utility will be $v_r - r$ if engages in reliance and 0 if he does not. Hence, the donee will engage in reliance whenever

$$(7) \quad v_r - r > 0,$$

which holds more often than (6) (because, as in case (c), the donee does not take into account the utility cost of a gift to the donor).

If a donor does not announce his intention to a donee, the donee will not engage in reliance.

It follows that if donors want donees to engage in reliance ((6) holds), donors will announce their intentions to induce donees to engage in reliance. But if donors do not want donees to engage in reliance, donors will not announce their intentions if doing so would lead donees to engage in reliance ((7) holds even though (6) does not). If donors do not want donees to engage in reliance and the latter would not engage in it even if told donors' intentions (neither (6) nor (7) hold), then donors will be indifferent about telling donees their intentions.

If a donor binds himself definitely to give a gift to a donee, the donee will engage in reliance if (2) holds rather than only if (6) holds,²⁹ and as before the donor will be worse off than if he did not bind himself.

If a donor binds himself to give a gift to a donee under the reliance measure, the situation will be identical to that if the donor merely announces his intention. For if the donor announces his intention and is

²⁹To show that (6) implies (2), an argument similar to that of the preceding note may be employed.

bound under the reliance measure, the donee will know that he will receive a gift if he engages in reliance and will not obtain a gift or a payment if he does not engage in reliance. Therefore, the donee will engage in reliance if and only if (7) holds, which establishes the claim.

Under a rule that renders a donor legally bound to give a gift if he announces his intention to do so, the donor will not announce his intention if he does not want the donee to engage in reliance. If the donor does want the donee to engage in reliance, the situation under the rule depends on whether the donor would be bound definitely by announcing his intention or would be bound under the reliance measure. If the donor would be bound definitely, he would be made worse off by the rule; and the outcome will be as described in case (c) (the donor might or might not announce his intention, and so forth). However, if the donor would be bound under the reliance measure, the rule will have no effect. For as explained above, the outcome under the reliance measure will be identical to that when the donor merely announces his intention.

Proposition 1(d). In case (d), where a donor will want to give a gift if and only if a donee has engaged in reliance:

(i) The donor will have an affirmative reason to announce his intention if he wants the donee to engage in reliance; for if the donor announces his intentions and the donor wants the donee to engage in reliance, the donee will be led to do so but would not otherwise. However, if the donor does not want the donee to engage in reliance, the donor may have an affirmative reason not to announce his intention; for if the donor announces his intention the donee might be led to rely even though the donor would not want this.

(ii) The donor will not want to bind himself definitely to give a gift because this could result in the donor giving a gift when he would not want to do so and in the donee engaging in reliance when the donor would not want that. However, if the donor binds himself under the reliance measure, the situation will be identical to that if he merely announces his intention to give a gift. Thus, if the donor wants the donee to engage in reliance, the donor will be indifferent between merely announcing his intention and binding himself under the reliance measure. (iii) The donor will not want to be subject to a rule rendering him bound definitely to give a gift merely by announcing his intention; for if the donor wants the donee to engage in reliance and thus the donor wants to announce his intention, the donor will be made worse off by the rule. The donee may be made either worse off by the rule or better off. However, neither the donee nor the donor will care if the rule rendered the donor bound under the reliance measure; for under that measure the outcome will be the same as if the donor merely announces his intention.

Case (e): a donor will want to give a gift unless his wealth is low and the donee has not engaged in reliance. In this case, a donor's expected utility will be $[pu(w_h - x) + (1 - p)u(w_l - x)] + a[v_r - r]$ if a donee engages in reliance; and otherwise a donor's expected utility will be $[pu(w_h - x) + (1 - p)u(w_l)] + a[pv_o]$. Hence, a donor will want a donee to rely if

$$(8) \quad a[v_r - r - pv_o] > (1 - p)[u(w_l) - u(w_l - x)].$$

If a donor announces his intention to give a gift to a donee, the donee will know that his utility will be $v_r - r$ if he engages in reliance and $p v_o$ if he does not. Hence, the donee will engage in reliance if

$$(9) \quad v_r - r - p v_o > 0,$$

which holds more often than (8).

If a donor does not announce his intention to a donee, the donee will not engage in reliance.

It follows that if donors want donees to engage in reliance ((8) holds), donors will announce their intentions to induce donees to engage in reliance. But if donors do not want donees to engage in reliance, donors will not announce their intentions if doing so would lead donees to engage in reliance ((9) holds even though (8) does not). If donors do not want donees to engage in reliance and the latter would not engage in it even if told donors' intentions (neither (8) nor (9) hold), then donors will be indifferent about telling donees their intentions.

If a donor binds himself definitely to give a gift to a donee, the donee will engage in reliance if (2) holds rather than only if (8) holds, and the donor will be worse off than if he did not bind himself.

If a donor binds himself to give a gift under the reliance measure, the situation will be identical to that if the donor merely announces his intention. For if the donor binds himself under the reliance measure, the donee will know that his utility will be $v_r - r$ if he engages in reliance and will be pv_0 if he does not. Therefore, the donee will engage in reliance if (9) holds, as claimed.

Under a rule that renders a donor legally bound to give a gift if he announces his intention to do so, the conclusions are as in case (d). That is, the donor will not announce his intention if he does not want the donee to engage in reliance. If the donor does want the donee to engage in reliance, the situation under the rule depends on whether the donor would be bound definitely by announcing his intention or would be bound under the reliance measure. If the donor would be bound definitely, he would be made worse off by the rule; and the outcome will be as described in case (c) (the

donor might or might not announce his intention, and so forth). However, if the donor would be bound under the reliance measure, the rule will have no effect.

Proposition 1(e). In case (e), where a donor will want to give a gift to a donee unless the donor's wealth is low and the donee has not engaged in reliance, the conclusions are as described in Proposition 1(d).

Comments

(1) Summary. The conclusions from the analysis may be summarized as follows. First, a donor may or may not want a donee to engage in reliance (depending on his degree of altruism a , the enhancement in the value of a gift $v_r - v_o$ produced by reliance, the likelihood p that his wealth will not be low). Second, if a donor does want a donee to engage in reliance, the donee will be induced to do that if the donor merely announces his intention; it is not necessary for the donor to bind himself to give a gift. Third, if a donor does not want a donee to engage in reliance, the donor may want to keep silent. For if the donor announces his intention, the donee may decide to engage in reliance even though the donor does not want that. The reason is that by relying the donee can (in cases (c) - (e)) increase the likelihood of a gift, and that the donee does not take into account the cost of a gift to a donor. Fourth, a donor will never have an affirmative reason to bind himself to give a gift. This is for two reasons: if donors bind themselves, they may give gifts when they would not want to; and donees may decide to engage in reliance when donors would not want that. Fifth, a rule that renders a donor bound to give a gift if he announces his intention to do so will never be affirmatively desired by donors. The rule will help donees if it does not discourage donors from announcing their intentions; and it will hurt donees otherwise. The particular effects of the rule

depend on whether the donor would be definitely bound or bound under the reliance measure; and donors would generally prefer to be bound under the reliance measure if they have to be bound.

(2) Different types of altruistic donors. The reader may wonder whether, if there are different types of donors, the conclusion will still hold that donors will never want to bind themselves to give gifts in order to induce donees to engage in reliance. The answer appears to be that the conclusion does still hold. Suppose, for example, that there are two types of donors: type A, who want donees to engage in reliance (perhaps because they are very likely to give gifts); and type B, who do not want donees to engage in reliance. It will clearly be an equilibrium for A's to announce their intentions to donees, for B's not to announce their identity, and for donees to believe A's and thus to engage in reliance. In particular, B's will have no reason to masquerade as A's, for that would only result in donees relying, against the wants of B's.

(3) Gifts and reliance continuously variable. It may be of interest to sketch a continuous version of the model investigated here. Suppose that the size of the gift x and the level of reliance r are both variable; that the donee's utility is $v(x,r) - r$, where v is the value of a gift given x and r to the donee; that the donor's utility is $u(w - x) + a[v(x,r) - r]$; that $f(w)$ is the probability density over the donor's wealth w . Then the questions that were addressed above can be considered in a straightforward way.

Regarding what a donor would want, observe that his expected utility is $EU + a[EV - r] = \int u(w - x)f(w)dw + a[\int v(x,r)f(w)dw - r]$, which he will maximize by his choice of r and of x as

a function of w and r . To determine the solution, note first that the optimal x given w and r must maximize $u(w - x) + av(x, r)$. If the optimal x is positive, it is therefore determined by the first-order condition $u'(w - x) = av_x(x, r)$; this condition implies that x is increasing in w and in r . The optimal x will be 0 if $u'(w) \geq av_x(0, r)$. Let $x^*(w, r)$ denote the optimal x given w and r . If $EU + a[EV - r]$ is maximized over r , we obtain the first-order condition determining r , $\int v_r(x^*(w, r), r) f(w) dw = 1$ (where the integration is over w such that x^* is positive); let r^* denote the optimal r and assume it is positive.

Regarding what will occur, consider that if a donor does not announce his intention to a donee, the donee will not engage in reliance, so that the donor's expected utility will be lower than in the optimal solution just described, and the size of his gift conditional on w will be lower than if reliance were r^* . If a donor does announce his intention to a donee, the donee will maximize $\int v(x^*(w, r), r) f(w) dw - r$ over r and choose $r' > r^*$; that is, the donee will overrely.³⁰ It follows that a donor may or may not prefer to announce his intention, depending on whether the degree of overreliance if he does so is more or less important than the

³⁰To show this, observe that, as is easily verified, the first-order condition determining r' is different from that determining r^* , so r' and r^* must be unequal. Suppose that $r' < r^*$. Then, if $EU(r)$ denotes $\int u(w - x^*(w, r)) f(w) dw$, we have $EU(r') > EU(r^*)$, for $u(w - x^*(w, r))$ is decreasing in r . And if $EV(r)$ denotes $\int v(x^*(w, r), r) f(w) dw$, then $EV(r') - r' > EV(r^*) - r^*$, since r' maximizes $EV(r) - r$ over r . But then $EU(r') + a[EV(r') - r'] > EU(r^*) + a[EV(r^*) - r^*]$, which is a contradiction since r^* maximizes $EU(r) + a[EV(r) - r]$. Thus $r' > r^*$, as claimed.

lack of reliance if he does not do so. The analysis can be further elaborated, with results largely paralleling those I found.³¹

(4) Paternalism instead of altruism. Suppose that the second term in the donor's utility function is not a multiple of the donee's utility but rather a different function of the variables affecting the donee. This would allow for what might be called paternalism. For example, suppose that the second term is αv_0 if the donee does not rely and $a(\alpha v_r - \beta r)$ if he does, so that $\alpha > 1$ would correspond to the donor's placing greater weight on the gift (such as education) than the donee, $\beta < 1$ to his attaching lesser importance to the cost of reliance (such as the disutility of working), and so forth. Given paternalism, many of the conclusions would change, the main reason being that the donee's decision about reliance might be very different from what the donor would want. Suppose, for instance, that the situation is as just noted: the donor places greater importance on the gift than the donee and counts the cost of reliance as smaller than the donee. Then the donee might not choose to rely unless the donor binds himself to give the gift, so the donor might decide to bind himself. Or the donor might want the donee to bind himself to rely in exchange for the donor's binding himself to give the gift.

B. Donors Seek Appreciative Personal Treatment

Recall that this section will consider the situation where donors seek appreciative personal treatment from donees (or relevant third parties)³²

³¹I did not analyze the continuous version of the model in the paper because, after some experimentation with it, I decided the results would be more difficult to understand than in the discrete version.

³²For concreteness, I shall speak below only of donees themselves (such as symphony orchestras) extending appreciative personal treatment, not of third parties (such as the music-going public) doing so.

but do not care about donees' utility itself. It will be assumed that appreciative personal treatment can be enjoyed by a donor both before the time he would give a gift and afterwards. It will also be assumed for simplicity that there is no reliance in which donees can engage. Otherwise, the assumptions will be as in Section IIA, and much of the notation from that section will be used here. Define the following new notation.

b_1 = multiplicative weight used to compute utility to a donor of appreciative personal treatment enjoyed before a gift would be given;

b_2 = multiplicative weight used to compute utility to a donor of beneficial personal treatment enjoyed after a gift is given;

v = value of a gift to a donee.

It will be assumed that the weight b_1 multiplies the expected value of a gift to a donee, given the donee's beliefs. The motivation for this assumption is that the treatment of the donor before a gift is given will be influenced by how likely the donee thinks it is that he will receive a gift. It will be assumed that b_2 multiplies the actual value of the gift, since after a gift is given, a donee of course knows that he has received it. To illustrate, suppose that a donee thinks he will receive a gift with probability p , that the donor's wealth turns out to be high, and that the donor gives a gift. Then the donor's utility will be $u(w_h - x) + b_1pv + b_2v$.

What a donor would like is, first, for a donee to believe that he will give a gift for sure, since then the donor will enjoy a utility benefit of b_1v from appreciative treatment before he would give a gift. Second, a donor will want actually to give a gift if and only if

$$(10) \quad u(w_i) - u(w_i - x) < b_2v,$$

where $i = h$ or l . There are thus three possible cases to analyze with regard to a donor's desire to give a gift. (a) A donor will want to give a gift whether his wealth is high or low. (b) A donor will want to give a gift only if his wealth is high. (c) A donor will not want to give a gift whether his wealth is high or low.

For each of these cases, I will examine what will occur if a donor does or does not announce his intention to give a gift and whether a donor will want to do that. I will also determine what will occur if a donor binds himself to give a gift and whether he would want to do this. Last, I will inquire about a rule rendering a donor legally bound to give a gift if he announces his intention to do so.

Case (a): a donor will always want to give a gift. If a donor does not reveal his intention to a donee, there are two possible equilibrium beliefs the donee could have (see the discussion in case (a) of Section IIA): either that the person with whom he is in contact is not a donor, or that the person is a donor with a probability q equal to the proportion of donors in the population. In the former case, the donor's expected utility will be

$$(11) \quad pu(w_h - x) + (1 - p)u(w_l - x) + b_2v,$$

and in the latter case his expected utility will be given by Exp. (11) plus qb_1v . But if a donor announces his intention, then, since the donee will know he is to receive a gift for certain, the donor's expected utility will be higher; it will be

$$(12) \quad pu(w_h - x) + (1 - p)u(w_l - x) + b_1v + b_2v.$$

Hence, a donor will choose to reveal his intention.

If a donor binds himself definitely to give a gift,³³ his situation will clearly be identical to that if he merely announces his intention to do so.

Under a rule that renders a donor legally bound to give a gift if he announces his intention, the donor will clearly announce his intention, and the situation will again be identical to that if he is not bound.

Proposition 2(a). In case (a), where a donor will always want to give a gift to a donee:

(i) The donor will want to announce his intention, so as to receive appreciative personal treatment before giving a gift.

(ii) The donor will be indifferent between binding himself to give a gift and not doing so, for the outcome will be the same if he binds himself as if he does not.

(iii) The donor will therefore not care whether he would be subject to a rule rendering him bound to give a gift if he announces his intention to do so -- nor will the donee care.

Case (b): a donor will want to give a gift only if his wealth is high.

If a donor does not reveal his intention to a donee and the donee believes that he is not a donor (one of the possible equilibrium beliefs of the donee), the donor's expected utility will be

$$(13) \quad pu(w_h - x) + (1 - p)u(w_1) + b_2pv;$$

and if the donee believes the donor to be a donor with probability q , the donor's expected utility will be Exp. (13) plus qb_1pv . If a donor does reveal his intention, his expected utility will be

$$(14) \quad pu(w_h - x) + (1 - p)u(w_1) + b_1pv + b_2pv,$$

³³The reliance measure is not considered in this section because it has been assumed that there is no possibility of the donee engaging in reliance.

so that the donor will want to reveal his intention.

If a donor binds himself definitely to give a gift, his expected utility will be given by (12), and the difference between this and (14) is

$$(15) \quad (1 - p)[u(w_1 - x) - u(w_1) + b_2v] + (1 - p)b_1v.$$

The first term in this expression is non-positive since the donor does not want to give a gift if his wealth is low (see (10)). Thus, if and only if b_1 is sufficiently high will (15) be positive; and if so, the donor will be better off binding himself definitely to give a gift than not binding himself. (As discussed in Section IB, the point is that if securing appreciative treatment before a gift is given is sufficiently valuable, the donor will want to bind himself to give a gift in order to obtain beneficial treatment even if, ex post, he will not want to give a gift.)

A rule that renders a donor legally bound to give a gift if he announces his intention will obviously make no difference if (15) holds since the donor will then want to bind himself. However, if (15) does not hold, the donor will be made worse off: he will either announce his intention and become bound; or he will not announce his intention and receive appreciative treatment before giving a gift. The donee's situation will be unchanged by the rule if (15) holds; if (15) does not hold, the donee will be made better off if the donor still decides to announce his intention but worse off if the donor does not announce his intention.³⁴

Proposition 2(b). In case (b), where a donor will want to give a gift only if his wealth is high:

³⁴If the donor does not announce his intention, the donee will not extend appreciative personal treatment. This might be thought to make him worse off, since if he knows the donor's intention, he will choose to extend appreciative treatment.

(i) The donor will want to announce his intention, so as to receive appreciative personal treatment before he might give a gift.

(ii) The donor will want to bind himself to give a gift if he attaches enough importance to receiving appreciative personal treatment before giving a gift (that is, if b_1 is sufficiently high); otherwise he will not want to bind himself.

(iii) The donor will not care whether there is a rule that renders him bound to give a gift if he announces his intention to do so, provided that the donor does want to bind himself. The donor will be made worse off by the rule, however, if he does not want to bind himself; for he will either decide not to announce his intention or will do so and become bound. The donee might be made better off or worse off by the rule.

Case (c): a donor will not want to give a gift whatever his level of wealth. If a donor does not say that he is a donor, his expected utility will be

$$(16) \quad pu(w_h) + (1 - p)u(w_l),$$

and if he does announce his identity, his expected utility will be the same, since the donee will know that he will not be receiving a gift.

If, however, a donor binds himself definitely to give a gift, his expected utility will be (12), and the difference between (12) and (16) is

$$(17) \quad p[u(w_h - x) - u(w_h) + b_2v] \\ + (1 - p)[u(w_l - x) - u(w_l) + b_2v] + b_1v.$$

The first two terms are non-positive since the donor does not want to give a gift whether his wealth is high or low, and the third term is positive. Thus the situation is similar to that in the preceding case, and the donor will want to bind himself to give a gift if and only if b_1 is sufficiently high.

A rule that renders a donor bound to give a gift if he announces his intention will make no difference to the donor if he wants to bind himself. If he does not want to bind himself, he will have no reason to announce his identity in the present case, so that the rule will not alter his situation. Hence, the rule will have no effect.

Proposition 2(c). In case (c), where a donor will not want to give a gift whether his wealth is high or low:

(i) The donor will do himself no good by announcing his identity.

(ii) The donor will want to bind himself definitely to give a gift if he attaches enough importance to receiving appreciative treatment before giving a gift.

(iii) The donor will not care whether there is a rule that renders him bound to give a gift if he announces his intention to do so; the rule will have no effect since if the donor wants to announce his intention he will want to be bound. Thus, the donee as well will not care about the rule.

Comments

(1) Summary. The analysis of the cases may be summarized as follows. First, a donor will often want to announce his intention in order to obtain appreciative personal treatment before he gives a gift. Second, a donor may want to bind himself to give a gift to obtain appreciative personal treatment before he gives the gift, even if he would not otherwise want to give the gift. Third, a rule rendering a donor bound to give a gift if he announces his intention to do so might hurt donors, for they might want to announce their intentions but not bind themselves, and might help donees.

(2) Contrast with the altruistic case. The conclusion in this section that donors may want to bind themselves to give gifts, that is, to act in a way that will not be in their ex post interests, stands in contrast to the

conclusion in the previous section that the altruistic motive will never lead donors to want to bind themselves.

C. Some Donors are Altruistic, Others Seek Appreciative Treatment

A systematic analysis of the situation where some donors are altruistic and others seek appreciative personal treatment will not be undertaken. The main point worthy of note about this situation is that altruistic donors may want to bind themselves to give gifts in order to distinguish themselves from non-altruistic donors who would otherwise masquerade as altruistic donors. I will sketch how this may come about, along the lines of the discussion in Section IC.

Suppose that the altruistic donors are as described in case (b) and that they want donees to engage in reliance. Thus, were the altruistic donors the only type of donors, they would want to announce their intentions but would not want to be bound to give gifts (Proposition 1(b)). Suppose further that the donors who seek appreciative treatment are as described in case (c) and that they would not want to bind themselves to give gifts.

Under these assumptions, it cannot be an equilibrium for the altruistic donors alone to announce their intentions to give gifts. For suppose this were an equilibrium. Then non-altruistic donors would claim they are altruistic: a non-altruistic donor who said he was altruistic would be thought to be telling the truth and thus to give a gift with positive probability; he would therefore receive appreciative personal treatment from the donee.

An equilibrium in which both types of donors announce that they are altruistic donors will obtain if the proportion of altruistic donors is sufficiently high. For then donees will be induced to engage in reliance even though they know some donors are not telling the truth and will not

give gifts. And if donees are induced to engage in reliance, the expected utility of the altruistic donors will not be reduced on account of the false claims of the non-altruistic donors.

However, if the proportion of altruistic donors is not high enough that donees will be led to engage in reliance if all donors claim to be altruistic, then a possible equilibrium involves altruistic donors alone binding themselves to give gifts. For if altruistic donors do not bind themselves, their expected utility will be $pu(w_h - x) + (1 - p)u(w_l) + apv_o$, whereas if they do bind themselves their expected utility will be $pu(w_h - x) + (1 - p)u(w_l - x) + a(v_r - r)$. If the latter expression is higher than the former, altruistic donors will bind themselves to give gifts, and non-altruistic donors will not, since by assumption they will not find that worthwhile.

This discussion illustrates the general point that the presence of parties who have a motive to pretend to be altruistic will lower the probability perceived by donees that someone claiming to be altruistic will actually give a gift. And this in turn may make it advantageous for altruistic donors to bind themselves to give gifts.

III. Concluding Comments

I will remark here on a factor omitted from the analysis, make a recommendation and an observation about the law, and draw a contrast between donative and nondonative promises.

(a) An omitted factor: negligent inducement of reliance. A factor of relevance that was not addressed in the analysis of this paper is the possibility that a person may, through lack of care, or through inattention to the interpretation likely to be accorded his statements, lead a potential donee to engage in reliance even though it is improbable that the person

will give a gift to the potential donee. This possibility might be likened to one in which negligence results in a harm, the harm being the waste or forgone opportunities inherent in reliance. However, in considering the possibility, one wants to take into account the chance of contributory negligence: a potential donee's failure to make a reasonable effort to determine whether the potential donor really planned to give a gift.³⁵ Assuming that there was not contributory negligence in this sense, the potential donor's negligent inducement of reliance represents a harmful act that should be deterred, and a natural way to do that is by imposing damages equal to the loss caused by reliance.

(b) A recommendation: donors should be able to bind themselves. A recommendation about the law that is supported by the analysis in this paper (and for that matter seems obvious on its face) is that donors should be able to bind themselves to give gifts. We have seen that there are reasons why donors may want to obligate themselves to give gifts. Thus, allowing donors to do so will make them better off; and it will make donees better off as well (since they will receive gifts more often).

In fact, however, this recommendation is not entirely followed by American contract law. It is difficult under current law in many jurisdictions in this country for an individual to bind himself to make a gift, unless the prospective donee engages in reliance on the promise, something which will not always be the case.³⁶ In France and Germany, by

³⁵ Presumably this effort would involve the donee informing the potential donor that he, the donee, plans to engage in reliance.

³⁶ A donor will find it hard or impossible to bind himself, if the donee does not rely, in jurisdictions that have abolished use of the seal in contracts. See, for example, Sections 7.1 and 7.9 of John D. Calamari and Joseph M. Perillo, The Law of Contracts, 3rd edition, West, St. Paul, 1987; and Section II of Eisenberg,

comparison, an individual can bind himself to give a gift as long as he meets certain formalities.³⁷

(c) An observation: donors may not want to bind themselves even when donees rely. As discussed in the analysis, there are ample reasons why individuals may want to announce their intentions to give gifts -- one of these being to induce potential donees to rely -- but not want to be bound to give gifts. And there are related reasons why potential donees too may not want donors to be bound even if they, the donees, rely.³⁸

These points are worth emphasizing because they cast doubt on what commentators frequently suggest is a desirable feature of American contract law: that promises to give gifts become enforceable if reasonably relied upon.³⁹

(d) A contrast between the donative context and the usual context of promise: the desire to bind oneself. There is a general reason why parties should ordinarily want to bind themselves to some degree in the usual promissorial context. Namely, this promotes confidence about each others'

supra, note 4.

³⁷See Eisenberg, supra, note 4, at 12, and references cited therein.

³⁸Recall that if donors will become bound if they announce their intentions, they might decide not to announce their intentions, which would in effect prevent donees from securing the benefit of relying in advance of receiving a gift. Moreover, there might also be detrimental effects on donors' propensity to give gifts, since if they decide not to announce their intentions and donees thus do not rely, the value of any gift might be reduced by enough to make it not worthwhile giving.

³⁹See, for example, Chapter 6 of Calamari and Perillo, supra, note 36, and Section III of Eisenberg, supra, note 4. However, a careful person should in principle be able to state his intentions to give a gift and not become bound if the potential donee relies. Let the person state his intentions but not make a "promise," and let him add that the potential donee relies at his own peril.

future actions; if a party to an agreement does not bind himself somehow to fulfill his promise, the other side will lack faith in him, and therefore either demand more for making an agreement or refuse altogether to do so. In the donative context, by contrast, the reader has seen that it is often not in the interests of promisors to bind themselves. The altruistic donor or the donor seeking appreciative personal treatment may well be confident enough that if he merely states his intention to give a gift to a donee, the donee will do what the donor wants -- engage in reliance or treat him with favor.