

Who Should Set the Anti-Trafficking Agenda?

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Janie Chuang, [Giving as Governance? Philanthrocapitalism and Modern-Day Slavery Abolitionism](#), 62 *UCLA L. Rev.* 1516 (2015).

As immigrant communities and immigrants' rights advocates stare down the barrel of the Trump administration, anti-trafficking appears to be the sole immigration-related issue that might gain bipartisan traction. As has historically been the case with refugees and asylum seekers, Democrats and Republicans may find common ground in concern over the situation of trafficked individuals, especially those subject to sexual trafficking. Refugee advocates and scholars have long raised concerns about the impact of collaborations with strange bedfellows on law and policy-making. [Janie Chuang's](#) article, [Giving as Governance? Philanthrocapitalism and Modern-Day Slavery Abolitionism](#), raises a similar set of worries around the anti-trafficking agenda, introducing a new character to the cast: the philanthrocapitalist. This piece presents a comprehensive and thoughtful set of concerns about the outsized and largely unaccountable role of a new generation of hyperengaged donors in shaping the anti-trafficking policy agenda.

In Prof. Chuang's words, philanthrocapitalism is a "relatively new form of philanthropy, born of a new generation of the ultra-rich who aspire to use their business skills to fix the world's social problems." She explains that these donors play a much more direct role in shaping responses to societal issues than philanthropists in previous eras, who gave money to support third parties' efforts to effect social change. This is a sound analysis, though it then raises the question of whether these are differences of degree or of kind. Philanthropists have always had some control over policymaking agendas through their selection of projects and varying levels of control through reporting and funding mechanisms. What is different about these new philanthrocapitalists?

Prof. Chuang provides several answers to this question through the case study of trafficking. The most meaningful difference is that for previous generations of philanthropists, external critiques of the organizations they funded were not viewed as criticisms of the donors themselves. This is a distinction in kind; because the policy work is directly identified with a very wealthy donor, philanthrocapitalism quells critique in a new and substantially more dangerous way. Another concern raised by Prof. Chuang, that philanthrocapitalists, as successful market actors, are more likely to focus on changing individual behaviors of actors rather than the "structures that undergird global labor markets and labor relations," is apt, but a difference of degree. Other philanthropists, past and current, have often been marked by a similar hesitance to fund projects that undermine the foundations of their financial success; the same is true for government funding and policymaking. Similarly, Prof. Chuang's charge that philanthrocapitalists lack accountability constraints is one that could be applied, though less powerfully, to non-governmental organizations funded by philanthropies. These organizations are not subject to democratic processes, and the accountability mechanisms that exist are limited to those created and enforced by donors.

Set in the context of the anti-trafficking movement, Prof. Chuang argues that the dominance of philanthrocapitalism has had particularly pernicious results. She explains that philanthrocapitalists have promoted a discourse equating trafficking and forced labor with slavery. Though powerful rhetorically, this framing focuses attention on the actions of individuals, both traffickers and the trafficked. It thereby absolves the state and corporations for their roles in constructing and perpetuating global economic structures that push individuals to migration as an economic strategy. The "modern-day slavery" frame also enables a crime-control approach to traffickers, and a victimhood approach to the trafficked, who become subjects of rescue and pity rather than agency-bearing individuals.

Prof. Chuang explains that the anti-trafficking movement is currently grappling with the choice between a criminalization approach or a broader strategy that would challenge global systems of exploitation. The corollary concern, of course, is that philanthrocapitalists have outsized power to influence this decision. Prof. Chuang identifies several problems with their dominance of the marketplace of ideas. First, philanthrocapitalists have deep faith and investment in the ability of markets to determine the effectiveness of social programs. In other words, they're using capitalist tools to fix the shortcomings of the capitalist system. Again, it seems that other philanthropies and state programs would fall into a variation of this critique; these actors are similarly unlikely to present radical challenges to "the current economic and political status quo of global capitalism." However, a starker difference arises from philanthrocapitalists' embrace of market-based tools; in particular, Prof. Chuang notes their embrace of quantifiable metrics to assess social programs. This approach, which risks essentializing the complexities of social problems, seems to present a difference in kind from the approaches of other philanthropists, who might encourage the use of metrics but not likely to the exclusion of other assessment methods. An even more concerning shift in kind is the concentration of power in the hands of a few individuals who may own or donate generously to media outlets. The core of Prof. Chuang's critique of philanthrocapitalism lies here in the consolidation of policymaking authority by a few powerful individuals who are able to effectively quell traditional avenues of criticism and accountability.

Prof. Chuang completes her analysis with a specific case study of the Walk Free Foundation (WFF), which exemplifies many of the concerns she raises earlier in the paper. WFF aims to "end modern slavery" through the use of indicators, namely its annual Global Slavery Index, to measure the problem; the coordination of funds via a public-private partnership; and the vehicle of corporations as change agents. While Prof. Chuang's critique of the use of ill-defined and unevenly applied indicators to set governance agendas was compelling, her concern about the abandonment of categories separately defined and regulated under international law in favor of the term "modern-day slavery" assumed a rationality to the law and its categories that this reader was less inclined to take at face value.

Otherwise, Prof. Chuang's concerns are borne out in concrete example. WFF seeks to criminalize the behavior of traffickers and encourage ethical corporate behavior but fails to even raise, let alone enforce, two crucial tools in protecting workers against exploitation: labor standards and inspections. Prof. Chuang also raises a broader point about development discourse: WFF assumes that as economic development increases, slavery will decrease, an approach that points the finger at the global South for the problem of trafficking while absolving the global North of responsibility for global economic inequality that makes migration a crucial economic strategy for the poor. She traces the disturbing muting of critical perspectives and lack of accountability with regard to the work of WFF, though her proffered counterexample, of Humanity United allowing NGOs to set the agenda, retained versions of these accountability and democratic legitimacy problems.

Prof. Chuang closes with a powerful critique of philanthrocapitalism: that needs are determined from the top down, with a preference for dramatic and quick results rather than long-term projects leading to sustainable systematic change. She has made a convincing case to support this argument, though many of her criticisms can also be levied, to a lesser degree, against traditional philanthropies and state-based governance and policymaking. The quest for bottom-up policymaking is noble and necessary, but the challenges of creating real democratic accountability in setting the anti-trafficking agenda remain substantial, as they do more broadly when it comes to global governance of migration.

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