Estate transmission and *post mortem* charitable giving in Australia

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This thesis is submitted in fulfilment of the requirements for the Degree of Doctor of Philosophy for the Faculty of Life and Social Sciences, Swinburne University of Technology

May 2010
Abstract

Bequeathing money or assets to others is a process that is common to many societies. Some of the transferring wealth may be appropriated by the state via taxation, and some may be donated to community and social good purposes. Despite their importance for individuals, families and for the society in which they take place, estate transfers and associated charitable giving practices have been largely overlooked in scholarly investigation.

This exploratory study uses previously unutilised sources to investigate patterns and influences of estate transmission and charitable giving in Australia. It captures and analyses a random sample of more than 10 per cent of the probate files processed in Victoria, Australia in 2006 (N = 1,729). In addition, interviews with 21 intermediaries (professional fundraisers and advisers) working in the field provide complementary qualitative insights into the context in which probate decisions take place.

My findings show that estate transmission decisions are anchored in the social and cultural milieu in which they are embedded. Australian estate transmission conventions are dominated by a hegemonic expectation for all or most of an estate to be bequeathed to immediate family members. This principle of familial primacy is articulated as “look after the family first”. In practice it operates to the exclusion of all but the family. In the first instance estates go to the surviving spouse. In the absence of a spouse, estates go to the children in equal share, and lifetime charitable giving practices are displaced and over-ridden. Australian will-makers without surviving children are ten times more likely to make a charitable gift from their estate.

This thesis contributes to an understanding of how estate transmission and charitable giving are not isolated and independent acts, but products of the complex interplay of the total social phenomena within which they take place. The focus on Australian data highlights the importance of specifically situating research into charitable giving in context and not assuming that research undertaken in one country can be assumed automatically or uncritically to be applicable in others.
Acknowledgements

I would like to thank the many people who have assisted me in the undertaking of this thesis. I am grateful to each of you.

Thank you in particular to my coordinating supervisor Professor Michael Gilding. I have appreciated your guidance and support throughout this project. Thanks also to the other members of my supervisory panel, Professor Karen Farquharson and Dr. Michael Liffman, for your encouragement and for sharing with me the insights of your experience.

Thank you to each of the people who agreed to be interviewed for this study. I was uniformly impressed by your openness and generosity in giving freely of your time and expertise. Thank you also to Michael Halpin, the Registrar of the Supreme Court of Victoria – Probate Office, for your support and that of your staff in facilitating my access to the probate data.

Thank you to all at the Asia-Pacific Centre for Social Investment and Philanthropy at Swinburne University of Technology for your ongoing support. I am particularly appreciative of the encouragement provided to me throughout my candidature by my co-committee members of the Swinburne Philanthropy Alumni. Thanks in particular to Stacey Alport, Rikki Andrews, Leslie Falkiner-Rose, Diana Kervin, Leigh Wallace and Alexandra Williamson. I also extend a special thank you to my post-graduate colleagues of the Gilding Group. Other individuals to whom I am grateful for both personal and professional support include Dr Janette Corcoran, Dr Toby Harfield, Helen Imber, Dr Kym Madden, Kelley McLendon and Denis Tracey. Thanks also to Annette Steere and all of the librarians at Swinburne whose assistance has been invaluable to me.

Special thanks to my friend and colleague Dr Dina Bowman, not only for your tireless work in constructively reviewing my many drafts, but especially for sharing with me the wisdom of your own experience and exhibiting such unstinting belief in my capacity to complete this task. I also owe a special thank you to my colleagues Sue Malta and Maren Rawlings. I have been
I am indebted to you for your friendship and your irreverence.

I have of course left the best to last. Thank you to my partner in life, Kerri Hall. Your love, your tolerance and your support have provided me the inspiration and the determination that have been so fundamental to completing this thesis.
Declaration

This thesis contains no material which has been accepted for the award to the candidate of any other degree or diploma, except where due reference is made in the text of the thesis.

To the best of my knowledge this thesis contains no material previously published or written by another person except where due reference is made in the text of the thesis.

Christopher Baker

May 2010
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Glossary

**Beneficiary**: a person or organisation benefiting under a will.

**Bequest**: a gift of property to a person or organisation in a will. In common usage the term bequest is used to include gifts of money. Consequently both bequest and legacy are generally understood to mean any gift in a will.

**Bequest officer**: a person employed, usually by a single charitable organisation, to generate *post mortem* charitable gifts.

**Charity**: in its broadest sense charity is the practice of benevolent giving.

**Charitable purpose**: a nonprofit purpose for the public good, including: the relief of poverty or sickness or the needs of the aged; the advancement of education; the advancement of religion; and other purposes beneficial to the community.

**Contingent bequest**: a gift under a will dependent upon a specified event occurring.

**Deductible Gift Recipient (DGR)**: an entity that is entitled to receive income tax deductible gifts under Australian law. All DGRs are endorsed by the Australian Taxation Office.

**Distribution**: a generic term for assets transferred from an estate to a beneficiary of a will.

**Elasticity**: a term used in economics as a measure of responsiveness to change.

**Estate**: the totality of a person’s assets (property, entitlements and obligations) at the time of death.
**Executor:** a person appointed by a will-maker to take charge of the deceased’s assets and property, see that debts, funeral and administration expenses and taxes are paid and to distribute the residual estate to beneficiaries in accordance with the will.

**Family provision:** the term used in Australia for provision made for family members in a will.

**Financial assets:** term used in financial services industry to describe assets that are potentially available for investment – financial assets exclude the family home, consumer durables and collectables.

**High Net Worth Individual (HNWI):** a term used in the wealth management industry to describe individuals with financial assets in excess of US$1 million.

**Inter vivos:** a Latin term meaning “during life” - used to refer to a transfer or gift made during a person’s lifetime.

**Intestate:** when a person dies without a valid will. The property of an intestate estate passes by the laws of succession rather than by the direction of the deceased.

**Investable Assets:** synonym for financial assets, above.

**Legacy:** a gift of money to a person or organisation in will. In common language the terms legacy and bequest are used interchangeably and generally understood to mean any gift in a will.

**Pecuniary legacy (bequest):** a fixed sum of money expressed as a gift in a will.
**Philanthropy:** Defined by Philanthropy Australia as: “The planned and structured giving of money, time, information, goods and services, influence and voice to improve the wellbeing of humanity and the community” (Bonyhady 2007). Term derived from the Ancient Greek *philanthrōpía*: love of mankind.

**Prescribed Private Fund (PPF):** a form of private charitable trust to which individuals and other Australian taxable entities can make tax deductible donations. PPFs can only make distributions to organisations designated as deductible gift recipients.

**Probate:** the process of proving and registering the last will of a deceased and granting of the right to its administration.

**Post mortem:** a Latin term meaning “after death” - used to refer to a transfer or gift made from a person’s will after his or her death.

**Residue of estate:** the possessions, property and money remaining after all debts and gifts are distributed in accordance with the will.

**Succession law:** the law relating to wills and estates.

**Testate:** when a person dies having made a valid will.

**Testamentary:** referring to a will.

**Ultra High Net Worth Individual (UHNWI):** a term used in the wealth management industry to describe individuals with investable assets in excess of US$30 million.

**Will:** a legal document expressing the intentions of a person for the distribution of their assets after death.

**Will-maker:** a person who makes a will.
Chapter One: Intergenerational Transfer of Private Wealth

Introduction

Bequeathing money or assets to others is a process that is common to many societies. While commonplace, the transfer of accumulated wealth has important effects for individuals, families and for society more broadly. At the micro level the bequest of wealth or the expectation of such a gift can contribute to family solidarity and conflict. At the macro level, given the highly unequal distribution of private wealth in society, the intergenerational transfer of private wealth is a primary means of replicating and sustaining social inequality. The redistributive role played by the bequest of private wealth and the capacity of bequests to contribute to the amelioration of inequality is one aspect of the intergenerational transfer of wealth that operates at both micro and macro levels. Depending on the national taxation regime, some portion of the wealth transferring from private estates may be captured by the state for public good. Some of the transferring wealth may be donated to community and social good purposes.

The popular perception is that most commonly, individuals transfer their estate to family members. Sometimes, individuals choose to gift their estate, or a portion of it, to charitable organisations and purposes. Within charitable circles and the not-for-profit sector more broadly in developed western nations the general expectation is that the demise of the “baby boomer” generation will result in a hefty boost in charitable bequest income which will contribute to “a golden age of philanthropy” (Havens & Schervish 1999). Whether this is a reasonable expectation is unclear. To the extent that bequest practices and associated discourses are culturally framed, it may be unwise to assume that research undertaken in one nation (for example, the United States) is transferable to others (for example, Australia). Nevertheless, the potential for
a surge in charitable bequest income seems likely because the first half of this century will see the demise of the majority of the demographic wave that resulted from the baby boom in Western societies following World War II. In the 24 high income countries of the Organization for Economic Cooperation and Development, many individuals have residual assets of monetary value (Davies et al. 2006) and an increasing number (Cap Gemini Merrill Lynch 2008) are faced with the question of what to do with the assets and the associated wealth they have accumulated throughout the course of their life. It may be that the level of wealth involved impacts on estate transmission decisions. What is clear is that decisions are made. Writing a will to state an individual’s intentions about beneficiaries makes estate transmission an inherently planned process.

As the German sociologist Jens Beckert has observed, despite the economic and social significance of bequest practices and the extent to which they are “closely interwoven with the normative fabric of society” (2008b: 521), the intergenerational transfer of private wealth has largely been ignored in recent sociological scholarship. The literature on inheritance is largely silent on the role played by the influence of national context over estate transmission practices. The estate transmission literature is largely silent on considerations of charitable giving. The literature on charitable giving tends to focus primarily on those gifts made during an individual’s lifetime: *inter vivos* giving. There has been comparatively little research undertaken in relation to charitable giving by way of bequests from the estates of deceased individuals: *post mortem* giving. There has been very little scholarly investigation into the extent of, and reasons for, any differences between *inter vivos* and *post mortem* charitable giving. This study contributes to filling some of the gaps in knowledge about intergenerational wealth transfers and *post mortem* charitable giving.
This study

In this study I adopt a sociological framework to explore contemporary intergenerational wealth transfer practices in Australia and the extent to which charitable giving is included in those transfers. In addition, in this study I investigate the ways in which social context informs estate transmission and post mortem charitable giving practices which prevail across a community. My research embraces the growing field of philanthropic studies and in doing so draws on research from a range of additional disciplines including economics, psychology and marketing.

In the conduct of this study I make use of the classic sociological concept of solidarity (Durkheim 1964; Weber 1978) and draw in particular upon the subsequent and seminal theoretical work Essai sur le don [The Gift] published by the French anthropologist Marcel Mauss in 1925 (Mauss 1990). From this platform I analyse and utilise aspects of more contemporary economic (Andreoni 1990; Clotfelter 2002) and social science theories relating to giving (Komter 1996a; Zelizer 1997) and to social cohesion and trust (including Coleman 1988; 1990; Fukuyama 1995, 1999; Putnam 2000; Sztompka 1999). From an analytical approach founded on Durkheim’s (1964) concept of "organic solidarity", Mauss observes that while in theory gifts and their exchange are voluntary, disinterested and spontaneous, they are in fact obligatory and self-interested (Mauss 1990: 1).

I use the foundational concepts of Mauss together with the framework provided by social cohesion and giving theories to investigate the extent to which estate transmission decisions are anchored in the social and cultural milieu in which they take place. I argue that social context plays a dynamic and interactive role in estate transmission decisions including charitable gifts. With reference in particular to Mauss’s observation that giving is not an isolated and independent act but a product of the complex interplay of the total social phenomena within which it takes place, this study explores the extent to which decisions in relation to how and where to give one’s estate are
governed by multiple complex interactions taking place in a particular social context. In this thesis I also examine differences in giving patterns in comparable countries (the United Kingdom, the United States and Australia) and I challenge the convenience of assuming that research conducted into estate transmission and charitable giving in one country is directly applicable in others. In particular, I seek to identify whether in Australia decisions to make or not make post mortem charitable distributions are subject to the influence of social phenomena which are particular in their composition or combination.

My study is based on both quantitative and qualitative data. The quantitative aspect is based on the analysis of empirical data gathered from over 10 per cent of the individual probate files processed in the State of Victoria, Australia in 2006 calendar year (some 1,800 files). The qualitative aspect is based on twenty one semi-structured interviews with professional intermediaries who work directly to secure bequest funds for charitable organisations (fundraisers) or who provide advice to individuals and families on estate planning and charitable giving matters (estate planning / financial advisers).

A strength of the probate data in my study is that it provides a picture of how the transmission of residual estates is given effect in practice. In this way it is more robust than survey data which captures the expressed views of living individuals in relation to their intent for the distribution of their estates, inclusive of charitable purposes. Intentions and actions are not always the same. Probate data reveals actions. A limitation of the probate data is that it provides no indication as to any inter vivos charitable giving by the individuals involved. While congruent with the probate data, the views and experience as expressed by the fundraisers and advisers provide far more nuanced insights into the picture revealed by the empirical, quantitative data alone. The accounts of the interviewees include insights from their experience as to the relationship between inter vivos and post mortem charitable giving.
My analysis of the probate data in this study also indicates that the principle of familial primacy in estate transmission and low levels of charitable giving from estates hold sway across the wealth spectrum. The probate data examined indicates that the wealthy in Australia are no more likely to make a charitable gift from their personal estates than their less wealthy counterparts. In circumstances where wealthy Australians do make a post mortem charitable gift, the probate data indicates they are no more generous than their less wealthy counterparts in terms of the proportion of the estate gifted charitably. Wealthy individuals however do not tend to hold all of their wealth within their personal estates, so probate data is limited in the insights it provides into post mortem charitable giving by the wealthy.

The views of professional intermediaries help provide qualitative insights to supplement the probate data. In this study I investigate the extent to which the interviewees share the perception that those individuals who do have wealth are likely to seek wealth management and related estate planning advice. I also specifically explore the views of the intermediaries on whether the taxation environment in Australia favours inter vivos over post mortem charitable giving, and whether those individuals who have both the propensity and the capacity to give are likely to be advised to make any intended charitable wealth transfers during their lifetime rather than from their estate on their death.

Across the wealth spectrum available data indicates that inter vivos charitable giving in Australia has been on the increase for many years (Giving Australia 2005; McGregor-Lowndes & Newton 2008). Data on post mortem charitable giving is far less readily available. The expressed experience of my interviewees highlights that for the majority of individuals, the decisions of estate transmission will involve the highest value transfers and the largest gifts they will ever have made. It is in this context in particular that my study investigates the importance of trust to post mortem charitable giving and explores the role of reciprocal obligation in the context of prevailing social norms.
My findings indicate that the materially different participation rates in *inter vivos* and *post mortem* charitable giving are influenced by the social context in which they take place. In this thesis I argue that in Australia the prevailing estate transmission norms and the practices of both fundraisers and advisers mitigate against charitable giving from personal estates. The quantitative data establishes the extent to which will-makers are overwhelmingly bequeathing their estates to direct family members. Fewer than five per cent of the examined estates (estates requiring probate) make any form of charitable distribution. For most of those who do give, the *post mortem* charitable gift is immaterial. This data underpins my argument that in contemporary Australian culture, the prevailing norms are such that in general, the equal distribution of residual assets to surviving children assumes an overriding valence in estate distribution decisions.

The insights provided by the interviewees in this study indicate that the obligation to “look after the family first” contributes to estates being earmarked with special social meaning (Zelizer 1997) and to an expectation that an individual’s residual estate goes to immediate family members. Where there is no surviving spouse the estate goes to the individual’s children in full and in equal share. The principle of familial primacy in estate transmission is so deeply embedded into the normative frameworks of Australian society, and so habituated (Fukuyama 1995) that it is taken for granted. The resultant hegemonic status of familial primacy in estate transmission is such that lifetime charitable giving practices are displaced and charitable giving from personal estates is curtailed.

In addition, the principle of familial primacy is so strong that Australian fundraising practice in large part concedes that the family will prevail in estate transmission. Fundraisers therefore tend to try and work around the principle and focus in particular on individuals without children, or seek out the exceptional individual who may not direct their entire estate to their family. In these practices, the fundraising profession acquiesces to, and in effect is
complicit in perpetuating familial primacy as an inhibitor of charitable giving from estates.

I have also found that the forces mitigating against post mortem charitable giving are further compounded by advisers, who work actively to encourage the rare clients who have a charitable propensity to do their giving inter vivos rather than from their estates. The contextual reasons which support this advice include the financial incentives of the tax system in favour of inter vivos giving and the relative protection from legal challenge that inter vivos gifts enjoy. Additionally, as financial advisers tend to be remunerated based on the value of the funds under their management, it is in the interests of the advisers for charitable funds to be directed into a facility where the funds under management are preserved and the advantage to the adviser is not lost. Given the structure of the taxation system in Australia, those advisers who support charitable giving by their clients actively advocate giving during the client’s lifetime rather than from their estate.

**The structure of this thesis**

In the second chapter of this thesis I provide background information that seeks to place in context my study of probate records and patterns of estate transmission and charitable giving. I provide a brief overview of the relevant aspects of probate law as it applies in the jurisdiction of my study. I also provide an overview of the history of inheritance tax in Australia and examine its significance for estate transmission. I conclude this context setting section by addressing key definitional issues and providing a glossary of key terms used in my dissertation.

In the third chapter I review relevant literature on estate transmission and post mortem charitable distributions. In the course of this review I explore theoretical and empirical contributions from a range of disciplines with a particular emphasis on those of sociology and neoclassical economics. The discipline of sociology provides insights from its platform for seeking to interpret human behaviour from the standpoint that individual actions are
significantly influenced by the interplay of social context, time and culture-specific social roles and institutions. I begin with a focus on the classical sociological concept of solidarity and its contribution to our understanding of society and how it operates. I investigate the role of giving in its broadest sense in contributing to social cohesion as a precursor to my review of the literature which more specifically deals with the giving of money. It is in this context that the discipline of neoclassical economics provides insights from the very different platform of seeking to interpret, understand and predict human behaviour from the standpoint that individuals act consistently from a “rational” perspective of self-interest such that all behaviour is invariably utility-maximising.

I focus in particular on the contributions of scholars to issues associated with the economics of charitable giving and on the key themes of intergenerational transfers, bequest motives and altruism. My review includes an interdisciplinary exploration of the literature on giving theory and research into giving to family, to charity and the influence of intermediaries. In the final section of this chapter I review giving in different social and cultural contexts and in doing so I include comparative giving data for the United Kingdom (UK), the United States (US) and Australia. I conclude my review of the literature with particular reference to the specifics of giving in Australia, before specifying the primary research questions to be addressed in this dissertation.

In the fourth chapter I describe the two research methods I use in this study to gather and analyse data in relation to estate transmission and post mortem charitable giving. The first is the analysis of empirical data accessed via court records relating to the transfer of ownership of assets from deceased estates: probate files. The second is the analysis of qualitative interviews with professional intermediaries in this field. Firstly I describe the quantitative component of my data gathering and analysis and then the qualitative component. In relation to both the probate data set and the interviews data set I detail how the sample was derived and the way in which the data was collected and analysed. I conclude the methodology chapter by examining the
relative strengths and limitations of the two methodologies and their combination.

In chapters five, six and seven I detail my findings. Chapter five details contemporary Australian patterns of estate transmission and *post mortem* charitable giving as revealed by analysis and interpretation of the probate data collected for this study. This analysis includes patterns revealed across a full data set (N = 1729) of probated estates and also across a smaller data set (N = 1232) of “final estates”: willed estates where there is not a surviving spouse. As probate data provides no insights into *inter vivos* giving, in chapters six and seven the views of intermediaries are analysed to provide qualitative insights into contemporary patterns. The views of professional fundraisers and those of professional estate planning and financial management advisers are drawn upon to identify their perspectives on key influences of estate transmission practices and the articulation between *inter vivos* and *post mortem* charitable giving.

In chapter eight I integrate the findings of my study and develop a set of broader conclusions. In this final chapter I address the limitations of this study, I consider areas for further, related research and I provide an evaluation of the contribution of this thesis.
Chapter Two: Key Contextual Issues

Introduction

In this chapter I supplement the Glossary (at page 1) with the provision of information on key background issues of direct relevance to this dissertation. As this dissertation includes a data set which makes use of probate to assess patterns of estate transmission and charitable giving, I supplement the short definition provided in the glossary with a brief overview of the relevant aspects of the processes of probate as they apply in the jurisdiction of this study. In Australia there are no inheritance taxes. This is unusual in the context of developed western nations so I provide an overview of the demise of inheritance tax in Australia and its significance for contemporary estate transmission and post mortem charitable giving. In addition, I provide an overview of a new form of private charitable trust introduced in Australia in 2001 and frequently referenced in the qualitative sections of this thesis: the Prescribed Private Fund or PPF. I conclude this context setting chapter by addressing what I mean by “charitable giving” in the study and discussion which follows.

Probate in Australia

In contemporary Australia, to give effect to a transfer of assets from the previous ownership of a deceased individual, an order is required under the auspices of the Supreme Court. There are some variations according to the state of operation. In Victoria, where an individual has left a will, the executor of that will needs to file an application to the Probate Office, the Supreme Court of Victoria to obtain a grant. A Grant of Probate is a court order confirming the validity of a will and that the Executors are authorised to deal with the assets of the estate (Law Institute of Victoria 2006). Individuals who do not make a will are said to have died intestate and an application can be filed with the Probate Office for a grant of administration in relation to the
distribution of the estate assets (Supreme Court Victoria (Administration and Probate) Rules 2004–2009).

Of the 5.13 million estimated resident population of the Australian State of Victoria in 2006, there were 33,311 deaths in 2006 (ABS 2008a). This rate of deaths was in line with the trend over the preceding five years. Based on historical precedent the Probate Office expected to receive applications over the course of the 2006 calendar year for a little fewer than half the number of deaths, in the vicinity of 16,500 applications for a grant to enable the transfer of ownership of personal assets. The reasons for this large difference as outlined by the Victorian Registrar of Probates (Michael Halpin\(^1\)) include: i) where assets are jointly owned (for example by husband and wife) on the death of one owner the jointly owned assets can be transferred to the other without requiring a grant of probate; ii) individuals may already have transferred assets prior to death into a trust or other entity; iii) in the case of individuals who die with little by way of assets (impecunious) small cash and other holdings can be transferred by the holding institutions, without need for a court order.

The value at or above which a grant of probate is required is not set by the statute or regulation. In practice it is for amounts above about $10,000 that asset holding institutions such as banks and share registries generally require a grant of probate. This is primarily about risk management as without a court order (a grant of probate) the asset holders cannot be certain that any will presented to them is the “last will” or that the terms of the will presented may not be contested. Correspondingly, in broad terms, low asset value estates overwhelmingly do not require or seek probate.

The details of individual estates and the associated grants of probate are maintained in individual files. Given that personal estates in Australia are not subject to inheritance taxes or estate duties, probate is more of an individual matter than one of general community interest. There are no databases at the

\(1\) Interview with Michael Halpin, Registrar of Probates, Supreme Court of Victoria, 5 July 2006
state or national level in which details of probate files are available for aggregated review or analysis.

**History of Probate in Australia**

Probate in Australia initially ceased to be an issue of any great public concern following the abolition in the late 1970’s of the regime of death and gift duties which had been operational throughout the nation (Gans & Leigh 2006: 2; Smith 1993: 78-81). Up until that time the Australian Commonwealth Government and the state governments in Australia had levied taxes on the estates of deceased individuals. State tax was levied by the government of the state in which the deceased was living at the time of his or her death. While there were variations in approaches to calculation and to application in different states, in general the tax was applied to all real and personal property within the state and on personal property located outside the state. Some states made allowances for taxes paid in other states and some concessions were made for estates passing to immediate family members. Gift Duties were levied by the individual states, largely through Stamp Duties, in an effort to prevent avoidance of death duties.

The Commonwealth Inheritance Tax involved a straightforward levying of tax on the net value of all the Australian assets of an estate, at a progressive rate to a maximum of 27.9 per cent, which applied to estates worth one million dollars or more in 1979. The tax was payable less state death taxes paid or payable (Murdoch University 1994: 2-3). Following the death of his brother, Justice Negus of the Western Australian Supreme court, Sydney Negus in attending to his own affairs was outraged that probate duties had a serious impact on property left to a widow. The campaign to end death duties began in earnest in 1970 when Sydney Negus was elected to the upper house of the Federal parliament of Australia with the singular and express intent of ridding Australia of probate duties.

Johannes Bjelke Peterson, then Premier of Queensland, took the first legislative steps with the exemption of spouses in 1975 from internal transfer
charges, followed in 1977 by the abolition in Queensland of all inheritance and gift duties (Pedrick 1981). As removal of inheritance duties in one state could make it advantageous for the holders of private wealth to die in that jurisdiction, the other state governments moved quickly to also abolish inheritance and gift duties in order to avoid the potential for a wealth drain. While the rationale for removing inheritance duties at the national level was less clear, the Commonwealth Government followed the states and introduced legislation abolishing Commonwealth inheritance taxes in June 1978.

The inheritance tax rates and thresholds in Australia had remained largely unchanged from 1941 to 1979, with the effect that inflation had substantially reduced the real value of the thresholds. Nevertheless, the abolition of inheritance taxes in Australia was not phased, but immediate and absolute (Gans & Leigh 2006). In her comprehensive overview of the “death of death taxes” Julie Smith (1993) includes a scathing observation by Professor John Head on the Commonwealth Government’s decision to follow the state governments in abolishing inheritance related taxes:

> The states admittedly can plead that they were forced to this course by the pressures of interstate tax competition. The Commonwealth decision ... to follow the states’ example and abolish the federal estate tax, remains, however, totally incomprehensible, shortsighted and irresponsible.  (Head, JG 1983 “Taxation Issues of the 1980s” cited in Smith 1993: 79)

In the era of death duties their application acted as a significant incentive for wealthy individuals during their lifetimes or subsequently for their executors to seek to disguise or minimise the value of their personal estate (Rubinstein 1979: 33). While the demise of inheritance taxes removed that particular incentive, it remains common practice in Australia for wealthy individuals and households to move assets out from under their personal ownership and into alternative entities such as company structures or discretionary trusts.
In a contemporary development in Australia, a broad recommendation was made by the “Henry Review” (a broad ranging review of Australia’s taxation system undertaken by the Treasury Secretary, Ken Henry) that “the Government should promote further study and community discussion of the options” on “the possible introduction of a tax on bequests” (Henry 2009: 86). Even with this non-prescriptive wording, the recommendation that consideration be given to a bequest tax was one of the very few recommendations of the Henry Review rejected outright by the Australian Government on the release of its response to the Review in May 2010.

Prescribed Private Funds (PPFs)

One of the options in Australia for asset transfer prior to death is a charitable trust. In order to encourage more private philanthropy, in 2001 the Australian Government introduced a simplified form of a tax effective charitable trust: a Prescribed Private Fund or PPF. Given the success of these structures and the significance given to them in the interviews conducted for this study, background information on Prescribed Private Funds is included here to provide necessary context. New guidelines for these structures came into effect in October 2009, along with a name change to private ancillary funds (Australian Taxation Office 2009b). All references in this dissertation are to Prescribed Private Funds and governing regulations are as they applied in 2006 and 2007 when the data gathering for this study was being undertaken.

Prescribed Private Funds are a specific form of private charitable trust. They are not required to seek funds from the public or to be controlled by a committee. Applications to establish a PPF must be individually approved by the Australian Taxation Office (ATO). The ATO defines a Prescribed Private Fund (PPF) as “a trust to which businesses, families and individuals can make tax deductible donations … (and) may make distributions only to other deductible gift recipients” (ATO 2009a). The restrictions of a PPF are therefore both real and permanent, as any and all distributions from a PPF can only be
made to organisations which have been endorsed by the ATO as a Deductible Gift Recipient able to receive tax deductible donations.

Funds gifted to a PPF cannot be reclaimed or returned. Once funds have been gifted, neither the capital nor its earnings can be distributed to the donors, to their family members or to any other individuals. In broad terms, regulations developed on the introduction of Prescribed Private Funds require the annual distribution of all of the investment income of a PPF, with the exception that an amount may be retained to maintain the real capital value of a fund in line with inflation (ATO 2004b). Unrealised capital gains are not required to be distributed.

Under a research Memorandum of Understanding between the Australian Taxation Office and the Australian Centre for Philanthropy and Nonprofit Studies (CPNS) at Queensland University of Technology, CPNS conducts regular analysis of Prescribed Private Funds (CPNS 2008). The analysis covering the period up to and including 30 June 2008 demonstrates that the growth in PPFs has been considerable. At 30 June 2001 there were 22 Prescribed Private Funds. Seven years later, at 30 June 2008 that number had increased to 769 and the total donated to PPFs had exceeded $1.2 billion. The amount distributed to eligible bodies (deductible gift recipients under taxation law) in the financial year ending 30 June 2007 was one hundred and seventeen million dollars (CPNS 2008).

While the Closing Value of the funds which make up the aggregate corpus of PPFs has fluctuated in line with the market value of the assets they hold, the volume of actual dollars gifted has continued to rise on an annual basis (refer Figure 2.1).
On the strength of these numbers it is apparent that for those who have a propensity to make tax deductible charitable contributions in Australia, in the seven years to June 2008 the Prescribed Private Fund had proved to be a popular vehicle. It is not possible to tell from the available data if the funds flowing into PPFs are simply a redirection of funds which would otherwise have been gifted elsewhere (for example directly to beneficiary organisations) or if the significant inflow of capital involves additional charitable funds; funds which would not have been gifted but for the facility of the PPF.

In addition, data on private wealth in Australia is required to give some context to the 769 funds and the total gifted of over $1.2 billion. The *World Wealth Report 2008* (Cap Gemini Merrill Lynch 2008) found that in 2007 there were 172,000 Australians with one million dollars or more in financial assets (excluding the family home, consumer durables and collectables). Between them these 172,000 wealthy Australians held combined financial assets to the value of $137 billion. On this basis, in the seven years to June 2008 nearly 1 per cent of the total wealth of Australia’s most wealthy was gifted directly to PPFs.
**Definition of charitable giving**

In this study I explore *post mortem* charitable giving in the context of estate transmission. My focus therefore is on *post mortem* gifts from the supply side, as a source of charitable funds. This study does not seek to address the very important issues of the demand side or how, where and the effectiveness with which such funds are employed.

There is little scholarly debate which seeks to give specificity to the meaning of charitable giving. Where there are debates, they focus more on issues such as the most effective use of gifted funds (Anheier & Leat 2002; Frumkin 2006; Payton 1988) and the importance of recognising that even if "a new ‘golden age’ of giving is in the offing … more than vast amounts of money are needed to succeed in truly doing good" (Lenkowsky 2007: 51). The problematic nature of giving data (Hall 2001; Roodman & Standley 2006) and the additional complexities of seeking to compare giving data internationally (Madden & Scaife 2008a; Pharoah 2006; Salamon & Anheier 1996) are also issues which attract definitional debate. Indeed, the difficulties of comparing giving in different countries are acknowledged as not simply confined to methodological differences in how the data is gathered. As a result of cultural, fiscal, economic, social and attitudinal differences, the very meaning attached to charitable giving is not the same in every country (Pharoah 2006: 8). In the majority of the literature reviewed in this thesis, however, there is surprisingly little attention paid to defining “giving” or “charitable giving”; presumably on the basis that the meaning of these terms is broadly understood or made clear by the context in which the terms are used.

Some definitional guidance is however provided by economic scholars who either restrict their analysis to gifts which comply with what is deemed charitable under the relevant tax regime or otherwise broaden the measure to that of giving to community organisations (Andreoni 1990; Clotfelter 2002). What constitutes such organisations has been well described by Lester Salamon and colleagues in their overview of Global Civil Society as part of the Johns Hopkins Comparative Nonprofit Sector Project:
Recent years have witnessed a considerable surge of interest throughout the world in the broad range of institutions that occupy the social space between the market and the state. Known variously as the “nonprofit,” the “voluntary,” the “civil society,” the “third,” the “social economy,” the “NGO,” or the “charitable” sector, this set of institutions includes within it a sometimes bewildering array of entities — hospitals, universities, social clubs, professional organizations, day care centers, grassroots development organizations, health clinics, environmental groups, family counselling agencies, self-help groups, religious congregations, sports clubs, job training centers, human rights organizations, community associations, soup kitchens, homeless shelters, and many more. (Salamon, Sokolowski & List 2003: 1)

In Australia while many of the terms identified above are both used and understood, the sector tends to be described most generally as the “nonprofit” sector. The term “nonprofit” was favoured in the Giving Australia (2005) report commissioned by the Australian Government and covering the most comprehensive research yet undertaken into giving in Australia. In addressing monetary giving, the Giving Australia report captured survey data on donations to organisations which included but were not confined to those which meet the taxation regime specifications for tax-deductibility.

For the purposes of this dissertation I define “charitable giving” as all monetary giving to nonprofit organisations for public good. With this broad definition, charitable giving includes all gifts eligible for tax deductions but is not confined to only those gifts. Charitable giving is used to include all monetary giving directed to the amelioration of suffering and disadvantage as well as to addressing the underlying causes of these issues and of building social infrastructure. It includes giving money directed to improving the quality of life of individuals, groups and societies and more broadly to improving the well being of humanity. It includes giving that is reactive to particular events or campaigns as well as giving that is planned and structured. This definition
therefore incorporates those of philanthropy and of charity, inclusive of differing cultural definitions (Wright 2002). This definition provides a reasonable basis for comparison to other studies which address charitable giving.
Chapter Three: Giving and Society

Social cohesion and giving

One of the greatest contributions to our understanding of society and how it operates is found in the classical sociological concept of solidarity. Indeed, the contemporary German sociologist Jens Beckert (2007, 2008a) argues that the theoretical contribution resulting from the considerable intellectual capabilities of classical sociologists to the big questions of the social and economic transformations of their time has been unsurpassed to this day. The concept of solidarity is one of the foundational theoretical frameworks for seeking to understand the ways in which people come together in groups and behave in accord with the collective interests of the group.

Two of the seminal thinkers and writers on the theory of solidarity are Émile Durkheim (1858–1917) and Max Weber (1864-1920). Durkheim (1964) emphasised the fundamental importance of social systems and solidarity to achieving effective social cohesion. In his analytical focus on the division of labour arising from the Industrial Revolution, Durkheim conceptualised two distinct forms of solidarity that guide and control the behaviour of individuals. He argued that in pre-industrial society the relative homogeneity of societies devoid of divisions of labour gave rise to a binding together by way of shared beliefs, values and roles. Durkheim described this culturally driven interdependency as “mechanical solidarity” and argued this source provides little scope for individuality or for deviance from strongly enforced norms. The second source of solidarity identified by Durkheim is one based on difference rather than uniformity. Durkheim used the analogy of the body to describe “organic solidarity”. Just as the parts of a body perform a specialised role yet have to work together for the functioning of the whole, with the division of labour individuals become increasingly specialised in the functions they
perform and are dependent on collective co-ordination for society to function effectively as a whole.

Durkheim argued that this structural interdependence in complex society requires the development of guides and controls of conduct that are external to the individual. The “contract” of organic solidarity into which members of society enter provides for greater individuality than mechanical solidarity while still providing for the interests of the collective to be maintained. Durkheim contended that solidarity, by way of cultural and structural ties in particular, is a precondition for the effective functioning of social systems. He also argued that the rules associated with solidarity are not necessarily experienced by individuals as limiting or oppressive but that the processes of socialisation and education enable the rules of the collective to become internalised in the consciousness of individual members. As such the rules of the collective are accepted as moral obligations.

The obligations to and within the family are particularly powerful and are manifest in expectations of estate transmission. Indeed Durkheim observed: “we are all so well conditioned, so accustomed to it, that the prospect of hereditarily transmitting the fruits of our labour has become the preeminent force behind our activity” (Durkheim 1978: S.236). For Durkheim the expectations and obligations of intergenerational transfers within the family have an exceptional force which markedly influences both individual actors and the functioning of society as a whole.

While Durkheim addressed solidarity in socio-structural terms, Max Weber analysed the issue of solidarity from the perspective of individual human actors. While distinguishing between two “types of solidary social relations” (1947: 136), communal and associative, Weber contends that the two forms of solidarity can co-exist. He uses family relationships to illustrate the way in which the sense of belonging (communal solidarity) of family members can be accompanied by negotiated agreement on how best to meet individual needs and those of the family as a whole (associative solidarity). Like Durkheim,
Weber also made specific comment on the long standing and powerful obligations of inheritance traditions, noting that inheritance remains a key means of transmitting both social and economic rights based on a legally recognised family relationship, such that inheritance generally occurs “independently of the concerned individual’s own conduct” (Weber 1978: 669).

While addressing solidarity from very different perspectives, both Durkheim and Weber presented solidarity as an objective and necessary condition for the effective functioning of a social system (van Oorschot & Komter 1998). Both characterised the sources of solidarity as shared identity and shared utility, and of particular relevance to this dissertation, both made observations about the strength of expectations and obligations that are intrinsic to the practices of intra-familial inheritance.

**Why we reciprocate**

In 1925 Durkheim’s nephew and student, Marcel Mauss, produced a seminal exploration of the phenomenon of gift giving and its role in the effective functioning of social systems: *Essai sur le don* [The Gift]. Mauss not only based his own analysis on the theoretical frameworks developed by Durkheim for understanding social cohesion through the concept of solidarity, he advanced them to another level. As Mary Douglas notes on the first page of the foreword to the 1990 English translation of *The Gift*, according to Mauss “(a) gift that does nothing to enhance solidarity is a contradiction” (1990: vii). Douglas further notes that like Durkheim, Mauss also considered that serious theoretical work should always bear on public policy and its ability to enhance the effectiveness of society: “The theory of the gift is a theory of human solidarity” (1990: x).

Durkheim had articulated his view that the effective functioning of a social system is dependent on the extent to which it allows individual interests to be addressed. In *The Gift* Mauss identified and articulated gift exchange as a mechanism for achieving such integration of individual interests with effective social order. For Mauss, the process of the gift exchange incorporates the
means for individuals to act in their own interests and to give form to individual expression while complying with the dictates of social solidarity.

Specifically, Mauss argues that solidarity is achieved through the social bonds created by gift exchange. He details the ways in which gifts are “‘total’ social phenomena” which are governed by the complex interaction of societal norms and obligations (1990: 76). As in pre-industrial societies, so too in more diverse and complex industrial societies, giving is not an isolated and independent act but part of the interconnected interpersonal and institutional phenomena of the social context in which it takes place. The “spirit” of the gift and what it symbolises is more important than the content of the gift itself. The foundational nature of Mauss’s work is evident in his distinguishing three separate and interrelated obligations that come into play under certain circumstances: giving (essential to the creation and maintenance of social relationships); receiving (consummation of the social bond); and reciprocating (demonstration of the receiver’s own honour).

An important concept for Mauss is that the gift and the giver are never completely separated and because “to give something is to give a part of oneself” (Mauss 1990: 10); indivisibility is fundamental to the creation of reciprocal obligation. Mauss argues that “free gifts” do not exist and that the expectation, conscious or unconscious, of a return is integral to the process of all gift exchange. Mauss adopts the Roman expression do ut des (I give that you may give) to describe the principle that underpins gift exchange. His concept of giving is highly nuanced and he argues that the process of gift exchange is a subtle combination of both altruism and selfishness. Moreover, Mauss articulates the process as dynamic, such that the nature of the motivational mix varies with the individuals involved in the exchange, the time and place in which it takes place, as well as the prevailing economic and social context. As Mark Osteen (2002) observes in the introduction to his edited collection of cross-disciplinary essays on the gift, many have failed to grasp the significance of Mauss’ insight and have sought to explain away giving as
simply self-serving or to romanticise giving as some form of pure altruistic behaviour.

The Gift and its theoretical insights into the significant role played by giving, receiving and reciprocating in securing social cohesion has had varied and profound impacts on social theory and investigation. The American sociologists Sahlins (1972) and Gouldner (Gouldner 1973a, b) both emphasise the unique power of culture to motivate individuals over and above the influences of biology and the pivotal role played by giving and reciprocating. Both use gift exchange within families to exemplify Mauss’s notion of giving as a combination of altruism and selfishness. While based on love and affection, giving within families is accompanied by a reasonable expectation that it increases the strength of personal ties and creates a degree of obligation, though within families reciprocating is not expected to be either immediate or equivalent.

The notion of obligation and the potential for its absence has also received considerable theoretical focus. Both Jacques Derrida and Pierre Bourdieu, for example, have engaged conceptually the theory of a “free gift”, concluding that a gift unencumbered with obligation, is not an enactable possibility. Derrida (1992) argues that in the very process of giving one enters into a circle of exchange that renders the gift into a debt, irrespective of stated intent. Bourdieu (1997) contends that gift practices require a series of unspoken calculations: “the giver’s undeclared calculation has to reckon with the receiver’s undeclared calculation” (1997: 204). In addition to unspoken calculations Bourdieu argues that temporal deferral is critical to the social practice of gift exchange as the deferral of repayment allows the participants to “forget” the resultant obligation, temporarily. Bourdieu describes forgetting in this way as "misrecognition" of the social rules which govern the act of reciprocity.

While Bourdieu’s concept of temporal deferral provides a framework for understanding some of the complexities of giving, the argument that
participants in effective social practice “misrecognise” the rules and in so doing enable themselves to function effectively, would appear to be a non sequitur. The very process of doing a calculation that involves the establishment of obligation or its acquittal involves an understanding of the underlying rules, whether or not those rules are spoken. The exchange of gifts takes place in context and whether or not the rules are consciously articulated, obligations are established through the processes of giving, receiving and reciprocating.

Mauss’s three obligations are also played out in the Bourdieuan concepts of capital: symbolic, cultural, social as well as economic. Participating in the socially and institutionally framed processes of giving, receiving and reciprocating constitutes a primary means of capital procurement and protection. Nevertheless Bourdieu rejects Mauss’s approach as subjectivist and argues that the temporal structure of gift exchanges makes them delusory and counterfeit, “a fake circulation of fake coin” (1977: 6), in that time renders all gift exchanges a process of bargaining rather than of what Bourdieu would consider genuine giving and receiving. So while Bourdieu’s conflictual construction of the gift exchange is presented as being at odds with Mauss’s model, in my view Bourdieu’s focus on power relations is not in substantive opposition to Mauss’s model. The three obligations (giving, receiving and reciprocating) do not rely on a concept of gift exchange as “pure” or unencumbered by the desire to secure personal advantage. To the contrary, the very notion of gift at the heart of Mauss’s model is the practice of exchange and the consequential interplay of individuals and their motivations, along with the dictates of their cultural and institutional settings in and over time.

The insights Mauss developed in the 1920s were derived from his analyses of practices and behaviours in a range of pre-industrial societies and articulated as principles applicable to more complex societies. Mauss’ use of inverted commas around the adjective ‘total’, in “‘total’ social phenomena”, serves to highlight the interconnected and interdependent nature of complex social phenomena that he described as simultaneously legal, economic, religious,
aesthetic, and morphological (1990: 76). A more recent manifestation of aspects of this theoretical framework and with a clear line of sight back to the fundamental principles developed by Durkheim and Webber is that of social capital.

There are different ways of looking at social capital and considerable variation in definitions depending on the discipline and context in which it is used (Adler & Kwon 2002). For the purposes of this review my use of social capital is as summarised by Portes (1998: 6): “the ability of actors to secure benefits by virtue of membership in social networks or other social structures”. The significance of social capital to this thesis is in the importance placed by its theorists on the contribution of interaction, interpersonal bonds and related reciprocal obligations to the effective functioning of families, groups and societies.

For many of the major contributors to the development of social capital theory, there are strong themes consistent with the classic sociological concept of solidarity and with the Maussian obligations of giving, receiving and reciprocating. Bourdieu characterised social capital as “made up of social obligations” (1986: 243) and Coleman (1988) identified obligations, expectations, and trustworthiness of structures as key aspects of social capital. While adopting a theoretical stance that is largely grounded in rational actor theory, Coleman emphasised the significance of interdependencies to human behaviour and the related bonds of interpersonal relations, especially within families. These bonds are reinforced by the ties of obligation and trust that those obligations will either be fulfilled or met with sanctions. Putnam similarly surmises that the “theory of social capital presumes that, generally speaking, the more we connect with other people, the more we trust them, and vice versa” (1995: 665).

In Bowling Alone Putnam defines social capital as “connections among individuals – social networking and the norms of reciprocity and trustworthiness that arise from them” (2000: 19). Social interactions generate
and reinforce the systems of mutual obligation and trust that are critical to the effective functioning of society. Putnam differentiates between generalised and specific obligations and uses personal statements to exemplify his intuitive use of the terms. Putnam (2000: 20/21) cites “I’ll do this for you if you do that for me” as an example of association that can give rise to specific reciprocal obligation. “I’ll do this for you without expecting anything specific back from you, in the confident expectation that someone else will do something for me down the road” is his example of generalised reciprocal obligation.

In a contemporary manifestation of classic sociological concepts of solidarity, the theory of social capital contends that the establishment of interpersonal relationships functions to increase the likelihood of reciprocal obligations being honoured (Coleman 1988; Putnam 2000) and therefore to further build trust and to strengthen the effectiveness of those obligations (Fukuyama 1999, 1995; Sztompka 1999): a virtuous and self-reinforcing cycle of association, reciprocity and trust. Fukuyama (1995) contends that shared moral values form the basis of normative behaviour which becomes habituated in the collective. The connection to Durkheim is clear even though it is not specifically articulated. As previously referenced, Durkheim commented directly on the strength of habituated norms in relation to hereditary inheritance practices, and on the long standing nature of the associated societal norms and expectations (Durkheim 1978: S.236).

**Giving money**

The broad sociological understandings I have reviewed thus far provide insight into the importance to social cohesion of what Mauss conceptualised as the obligations of giving, receiving and reciprocity. The importance of relationships, trust and reciprocal obligations to the effective functioning of families, groups and society provides the theoretical foundations relevant to this study. It is now appropriate to explore theoretical contributions as they relate more specifically to giving by individuals on their demise. As the primary charitable giving focus of this study is giving from individual estates, I
look next at the insights provided by giving theory; then at monetary giving to family and to charitable purposes; and finally at the influence of fundraisers and financial/estate advisers on the patterns which have been observed.

**Giving Theory**

Research on gift giving *per se* provides some valuable context for the consideration of monetary giving by way of estate transmission and of charitable giving. (For comprehensive overview and analysis of gift theory see Komter 1996a; Osteen 2002). While the significance of gift giving was initially brought into theoretical focus at the start of the twentieth century (Malinowski 1922; Mauss 1990; Simmel 1950), the meanings and functions of gift giving and the contribution of gift exchange to the stabilisation of collectives and societies has continued to be an issue of sociological and anthropological focus (Blau 1964; Godbout 1998; Gouldner 1960; Lévi-Strauss 1996).

The Dutch sociologist Aafke Komter (1996b, c, 2007) has been significant in contemporary research in the general phenomena of gift giving and exchange. Komter (1996c) identifies two conceptualisations of gift giving. The first draws on a functionalist model which Komter describes as “moral cement”, where the emphasis is on the strengthening of ties through gift giving, as exemplified by Simmel (1950) and Gouldner (1960). The second draws on a conflictual model with an emphasis on gift giving as a means of exercising power or influence so as to create what Komter describes as the “balance of debt” (Blau 1964; Collins & Hickman 1991). Collins and Hickman (1991) adopt a conceptualisation of giving based on the relations of power in formulating their argument that in societies not dominated by a single religion, participation in charitable activities constitutes the primary means by which individuals can legitimate their status.

Komter herself works from the functionalist “moral cement” model in arguing that gift exchange is fundamental to both the maintenance and the establishment of social relations. In her study of gift giving in the Netherlands Komter (1996b, c) finds little to support the hopes of those who would see
gift-giving as a potential path to redistribution and a caring society. Komter argues that the lack of active networks by those in poor social situations (such as unemployed) tend to establish a spiralling pattern of less participation in gift exchange and fewer opportunities to establish mutual obligations and feelings of what Simmel (1950) described in 1908 as “faithfulness and gratitude”. Komter and Vollebergh (1997: 756) find that gift giving to immediate family members continues to play an important role where it is not only based on feelings of affection but also stems from feelings of moral obligation.

In her 2007 exploration of giving literature Komter concludes:

there is not one general, unequivocal and non-ambiguous sense in which to understand the gift ... The moral meaning of the gift depends on the nature of the social relationship within which it is given, and on the conscious and unconscious purposes and motives of those involved in that relationship (Komter 2007: 104)

Embedded in notions of the “moral meaning” of gifts and of “conscious and unconscious motives” is that meaning and motivations may themselves vary according to the specific nature of the gift.

As the focus of this dissertation is on gifts from estates and on charitable bequests, both of which are generally considered as monetary gifts, theoretical explorations of the meaning of money provide additional insight into these gift practices in particular. There are some insights to be found in both classical and contemporary sociological thinking. The beginnings of the debate around a theory of the meaning of money that extends beyond its conceptualisation as a commodity of exchange are evident in 1907 when in The Philosophy of Money Simmel (2004) sought to explore the philosophical, psychological and social aspects of money. From his fundamental theoretical position that all aspects of society can only be understood in terms of how they interconnect with society in its totality, Simmel argued that money too must be conceptualised and analysed in terms of the total social framework within which it is located. In 1951 the American sociologist Talcott Parsons (1991)
identified that one of the key functions of money is to operate as a symbolic language through which broad social norms and commitments are communicated. Parsons’ perspective, however, confined the symbolic meaning of money to the realms of economic function and the operation of markets.

In a distinct separation from the neoclassical economic conceptualisation of money as neutral, contemporary sociological theorists (see for example Singh 1997, 2001; Zelizer 1997, 2008) contend that "(M)oney shapes, and is shaped by, social relations and cultural values" (Singh 2001: 29). In *The Social Meaning of Money* the American economic sociologist Viviana Zelizer (1997) argues that far from being a neutral currency of exchange, money itself is deeply and intrinsically imbued with social meaning. She uses the process of the “earmarking” of money to exemplify how different kinds of money are shaped by cultural and social factors. A sum of money provided by a favourite relative as a wedding gift is “earmarked”, considered, valued and expended by an individual in a very different way to the same sum of money acquired through regular earnings. For Zelizer "earmarking" money:

is one of the ways in which people make sense of their complicated and sometimes chaotic social ties, bringing different meanings to their varied exchanges … people segregate, differentiate, label, decorate, and personalize it to meet their complex social needs (Zelizer 1997: 215-216)

In a study into the way in which couples manage their finances, the Australian sociologist Supriya Singh (1997) found that the common-place practice of married couples having joint bank accounts is laden with meaning. For the couples, their treatment of money is symbolic of their commitment to equality, sharing and investment in mutual benefit. Singh and her colleague Jo Lindsay establish the dynamic interaction between money, intimate relations and prevailing social values and points to the ways in which changes to the meaning of “marriage money” are evolving along with changes in ideologies
about marriage and greater financial independence amongst cohabitating heterosexual couples (Singh & Lindsay 1996).

Similarly, Zelizer (1997) argues that the social meaning of money is not only about the processes by which money is defined and understood, but also the processes by which the meaning of money constructs various family acts and situations and loads them with meaning. She demonstrates how people spend considerable time and effort making qualitative distinctions between different social relationships, including their most intimate relationships, by way of symbols, rituals, and social practices. The concept of the “earmarking” of money has the potential as a theoretical framework for understanding ways in which estates (and their associated economic value) might be differentially considered, especially by family members. In this context it is also of value to consider Zelizer’s (2000, 2008) insights into how the legal system (in the United States) changes in its interpretations and application over time in line with shifting values in the society. She describes how the legal system is itself socially embedded. As such, a legal system is both influential over and responsive to the dynamic interaction of cultural and economic factors at play in a particular society. The legal system actively contributes to the framing of social meaning attributed to family, to various kinds of social relationships and to the attendant obligations of giving, receiving and reciprocating.

The work of Simmel (2004), Singh (Singh 1997, 2001) and Zelizer (1997, 2000, 2008) serves to debunk the traditional, rationalist conception of money as neutral and impersonal. The meaning of money and the way in which it is used is shaped by social and cultural contexts. The constructed nature of perceptions and expectations of intimate relationships are framed by prevailing social conventions. A logical extension of these considerable insights is that money in its different “earmarked” forms can itself be used as a medium for influencing family relationships and practices (Nyman 2003), especially in and around those forms of money which are the most emotionally charged. In her explorations to date, Zelizer has not specifically addressed the way in which the social meaning of money within intimate, family relationships impacts on
the “earmarking” of residual estates. This is a surprising omission given that in consideration of money and families, the family estate must be one of the most emotionally charged of all. The closest that Zelizer comes to addressing this issue is by way of identifying the extent to which state controls over inheritance and intergenerational transfers affect the quality of relations within families as an area of further enquiry (2000: 843).

**Giving to Family**

Economic research into individuals’ preferences for consumption and saving over the course of their lifetimes provides empirical insight into this form of monetary giving, within families. Of relevance to this study is that the standard life-cycle model (Friedman 1957) predicts that at a point in time an individual’s wealth begins to decline (as a result of reduced income and/or increased expenditure) and continues to decline through to the point of death. This is in part contributed to by *inter vivos* (during life) transfers from parents to children for what economist Gary Becker (1993; 1991) identified as altruistic motivations: in the interests of the beneficiaries.

The importance of bequests as a major mechanism of intergenerational transfers, and of the “bequest motive” as a potential influence over the life-cycle model, has been a significant focus of economic research since the early 1980s when Laurence Kotlikoff and Lawrence Summers (1981) found that bequests played a significant role in household wealth formulation in the United States. These findings challenged the typical “hump” shape model of life-cycle savings and spawned further investigations into consumption and savings behaviours with regard to whether estate transfers are a direct result of specific intent to leave a bequest to children and/or other beneficiaries.

The findings in relation to intergenerational wealth transfers have been varied (Kohli 2004) and made difficult by the lack of reliable and comparable wealth data (Masson & Pestieau 1997). Some have found little (Villanueva 2005) or no evidence (Hurd 1987, 1989) to support a specific desire by individuals to leave residual wealth: a bequest motive. Based on analysis of US panel data,
Hurd (1987, 1989) found that in practice people with children spend down their wealth more quickly than those without children. The findings of Michael Hurd (1989) are in line with those of others (Davies 1981; Friedman & Warshawsky 1990) in support of the contention that most bequests are not the result of any motive but are in practice accidental. Accidental residual wealth is influenced by uncertainty about when death will occur or as a result of the inability of the wealthy to spend down quickly enough given that "time constraints prevent the very wealthy from consuming even the interest from their wealth" (Hurd 1987: 308).

More recent analysis of the same US panel data (Kopczuk & Lupton 2007) led to a contrary finding that the presence and magnitude of a bequest motive is statistically significant. Wojciech Kopczuk and Joseph Lupton analysed the data against three broad categories of underlying bequest motive: 1) “egoistic motive”, encompassing the desire to have a positive net wealth at death; 2) “altruistic motive”, generated by the desire for utility of beneficiaries; and 3) “strategic motive”, generated by the desire to influence the behaviour of the beneficiary. While Kopczuk and Luton “find little evidence to support either the altruistic or strategic bequest motives” (2007: 231) they do find evidence of the egoistic motive for some 75 per cent of the elderly, single households. Kopczuk and Lupton (2007), Hurd (1989) and Levine (2004) all find the presence of children to be a poor indicator of the preference for leaving a bequest. Others (De Nardi 2004; Zhang & Zhang 2001) have also found positive impacts on savings and the bequest motive, with Junsen Zhang and Junxi Zhang (2001) finding what they described as the “joy of giving” motive (a variation on “egoistic” motive) to be more influential than altruistic and strategic motives.

In the context of this dissertation these findings are important. Having children has been found in the economic literature not to be significant in motivating people to ensure residual assets at their death. These findings however provide no insight into how people might then distribute what does remain. It may be tempting to assume that because the presence of children
is not a motivator, then children are unlikely to be the primary beneficiaries of what is available in a deceased estate. There is however no basis from the studies discussed above to support such an assumption. It may be that the greater influence of egoistic motives, inclusive of the joy of giving, suggest that estate transmissions in these circumstances are more likely to take the form of distributions outside of the family, in ways which would bolster the ego needs of the will-maker and also provide opportunities for these distributions to contribute to the joy of giving. There is however nothing in the economic literature discussed to indicate that intra-familial distributions are not a means of satisfying these needs.

To the contrary, for those who do advocate altruistic bequest motivation theories (Becker 1974; Becker & Tomes 1979; Menchik & David 1983; Tomes 1981) and strategic bequest motivation theories (Bernheim, Shteifer & Summers 1985; Cox 1987) a conundrum is presented by what Yang-Ming Chang (2007) has described as the “equal division puzzle” in (intra-familial) post mortem bequests. Based on US data, inter vivos transfers to children tend to be differential and compensatory - with higher earning children receiving lesser gifts (Dunn & Phillips 1997). The pattern of post mortem estate distributions observed by the majority of researchers in this field is of the equal, undifferentiated division of bequests amongst children (Chang 2007; Dunn & Phillips 1997; Finch et al. 1996; Menchik 1980; Menchik & David 1983; Wilhelm 1996). Post mortem bequests tend to be non-differential "to achieve 'equity' for the distribution of the non-compensated gifts after death" (Chang 2007: 294). While there has been no equivalent analysis of estate distribution in Australia, ethnographic evidence lends support to the norm of equal distribution. In interviews with 43 of Australia’s most wealthy individuals, Michael Gilding noted that the interviewees “overwhelmingly ... upheld the principle of equal inheritance among children, including daughters” (Gilding 2005: 39).

The variations in findings about the motivation of individuals for leaving residual assets is reflective, in my view, of a methodological shortcoming that
seeks to find overly simplistic models for categorizing complex behavioural influences and outcomes. The Kopczuk and Luton model (2006) has refined and advanced earlier simplistic economic models by providing greater gradation in seeking to analyse individual preferences and bequest behaviour. Their model, in its identification of the three broad categories of bequest motive (altruistic, strategic and egoistic) does provide a conceptual framework for reflecting on and assessing degrees of influence; however a primary limitation is the tendency, to seek to confine action to a single category, to one of the three motivational options. The behaviour of individuals, families and societies is complex and iterative. In most cases the bequest motive may not neatly fit into any single category and indeed is most likely to be the result of the interaction of each of multiple influences, in the context of “total social phenomena”.

Whatever the variations in findings of economic analysis of the motives, based on US data analysis there is considerable agreement in the economic literature that where they have the capacity to do so, individuals are inclined to leave residual wealth rather than spend all that is available to them. Of significance to this thesis is that to the extent there is an operative bequest motive, the propensity (where combined with the capacity) for elderly households to die with residual net worth meets the necessary pre-condition for a potential post mortem charitable bequest: positive net wealth. The economic literature in relation to bequest behaviour indicates that there is a prevailing desire to have positive net wealth at death per se (Wilhelm 1996; Altonji, Hayashi et al. 1997; Zhang and Zhang 2001; Kopczuk and Lupton 2006).

From the perspective of this study, a limitation of the economic research in this area is that it tends to focus solely on the inter-familial transfer of residual wealth with little attention to other (actual and potential) beneficiaries, including charitable organisations. The economic literature reviewed above provides very little insight into considerations or behaviour in relation to distributions from an estate outside of family members or more specifically on
whether an individual’s history of *inter vivos* charitable giving is broadly reflected *post mortem*.

Contemporary social sciences literature engaging with estate transmission practices remains small. As addressed earlier, the classical sociologists specifically acknowledged the special status of family estates via the strength of expectations and obligations of passing on inheritance within the family (Durkheim 1978; Weber 1978). While social capital theory has been less explicit in addressing intergenerational giving and the “earmarking” of estates, Coleman identifies obligations, expectations, and trustworthiness as being of particular relevance to familial dynamics:

> A prescriptive norm within a collectivity that constitutes an especially important form of social capital is the norm that one should forgo self-interest and act in the interests of the collectivity. A norm of this sort, reinforced by social support, status, honor and other rewards, is the social capital that … strengthens families by leading family members to act selflessly “in the family’s interest” (Coleman 1988: 104/105).

The structure and values associated with families however are subject to considerable and ongoing modifications as a result of influences including changes to ethnicity, religious practice, divorce rates, and increases in de facto families, single parent families, same-sex partner families and blended families (see for example de Vaus 2004; Healey 2006; Jagger & Wright 1999; Reiger 2005). While there is a considerable literature on family dynamics, the extent to which this addresses the implications for inheritance is minimal. Where there is such exploration, it raises as many questions as it answers.

The obligations to family are nowhere more keenly felt than in relation to immediate family members. In a study into the extent of normative agreement around kinship obligations in the United Kingdom, Janet Finch and Jennifer Mason (1991) found a lack of relative certainty about obligations to kin. They found little contemporary consensus as to the "proper thing to do"
for relatives. They did find however that to the extent that there is social consensus on familial obligations, it is far stronger in relation to parent/child obligations than it is for the wider kinship group. The subsequent analysis of wills by Finch et al. (1996) and by Finch and Mason (2000) of kinship and inheritance practices in England both confirm and contract these earlier attitudinal findings. Notwithstanding the finding that equal distribution among children prevails, Finch and Mason paradoxically argue that in the absence of strong, shared social norms with regards to obligations to kin, inheritance has become an active and negotiated process rather than one that is effectively determined by convention and “rule-governed” (2000: 138).

Finch and Mason (2000) argue that there is widespread normative agreement across all generations that older people should be free to make use of their assets, including their home, as they see fit. Providing an inheritance is not viewed as an obligation upon them. Subsequent UK research into attitudes to inheritance among older Britons similarly indicated a widespread view that the younger generation did not need to inherit and that the majority of those interviewed did not see their children as having “an inalienable right” to be bequeathed the assets of their parents (Rowlingson 2006: 182). Similarly, in a national study of the future housing intentions of Australians aged 50 and above Diana Olsberg and Mark Winters (2005) found that older Australians are beginning to shift from an attitude of self-sacrifice towards their children to an attitude of self-interest, in light of their growing understanding of the costs of old age and increased expectations for their retirement lifestyles. Just as Karen Rowlingson (2006) found that older Britons rejected the phrase “spending the kids’ inheritance” as one built on a false assumption that the assets belong in some way to the children, Olsberg and Winters suggest that one of the consequences of the shifting attitudes of older Australians away from obligation and “doing the right thing”, is that the “desire to bequeath assets to the next generation seems to be significantly diminishing” (2005: xii).
The research that has been done into attitudes to estate transmission seems to agree that the obligation of passing on residual estate assets to family members is no longer what Durkheim described as a “preeminent force”. The UK and Australian surveys would suggest that asset holders indeed feel they have been released from the conventional obligation of estate transmission. These studies suggest that changes in family structures and in attitudes to kinship obligations are likely to result in less of what the economists have described as a bequest motivation, a desire to leave residual assets per se. For the assets which do remain, the Finch and Mason (2000) argument is that kinship practices are increasingly relational. The resultant flexibility and variability gives rise to estate distribution outcomes increasingly being negotiated rather than simply settled in line with social conventions. This line of argument would suggest changes to conventional estate distribution patterns will be taking place in line with such attitudinal shifts.

The other observed changes in attitude to inheritance would also give rise to changes in conventional estate transmission practices. The contention that inheritance is no longer perceived of by the asset holders as an inalienable right of their children, and that there is a decreasing practical need for inheritance might also suggest the prospect of a greater share of residual assets being distributed outside of the family, including to charitable organisations. To this point however these propositions remain founded on the espoused views of older members of society, and the extent to which these have translated into practice remains unverified.

**Giving to Charity**

For many, giving to family is the convention and the uncontroversial default option. This is particularly so with regard to residual estate. Giving to charitable causes and organisations on the other hand requires conscious deliberation and decision making. Amongst those things which influence individual charitable giving considerations are the capacity to give; the inclination to do so; the costs; the benefits; and the risks involved in handing over one’s funds to others.
In broad terms higher income and greater wealth will increase the capacity of an individual to give, though it will not necessarily result in an increase in the propensity to give. *Inter vivos* charitable gifts are on most occasions sourced from income, whereas *post mortem* gifts are made from residual wealth. Researchers into *inter vivos* giving in the United States have found that charitable giving as a proportion of income is highest for low income earners and again for high income earners; a phenomenon known as the “U-shaped curve” (Banks & Tanner 1997; Hodgkinson & Weitzman 1989; James & Sharpe 2007). Others however have also found evidence in the United States (Brooks 2006; Huge & Yang 1994) and in the UK (Egan 2001) to suggest that the proportion of income gifted is inversely correlated with income earned. Gerald Auten and Gabriel Rudney (1987) provide one explanation for this variation in arguing that the high income end of the curve is misleading as it is not the majority of those with substantial economic capacity who are generous but the few among them who are exceptionally generous.

In an analysis of over 16,000 US households Russell N James III and Deanna Sharpe (2007) find clear support for a U-shaped relationship, yet they also find that the relationship is not an accurate reflection of typical household behaviour. They find the higher giving levels at the low income end of the curve are also driven largely by a small proportion (five per cent) of low income households. Whereas the presence of so many highly committed, low-income households is often attributed to religious affiliation by the poor, James and Sharpe (2007) argue that the relative generosity by low income earners as a whole is distorted by a small number of highly committed, lower-income households who have the capacity to gift a larger proportion of their income because they are holders of significant underpinning wealth. These differences highlight that while income and wealth are different measures, they are interrelated and the existence of underlying wealth may distort measures that rely on income alone.

While the research discussed above is centred on income and *inter vivos* charitable giving, the findings of Charles Clotfelter’s (1985) analysis of over
6,000 federal estate tax returns in the United States from 1976 are consistent with the principle of the average being boosted by the few. Clotfelter found that nearly half (47 per cent) of the total value of all post mortem charitable gifts were contributed by a very small minority (0.04 per cent) of the estates analysed (1985: 232). Such a breakdown is not provided in a subsequent analysis (Schervish, Havens & Whitaker 2006) of 1992 and 2003 US estates. Schervish et al. calculate that gifts from estates valued at more than $20M contributed 43 per cent of the total charitable bequests made in 2003 “even though these wealthiest estates numbered just 721 out of 66,000” (2006: 12). It is not clear in this analysis however just how many of the wealthiest estates (a little over 1 per cent) actually contributed post mortem charitable dollars. Where the analysis is available, the indications are that in the US not all wealthy estates make significant contributions to post mortem charitable giving, but as observed in relation to inter vivos giving by Auten and Rudney (1987: 9) “the reputation of the wealthy for generosity is largely the result of exceptional generosity on the part of a minority of high income givers rather than widespread generosity among the wealthy”.

In addition to capacity and propensity, the monetary costs of charitable giving, both inter vivos and post mortem, have also been an issue of investigative focus. Mainstream neoclassical economic analysis of charitable giving tends to concentrate on the impacts of income and price (for detailed explanations see Clotfelter 2002; Steinberg 1990). Income is generally defined as monetary receipts. Price is the amount paid for a purchase. In the case of charitable giving, the price of giving a dollar is that dollar less any tax reduction received. Hence, in progressive tax regimes the price of giving a dollar is higher for a low income earner than it is for a high income earner. By way of example, if person A is a high income earner and pays tax at the rate of (say) 40 cents in the dollar, then the “cost” of a deductible dollar gifted by person A is 60 cents. If person B is a lower income earner and pays tax at the rate of (say) 30 cents in the dollar, then the “cost” of a deductible dollar gifted by person B is 70 cents. Tax regimes in many western countries are structured in such a way as to stimulate charitable giving by those with the greatest capacity to give
(Roodman & Standley 2006) by providing them with the greatest incentive (the lowest price of giving). Nevertheless, as exemplified above, from a financial perspective an individual will always be better off financially by not making a donation at all.

Accordingly, while analysis of the sensitivity of tax rate changes implies tax can and does influence giving, it does not assume tax is the driving force behind charitable donations (Feldstein 1995; McNees 1973). Models vary, however in essence they each seek to determine the quantitative importance on the effect of the price and income variables as expressed in terms of their responsiveness to change: “elasticity”.

As is the case in virtually every empirical application in economics, the precise estimates for the price and income elasticities differ from one study to the next. However they tend to cluster, which permits some degree of generalization [to the effect that they] imply that taxes have a potent effect on charitable giving (Clotfelter 2002: 14/15)

Clotfelter’s contention is that despite varying assumptions, there is consistent support for findings that taxes do indeed impact on charitable giving decisions. Tax advantages are nevertheless only one form of personal utility which can be derived from charitable giving. Others include receipt of something demonstrable in exchange for a gift; such as invitations to attend special events, public acknowledgements or naming rights. An individual may be also motivated by acting altruistically: in the interests of the recipients. (For a detailed exploration of altruism see Einolf 2006). An intrinsic satisfaction that can be gained by even the most altruistic individual has been described by James Andreoni (1989, 1990) as the “warm glow” that may come from the very act of giving.

Associated with the notion that an individual may receive the utility of a warm glow as a result of a charitable gift, Andreoni also introduced the concept of “impure altruism” (1990). The essence of this argument is that an individual
acting altruistically is likely to receive some benefit from charitable giving even if that benefit is simply a matter of a sense of having acted in line with the giver’s own values. In my view the very framing of the term “impure altruism” is a tautological construct grounded in a rational actor framework that seeks to explain all behaviour from a perspective of the economic maxim of utility maximisation and self-interest. This view accords with that of Jane Mansbridge (1990) who argues that the existence of some form of reward is not in itself sufficient to reduce behaviours designed to help and benefit others as being something other than altruistic. An alternative descriptor for the same behaviour that Andreoni labels “impure altruism” could equally be “impure self-interest”. Neither however is a particularly useful descriptor. The methodological limitations of seeking to force fit behaviours into singular descriptive categories are inevitably exacerbated by any categorisation that engages with a concept of an absolute and idealised standard of “pure”. Attempts to identify forms of behaviour at the extreme end of a theoretical spectrum provide no practical insight into how people behave in response to the multiplicity of influences on their decision making processes, conscious or otherwise.

While much economic analysis has been done on the impact of taxation on giving (in the US in particular), such analysis is of less relevance to this thesis than that which has been undertaken in light of the fundamental difference in tax treatment of inter vivos and post mortem charitable giving. Since the proposed changes to taxing of US estates in the 1970’s considerable economic modelling has been done on the potential implications for post mortem charitable giving (Joulfaian 1991; McNees 1973; Munnell & Sundén 2003; Schervish & Havens 2001). In his analysis of high value US estate tax returns Clotfelter (1985) found where the tax price of charitable bequests increased by 1 per cent, the amounts of charitable bequests would decrease by 1.67 per cent to 2.79 per cent (negative price elasticity); and where wealth increased by 1 per cent, charitable bequests increased by some 0.18 per cent to 0.42 per cent (positive wealth elasticity).
A decade earlier Michael Boskin (1976) had similarly found that wealth, income, savings and the effects of the tax regime all influence the decision to make a charitable bequest. Thomas Barthold and Robert Plotnick (1984) found that the presence of surviving spouse and children diminishes the size of charitable bequests, and others (Chang et al. 1999; Joulfaian 1991, 2000; Sargeant and Hilton 2005; Sargeant and Jay 2004; Sargeant et al. 2006c) have found that the presence of spouse and children decreases the likelihood of a charitable bequest. Other US researchers have found that higher tax rates have a positive impact on post mortem giving (Auten & Joulfaian 1996; Joulfaian 1991). In an explicit analysis of the choice between inter vivos and post mortem charitable giving Joulfaian (2005) found the interaction of estate taxes, gift taxes and capital gains taxes to be an important consideration in the timing and the choice between gifts and bequests. These findings are potentially of particular significance for the analysis of post mortem giving from Australian estates where no estate taxes (death or inheritance taxes) are payable.

Another issue of significance for giving to charity is that of trust. A central tenet of theory in relation to trust is that the strength of trust diminishes as it radiates out from the self and the strength of intimacy and closeness also diminishes (Fukuyama 1995; Gambetta 1988; Granovetter 1973; Putnam 2000; Sztompka 1999). Piotr Sztompka regarded trust as "taken-for-granted, almost definitional" within families (1999: 32). He joined Margaret Levi (1998) in extending the concept of trust beyond the argument that trust is confined to the interpersonal (Hardin 2001, 2002) positing that trust also applies to institutions. (For an exploration of the social sciences debate as it relates in particular to trust of institutions see Farquharson & Critchley 2004). Sztompka argues that trust in institutions is a consequence of how we direct our trust as part of the process of managing risk in our decision making. In taking a flight, for example, we put our trust in the pilots, engineers, ground staff and other airline personnel employed by the airline and operating in accord with its processes and regulations. Similarly, Levi argues that it is trust in the
institutional processes and systems to govern the behaviour of its representatives in a reliable way that make an institution trustworthy.

The difference between interpersonal and social trust is not fundamental, as behind all “social objects, however complex, there also stand some people, and it is the people whom we ultimately endow with trust” (Sztompka 1999: 41). In this line of thinking the social capital forged from associations and made stronger by intimacy and closeness provide the basis for both trust and trustworthiness of both individuals and institutions. The significance for this study of insights into trust of organisations is that in contemporary society charitable gifts from a will are likely to be made to charitable organisations, possibly only in circumstances where the will-maker has sufficient trust in that beneficiary organisation.

The extent to which social influences affect individual behaviour in giving to charity is also an issue that has been subject to scholarly investigation (Edwards 2002; Shang 2008; Shang & Croson 2005, 2006; Shang, Reed & Croson 2008; Wiepking 2008). In field experiments on the influence of social information on charitable giving in the United States, Jen Shang and Rachel Croson (2005) demonstrate that people tend to adjust the amount they give according to the amount that they believe is given by others. This normative amount is found to be in large part independent of the level of income or wealth of the person making the giving decision. In a subsequent combination of field and laboratory experiments Shang et al. (2008) find influence is strongest when donors have high collective-identity esteem and when attention is focused on others.

Using data from the Netherlands, Pamala Wiepking (2008) builds upon the notion of prevailing norms to offer an explanation for why many higher income individuals give only slightly higher absolute amounts than those with less income. Wiepking develops the concept of a “giving standard”: being the value of a gift that is deemed to be appropriate in specific situations within a given community.
Similarly, a study into giving attitudes in the United Kingdom (Edwards 2002) finds that the relevant amount to give to charity is assessed against a common, low standard with little reference to or differentiation based on the financial resources of the individual donor. Laura Edwards finds the prevailing model of charitable giving in the United Kingdom to be typified by spontaneous, spare change donations and that it appears to apply regardless of income: "It is possible to give very little - pennies in a collecting tin, donating clothes to a charity shop - and still feel like a giving person, even if you are better off than most. There is currently little social pressure to give more than the bare minimum to charity" (Edwards 2002: 5).

The desire to meet the expectations of others is in line with Adam Smith’s theory of moral sentiments (Smith 2002) and consistent with Gary Becker’s theory of social interactions (1974). In relation to post mortem charitable giving in particular, the analysis of 17th century wills in England by Leslie McGranahan (2000) is particularly insightful on this account:

Perhaps it is not that individuals derive utility from the act of giving, but rather that they derive utility from being perceived of as a generous, compassionate, and philanthropic individual. In the case of wills, individuals give to charity in order to influence how they will be remembered. (McGranahan 2000: 1289)

McGranahan’s analysis of the propensity to leave charitable bequests highlights both the desire for the approval and commendation of others and the need for this approval to extend beyond the lifetime of the individual actor. McGranahan’s research into 17th century practices also functions to highlight the extent to which empirical research into post mortem charitable giving is itself under-researched (Richardson & Chapman 2005), confined mostly to the United States and based on expressed intentions rather than on realised gifts.

**Giving and Intermediaries**

While also focusing on gift pledgers, the results of a study conducted in the United States by the National Committee on Planned Giving (NCPG): *Planned
Giving in the United States 2000: A Survey of Donors (NCPG 2001) are framed quite differently. The NCGP research involved asking a representative sample of 1579 charitable gift pledgers to identify what had motivated them to make charitable bequests or other “planned” charitable gifts. Table 3.1 below provides a summary against the data gathered from a similar survey in 1992. In 2000 the desire to reduce taxes is identified by just over one third (35 per cent) of respondents and ranks a long way behind the two key influences cited by the majority of respondents: the desire to support the charity itself and the ultimate use of the gift by the charity.

Table 3.1: US comparison of planned gift motivations: 1992 to 2000 (%)

<table>
<thead>
<tr>
<th>Charitable motivation</th>
<th>2000</th>
<th>1992</th>
</tr>
</thead>
<tbody>
<tr>
<td>Desire to support the charity</td>
<td>97</td>
<td>95</td>
</tr>
<tr>
<td>Ultimate use of the gift by the charity</td>
<td>82</td>
<td>74</td>
</tr>
<tr>
<td>Desire to reduce taxes</td>
<td>35</td>
<td>not asked</td>
</tr>
<tr>
<td>Long-range estate and financial planning issues</td>
<td>35</td>
<td>21</td>
</tr>
<tr>
<td>Relationship with a representative of the charity</td>
<td>21</td>
<td>not asked</td>
</tr>
<tr>
<td>The encouragement of legal or financial advisors</td>
<td>12</td>
<td>18</td>
</tr>
</tbody>
</table>

Source: National Committee of Planned Giving 2001 in Richardson and Chapman 2005: 38

A significant insight provided by this relatively large scale survey is that it identifies advisers (legal or financial) as one of the top six influences over the decision to make a planned gift. Given that “long range estate and financial planning issues” will often be addressed by way of the professional support of legal and/or financial advisers, the influence of these practitioners is potentially even larger than that which has been consciously identified by respondents. The NCPG (2001) study is the only widely referenced research that includes advisers as an influence from the perspective of pledgers. In addition, the
study highlights the relative strength of the influence of a “relationship with a representative of the charity”. For larger charities, a fundraiser (or fundraisers) will be dedicated to establishing, maintaining and developing relationships with pledgers and potential pledgers of planned gifts. One in five (21 per cent) of the survey respondents recognised fundraisers as an influence. The fact that fundraisers had not been provided as an option in 1992 means there is no way of determining from this study if the influence of fundraisers had increased considerably over the period or if the influence of such relationships had simply been overlooked in 1992.

The potential influence of estate planners and financial advisers is inherent in their role. Ownership of significant wealth increases the investment options available to an individual, increases the need for estate planning, and provides the ability to fund expert advice. As a result, High Net Worth Individuals (HNWIs) tend to seek advice and Ultra-HNWIs generally have multiple advisers (Cap Gemini Merrill Lynch 2005). Theoretical development in this arena is most apparent in the work of the American anthropologist George Marcus (1992). In his analysis of dynastic family wealth in the United States in the late twentieth-century Marcus (1992) addresses the influence of advisers in the context of the importance of family trusts. As one of the few social scientists who has focused attention on trusts as a significant agent of familial change impacting on the social relations of families (Gilding 2008: 4), Marcus, with Peter Hall, has examined family trusts and in particular the management and control of family wealth and the consequent regulation of family relations.

Marcus observes that as a result of the involvement of myriad specialist advisers (inside outsiders) hired to manage the family fortune, family members tend to become marginalised over time. The complexity of the legal and technical arrangements put in place to formally control and distribute family capital extend to institutional designs for longevity, such that "the most durable parts of a dynasty are the fiduciary-managed organization of patrimonial capital itself and the lingering public mystique of the family name" (Marcus and Hall 1992: 59). Marcus and Hall argue that it is the advisers who
tend to be the most unambiguous and wholehearted in their commitment to the family dynasty as it is represented through family institutions including its charitable entities. Marcus and Hall also note that while there are legal limits in place on the duration of a family trust, in the United States the charitable foundation is a form of trust that faces no temporal restrictions and as such is very attractive to those with dynastic intent.

In addition, Marcus argues that it is not only dynastic families whose social relations are impacted by the influence of legal structures (such as trusts and wills) and of the consequent role of external advisers (Marcus and Hall 1992: 6). The increasing prevalence of wealth at a level that families seek advice on its protection, growth and/or transition mean that specialist structures and advisers are also increasingly prevalent in the lives and relationships of many families.

The potential for the intent of a will-maker to be thwarted if appropriate professional advice is not taken is highlighted by recent Australian research into the practical operation of family law provisions as they relate to charitable bequests. Myles McGregor-Loundes and Francis Hannah (2008) demonstrate that in recent years family challenges to charitable bequests have become increasingly popular. These challenges have also become increasingly successful with the courts “vigorous” in upholding family provision as against all other bequests, and portraying this provision as based on moral obligation (2008: 39). The authors note that while the original purpose of family provision law was to enforce the proper maintenance and support of a will-maker’s spouse and children, judicial interpretation and the active promotion of the priority of family claims on an estate as part of public policy has seen the influence of family law extend well beyond what was envisaged when the legislation was framed. This research concludes: “Testamentary freedom, although never completely dominant in English law, is now seriously challenged in Australia” (McGregor-Lowndes & Hannah 2008: 5).
In the United States, Teresa Odendahl observes that the taking of advice is standard for wealthy individuals and families: "The wealthy hire people to advise them on their finances and their philanthropy" (1990: 209). Odendahl finds that in seeking to meet their objectives, the wealthy hire advice and support from highly skilled specialists with ideology and values similar to their own. Odendahl observes that while most advisers tend simply to carry out their clients' wishes, others urge their clients to give to charity, with some actively bringing their clients into the philanthropic culture and teaching them the appropriate behaviour and the rules. Odendahl argues that without prompting by advisers there would be fewer charitable contributions made and observes "the charitable propensity of the potential donor and the persuasiveness of the adviser interact to determine where they finally fall on the philanthropic continuum" (1990: 222).

Odendahl draws a clear distinction between philanthropic advisers who "facilitate the charitable uses of wealth" and technical advisers or "retainers" who "tend to be oriented toward the preservation of fortunes" (1990: 210). The differentiation is made in quite a different way by Theresa Lloyd in her study of the attitudes of high net worth individuals (£50m to £100m) in the United Kingdom (Lloyd 2004). Lloyd found that while few professional advisers considered the active promotion of philanthropy as part of their role, nearly all considered themselves as having a responsibility to advise their clients of the options, mechanisms and benefits associated with charitable giving, both in terms of tax and for the family. Some observed that a lack of understanding of the real level of wealth combined with the absence of tradition or expectation of giving and, in some cases, perceived complexity, led to inactivity. This was reinforced by uncertainty as to the appropriate level at which to give and lack of time to devote to the issue.

On the understanding that the financial actions taken by wealthy individuals will be at least potentially influenced by the preparedness and ability of advisers to address issues of charitable giving, a number of studies have investigated the philanthropic skills and inclinations of financial advisers. In
the United States, many financial advisers have been found to be active in raising the issue of philanthropy with their clients, but reluctant to do so other than on a tax effectiveness basis (The Philanthropic Initiative 2000). In the UK financial advisers have been found to be more reluctant to initiate discussion of the issue of philanthropic giving with their clients though they see the opportunities that knowledge and skills in this area may present them given escalating wealth of an ageing population of affluent individuals (The Giving Campaign 2001). In Australia financial advisers have been found to be more like their UK counterparts, with a high degree of reluctance to engage their clients on philanthropic issues (Madden 2004) and while interest is increasing, many advisers remain unprepared to raise charitable giving with their clients (Madden 2009; Madden & Newton 2006).

There is by comparison a surprising absence of scholarly investigation into the role and influence of fundraisers with respect to charitable giving. In a review of literature dealing with fundraising professionalism, Wendy Scaife and Kym Madden observe that “the literature tells a tale of professional progress” (2006: 3). Harland Bloland and Eugene Temple (2004) had earlier described fundraising as a profession that has “achieved a legitimacy” and the same authors reflect that “[T]he fundraising profession has not paid extensive attention to theory building and does not have elegant and practical theories to apply to its work” (2004: 12). The emergent nature of the fundraising profession and its striving to establish a relevant corpus of expert knowledge (Carbone 1986) with a theoretical base lends itself to analysis by way of the theory of new institutionalism (DiMaggio & Powell 1983; Ingram & Clay 2000; Nee & Ingram 1998). The theory of new institutionalism would suggest that fundraisers are likely to be subject to significant forces towards organisational and professional homogeneity. The implications of such forces for fundraiser actions and behaviours in relation to post mortem charitable giving has not been a matter of scholarly research.
Giving in different contexts

As is apparent from the literature cited to date in this thesis, much of what we know about charitable giving is based on research and theory emanating from the United States. The applicability to other countries of United States charitable giving experience and consequent theory is largely taken for granted. Mauss’s contention however that giving is the product of the “total’ social phenomena” challenges this convention of assumed transferability. Mauss argued that the gift is only one part of the interconnected interpersonal and institutional phenomena governed by the complex interaction of societal norms and obligations (1990: 76). The logical extension of this theory is that the particular cultural and institutional settings will tend to construct the prevailing public attitude to the giving norms and behaviours.

To this point while much of the research I have cited is drawn from the United States, I have also drawn to a lesser degree from the UK as well as from Australian research where available. In order now to explore what has been researched in relation to charitable giving in specific national contexts, I maintain my focus below on these three, nations which Salamon et al. (2004) report were identified by the Johns Hopkins Comparative Nonprofit Sector Project as the “Anglo-Saxon cluster”: the United States, United Kingdom, and Australia. In the assessment of the Project, these three countries:

share a high level of economic development and a common historical association with the Anglo-Saxon political and legal tradition ... (and) have also historically shared a common approach to social policy characterized by a relatively small, “hands-off” role for the state and significant reliance instead on private, charitable activity (Salamon, Sokolowski & List 2003: 39)

To address what is known about charitable giving in these three national contexts, in the remainder of this chapter I explore broad patterns of charitable giving, the culture of charitable giving in which that takes place, and the charitable giving practices of the respective wealthy elites.
Giving Patterns

Measures of national patterns of charitable giving provide an empirical insight into contextual differences. One measure is the percentage of Gross Domestic Product (GDP) gifted by the people of different nations. Findings of research conducted by Cathy Pharoah (2006) on behalf of the UK based Charities Aid Foundation, across twelve countries including the United States, the United Kingdom and Australia (as summarised at Figure 3.1) indicate that the amount individuals give to charity ranges from a low of 0.14 per cent of GDP in France to a stand-out high of 1.79 per cent in the United States. Pharoah comments on the differing national contexts in her observation that giving tends to represent a lower proportion of GDP in countries with higher levels of personal taxation, particularly in the area of social welfare (2006: 2).

Figure 3.1: International comparison of national giving levels

<table>
<thead>
<tr>
<th>Country</th>
<th>Percentage of GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>USA</td>
<td>1.67</td>
</tr>
<tr>
<td>UK</td>
<td>0.73</td>
</tr>
<tr>
<td>Canada</td>
<td>0.72</td>
</tr>
<tr>
<td>Australia</td>
<td>0.69</td>
</tr>
<tr>
<td>South Africa</td>
<td>0.64</td>
</tr>
<tr>
<td>Rep of Ireland</td>
<td>0.47</td>
</tr>
<tr>
<td>Netherlands</td>
<td>0.45</td>
</tr>
<tr>
<td>Singapore</td>
<td>0.29</td>
</tr>
<tr>
<td>New Zealand</td>
<td>0.29</td>
</tr>
<tr>
<td>Turkey</td>
<td>0.23</td>
</tr>
<tr>
<td>Germany</td>
<td>0.22</td>
</tr>
<tr>
<td>France</td>
<td>0.14</td>
</tr>
</tbody>
</table>

Source: Pharoah 2006: 6

In countries including the United Kingdom and Australia where there is an expectation of active government involvement in the provision of social
welfare, there can be public scepticism about the potential of private charitable giving to put government services at risk. In the United States where there is comparatively little social welfare and a long-standing tradition of and commitment to small government (Tocqueville 1966), private charitable giving is more manifest.

Participation rates in charitable giving also provide an insight into the normative forces at play within different nations. Methodological measurement differences in individual countries make direct comparisons problematic (Madden & Scaife 2008a; Roodman & Standley 2006; Salamon & Anheier 1996). The analysis of participation rates in inter vivos charitable giving conducted in each of the United States, the United Kingdom and Australia highlights the difficulties of comparison, especially when the measure is not confined to claimed (or itemized) giving recorded by the relevant taxation authority. In the US, the most often quoted participation rate is that established by research undertaken in 2001 into Giving and Volunteering in the United States which found that 89 per cent of American households give to charity over the course of a year (Toppe, Kirsch & Jocabel 2001). In the United Kingdom an estimated 57.6 per cent of the population give to charity in an average month (Pharoah et al. 2006).

The Australian Bureau of Statistics (ABS) estimated in 1997 that 69 per cent of the adult population of Australia (aged 18 years and over) participated in charitable giving (Lyons & Hocking 2000). The more recent Giving Australia report (2005), undertaken in 2004 and 2005 at the instigation of the Australian Government, estimates that in the twelve months to the end of January 2005 the proportion of adult Australians who had given money to at least one nonprofit organisation was 86.9 per cent. The Giving Australia report references the earlier Australian Bureau of Statistics research and notes that 2005 data may have been exaggerated by what they describe as “a ‘halo effect’ caused by the positive endorsement of giving surrounded by the Tsunami” (Giving Australia 2005: 6).
The different units of analysis used in the US, the UK and Australia make direct comparison of charitable giving participation rates very difficult. Nevertheless, the above data, as summarised at Table 3.2, provides the best available basis for comparison and indicates that whichever estimate is used for Australia (69% or 87%), the participation rate in *inter vivos* charitable giving is substantive in both absolute and comparative terms.

**Table 3.2**: Participation rates in *inter vivos* charitable giving for the United States, the United Kingdom and Australia (rounded to whole %)

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>Measure of Participation</th>
<th>Participation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>2001</td>
<td>% of households who give to charity over a year</td>
<td>89%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>2005</td>
<td>% of population who give to charity in an average month</td>
<td>58%</td>
</tr>
<tr>
<td>Australia</td>
<td>1997</td>
<td>% of population &gt;18yrs who participate in charitable giving</td>
<td>69%</td>
</tr>
<tr>
<td></td>
<td>2004</td>
<td></td>
<td>87%</td>
</tr>
</tbody>
</table>

Sources: ¹Toppe et al. 2001; ²Pharoah 2006; ³Giving Australia 2005; ⁴Lyons and Hocking 2000

In Australia individual tax deductible gifts can be claimed by all tax payers. Analysis of tax deductible gifts made and claimed each year in Australia indicates that the rate of giving has far exceeded inflation since the base year of 1978/79 used by the researchers (McGregor-Lowndes & Newton 2008). This analysis shows that 36.45 per cent of the Australian tax paying population made and claimed tax deductible gifts in 2005/06 (2008: 36). The difficulty of measuring and comparing charitable giving patterns is highlighted by the approximately two-fold discrepancy in the empirically measured percentage of Australian tax payers making and claiming tax deductible gifts (36 per cent) against the ABS survey based measure of charitable giving (69 per cent) which includes non-tax deductible gifts and deductible gifts made but not claimed. Similar measurement difficulties arise with the different taxation systems in the US and the UK. The estimates in the comparison at Table 3.2 are based in
each case on a broad conception of charitable giving and not confined only to
giving which complies with the dictates of the relevant taxation regime.

The participation rates in post mortem charitable giving are considerably
different to those of inter vivos. In the United States most estates do not
require the filing of an Estate Tax return (IRS 2009). A filing is only required
for estates exceeding the applicable value threshold ($1,500,000 in 2004 -
2005; $2,000,000 in 2006 - 2008; and $3,500,000 since January 1, 2009). As
a result the limited quantitative research into post mortem charitable giving in
the US is confined to high value estates. Examination at all levels tends to be
confined to surveys of expressed intentions rather than on realised gifts
(Richardson & Chapman 2005). Based on National Committee on Planned
Giving survey data, the Association of Fundraising Professionals (AFP 2007)
reference 8 per cent of US households as reporting a charitable bequest in
their wills. In a study which tracked 20,000 Americans over the age of 50
from 1995 to 2006, Russell N James III (James 2008) found that even among
people who donate $500 a year or more to charity, fewer than 9.5 per cent
had a charitable estate plan. In the UK an estate with a value of more than
£5,000 requires probate (HM Revenue & Customs 2009). Inheritance Tax is
payable if the value exceeds the applicable threshold (£325,000 in 2009-10).
Analysis of 2000/01 HM Revenue and Customs data indicates 15 per cent of all
wills in the UK contain a charitable bequest (Pharoah & Harrow 2009: 15).

In Australia, the absence of estate/inheritance tax means that neither the
Australian Taxation Office nor any other body collects data on distributions
made from Australian estates. The Giving Australia (2005) report observes
that there are no reliable estimates of charitable estate distributions made.
Given the lack of empirical data, household survey data has been used to
estimate that 58 per cent of adult Australians have a will and that 7.5 per cent
of these have included a charitable provision in that will (Giving Australia
2005: 35). The net result of this survey data then is that some 4.4 per cent of
adult Australians (7.5% of the 58% with wills) self-report the inclusion of a
charitable gift in their will.
While comparisons are again made difficult by the different data capture methods employed and the different units of analysis, the data summarised at Table 3.3 does highlight that in each of the three nations compared, there is a considerable gap in participation rates between the two forms of charitable giving.

**Table 3.3**: Comparison of participation rates in *post mortem* charitable giving for the United States, the United Kingdom and Australia

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>Participation Rate</th>
<th>Participation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td><em>inter vivos</em></td>
<td><em>post mortem</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>charitable giving</td>
<td>charitable giving</td>
</tr>
<tr>
<td>United States</td>
<td>2001</td>
<td>89%*</td>
<td>8% of households**</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>2005</td>
<td>58%*</td>
<td>15% of wills***</td>
</tr>
<tr>
<td>Australia</td>
<td>2004</td>
<td>69% or 87%*</td>
<td>7.5% of wills****</td>
</tr>
</tbody>
</table>

Sources: * Table 3.2; ** Association of Fundraising Professionals 2007; *** Pharoah and Harrow 2009; **** Giving Australia 2005.

Note: This table provides an indication of the differences in participation rates within countries. Differences in the units of analysis limit comparability between countries.

While the discrepancy between participation rates in *inter vivos* and *post mortem* charitable giving has been identified by Cathy Pharoah and Jenny Harrow as representing “a fundraising challenge” (2009:9), the large difference in participation rates in these two forms of charitable giving is an area of scholarly research which has remained largely unaddressed. Taking into account the differences in how participation rates are measured, Table 3.3 nevertheless provides an indication that there are contextual differences in operation; with for example Australia having the greatest gap with a high rate of participation in *inter vivos* charitable giving and yet a low rate of participation in *post mortem* charitable giving.
Giving Culture

As discussed in the introduction to this thesis, the variations in the very words used to describe giving to humanitarian and social good purposes is indicative of different perceptions and expectations. The way in which terminology is given particular meaning in different cultures and reflects societal norms around the prevailing private giving ethos is highlighted by Karen Wright in a comparison of the giving cultures in the US and the UK:

Philanthropy is viewed in Britain (sic) as a somewhat dubious attitude or stance; charitable giving on the other hand is a comparatively positive act. In the United States the situation is reversed. Philanthropy is an act, and an increasingly commanding one, while charity is dismissed as a patronizing and somewhat out-of-date attitude. (Wright 2002: 400)

In Australia, public attitudes to both the language and the practices of private giving are less clearly defined. Philanthropy tends to be viewed as the realm of those at the extreme end of the wealth spectrum (Tracey 2003), while charitable giving is generally regarded as being something that is far less weighty in either its aspirations or its impacts. Charitable giving is perceived as a form of benevolence in which all can participate.

Wright’s (2002) comparison of the giving cultures in the US and the UK provides a rare in-depth analysis, as summarised in Table 3.4. The differences in giving culture are characterized by Wright as “Generosity” in the US and as “Altruism” in the UK. Generosity is chosen for the US as Wright sees it reflecting a culture in which bounteous giving is an expectation, and in which giving is socially accepted as being inherently associated with motivations of self-interest. Altruism is chosen for the UK as reflecting a form of giving where the separation of charitable giving from self-interest is socially endorsed.
Table 3.4: Wright’s comparison of giving ethos and behaviours in the United States and the United Kingdom

<table>
<thead>
<tr>
<th>United States</th>
<th>United Kingdom</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENEROSITY</td>
<td>ALTRUISM</td>
</tr>
<tr>
<td>&quot;Charity begins at Home&quot;</td>
<td>&quot;Charity for All&quot;</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Giving is heavily interlaced with self-interest (with social approval)</td>
<td>Suspicion and rejection of mixed motives for giving</td>
</tr>
<tr>
<td>Giving is more a public than a private activity</td>
<td>Giving is more a private than a public activity</td>
</tr>
<tr>
<td>Giving is an expression of personal and social identity and goals</td>
<td>Giving is generally peripheral to social identity and goals</td>
</tr>
<tr>
<td>Giving and volunteering are significant components of civic involvement</td>
<td>Giving is generally peripheral to civic responsibility</td>
</tr>
<tr>
<td>Giving modes are intentional, “planned” and yield high average gifts</td>
<td>“Spare change” is the dominant mode of giving, yielding low average gifts</td>
</tr>
<tr>
<td>Predominant focus: “particular” causes in which donor is directly involved and reciprocity</td>
<td>Predominant focus: “universal” causes in which the donor is not directly involved</td>
</tr>
<tr>
<td>Predominant moral motivation: individual initiative and reciprocity</td>
<td>Predominant moral motivation: social (collective) duty</td>
</tr>
</tbody>
</table>

Source: Wright 2002: 24/25

The characterisation of cultures as a whole is inevitably fraught with the limitations involved in any generalisation and it also presents an individual interpretation of cultures rather than a definitive description. Nevertheless many of the characteristics identified by Wright are supported by others (Edwards 2002; Lloyd 2004). The utility of Wright’s analysis lies less in the particulars of the characterisations than it does in the strength of her conclusion that the variation in institutions and practices which distinguish the charitable giving ethos in particular cultures means it is important to recognise that an effective policy initiative or institution in one culture will not necessarily
be successful in another (2002: 25). The same logic would suggest that research undertaken into charitable giving practices in a particular national context will reflect the socio-cultural context in which that giving takes place and therefore the findings may not be simply transposable to other nations and other contexts.

Theoretical insights into reasons for national differences in charitable giving practices remain underdeveloped, especially with respect to giving from estates. The German sociologist Jens Beckert (2008a, 2007, 2008b) argues that the significance of estate transmission per se has been paid insufficient attention by sociological scholars over recent decades. One of the key contributions by Beckert has been to focus attention and analysis on the ways in which gifts or the expectation of an inheritance can play an important role for family solidarity and conflict. He argues that “inheritances are sociologically relevant by being closely interwoven with the normative fabric of society” (2008b: 521). Beckert (2008a) compares inheritance law in different countries (the United States, France and Germany) to elucidate his argument that the ways in which countries have historically justified limitations on inheritance rights in very different ways, reflects long held culturally specific understandings and deeply embedded norms. He points to the highly intense and emotionally charged nature of inheritance tax debates to argue that an explanation which invokes only economic interests is demonstrably insufficient to understand the nature of public discourses in relation to bequests and their taxation.

Beckert contends that in addition to the high emotional charge which attaches to inherited wealth, there are several conflicting though concurrent value principles of modern society at play: family; equality of opportunity; justice; and community. While all four of the these principles are addressed in social discourse and policy development in relation to inheritance and taxes, the principles which are given the greatest focus are those deeply embedded in the socio-political history of the particular country and its culture. In a line of argument which directly relates back to the underlying tenets of Durkheim’s
(1964) theories in relation to social cohesion, Beckert contends that how a society determines its approach to inheritance and its taxation is significantly influenced by culturally specific norms developed over time.

A fundamental contention by Beckert (2008b) is that culturally specific value principles and associated norms provide a clear context within which individuals make estate transmission. This argument is of direct relevance to post mortem charitable giving considerations that may form part of estate transmission decisions. In practice however, many individuals and families are likely to have only the most cursory of understanding of the legalities of inheritance law even within the jurisdiction they live in. An area which Beckert’s analysis does not address in any detail is the lived experience of individuals and families. While actors make their estate transmission decisions in the context of, and influenced by, the value principles operative in their society, the integration of the value principles into the normative fabric of society (Beckert 2008b) indicates that individual estate transmission decisions may not be made with conscious consideration of those influences.

Much of the investigation that has been done in relation to the lived experience of estate transmission decisions and charitable giving behaviour has focused primarily on giving by those with the greatest capacity, high net worth individuals (Lloyd 2004; Madden 2006; Madden & Scaife 2008a; Odendahl 1989; Ostrander 1989; Ostrower 1995; Schervish 1997b, 2005). As the majority of these investigations are undertaken within the particular national context of the US, I will address the relevant research and associated literature as undertaken in that particular context, and reference related research in the United Kingdom as appropriate. In the final section of this chapter I will separately address available Australian research into giving by the wealthy and to post mortem charitable giving.
Giving by the Wealthy

Those with the greatest financial resources have the greatest capacity to give charitably, both during their lives and from their estates. Paul Schervish (2003a) argues that while people are generous across the economic spectrum, the actuality that a disproportionately large share of assets is held by the wealthy few, means that the greatest volume and value of charitable gifts will inevitably come from the wealthy. Schervish’s analysis of the share of all charitable giving by US households, as summarised at Table 3.5, indicates that 5 per cent of households account for 45 per cent of all charitable dollars given. In a further subdivision of that 5 per cent of US households, Schervish found that the top 1 per cent account for nearly a quarter (23%) of all charitable dollars. The relative contribution of large scale givers is highlighted even more in a further breakdown of donors, revealing that just 0.2 per cent of US households provide 13 per cent of all donated dollars. In addition, Schervish establishes in his analysis of high value estate tax returns filed in 2000, that as wealth escalates in the US, so too does the proportion of that wealth gifted post mortem, as encapsulated at Table 3.6.

<table>
<thead>
<tr>
<th>Table 3.5: US charitable giving by household</th>
<th>Table 3.6: US post mortem charitable gifts by estate value (in 2000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of Households (overlapping)</td>
<td>% of all charitable $s (overlapping)</td>
</tr>
<tr>
<td>0.2%</td>
<td>13%</td>
</tr>
<tr>
<td>1%</td>
<td>23%</td>
</tr>
<tr>
<td>5%</td>
<td>45%</td>
</tr>
<tr>
<td>&gt;$20</td>
<td></td>
</tr>
</tbody>
</table>

Source: Schervish 2003a: 7, 9

This strong correlation between wealth and charitable giving in the US as demonstrated by Schervish and others (Auten & Rudney 1987; Clotfelter 1985; James & Sharpe 2007) points to one of the major reasons why, there
has been a particular focus on giving by the wealthy. Even amongst the wealthy however the issue of capacity comes into consideration. Giving by the wealthy has been found consistently to be influenced by of the individual’s self-perception of economic and financial security (Lloyd 2004; Rooney et al. 2007; Schervish 2003b; Schervish 2005). Schervish observes that personal financial status is subjectively measured by individuals who inevitably assess both their financial base and their aspirations “relative to subjective values and norms and in view of comparative assessments with their reference groups” (Schervish 2003b: 10).

A practical framework for an overview and analysis of research related to charitable giving by the wealthy is provided by the three major characteristics of private giving by the wealthy in the United States as identified by Theresa Lloyd (2004): targeted taxation benefits; antipathy to the state having a primary role in the provision of welfare; and as an integral and defining element of the elite culture in the United States.

**Targeted taxation benefits:** In addition to the “potent effect” (Clotfelter 2002: 14) of tax benefits on charitable giving in general in the United States which I have discussed earlier in this chapter, analyses undertaken by Joulfaian (1991, 2000) demonstrate a strong correlation between the operation of estate taxes and the inclination for wealthy estate holders to bequest a portion of otherwise taxable income to charity. Joulfaian (2005) also shows that as a result of relative taxation benefits in the US, the very wealthy are inclined to make charitable gifts *post mortem* in preference to *inter vivos*. Similarly, Schervish and Havens (2001: 98) identify tax incentives for charitable giving as one of the major influences of estate planning for the wealthy. The 112 families surveyed (with estates of $5 million or more) indicated they “expect” on average that 37 per cent of their estate will go in taxes, 47 per cent will be gifted to heirs and 16 per cent to charities. These same wealthy individuals indicated they would prefer to pay less of their gross estate in tax, and consequently to redistribute the resultant additional wealth between their heirs and charities. It is significant that while Schervish
& Havens do not emphasise this aspect, the preferred redistribution of estate assets away from taxes is nevertheless weighted more in favour of heirs than of charities, as summarised in Table 3.7.

**Table 3.7**: HNWI wealth transfer expectations and preferences in the US

<table>
<thead>
<tr>
<th>Beneficiary</th>
<th>Expectations</th>
<th>Preferences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heirs</td>
<td>47%</td>
<td>65%</td>
</tr>
<tr>
<td>Charities</td>
<td>16%</td>
<td>26%</td>
</tr>
<tr>
<td>Taxes</td>
<td>37%</td>
<td>9%</td>
</tr>
</tbody>
</table>

Source: Schervish & Havens 2001: 98

The strength of the sentiments summarised at Table 3.7 is indicative of both the attractiveness of tax benefits and of the broadly and deeply held antipathy in the US to paying taxes to the state.

**Antipathy to state role**: Beckert (2008a) characterises this US quality of antipathy to the state role in welfare provision as “radically individualistic” and describes this approach as normatively grounded in the notion that individuals know much better than the state how their wealth can be put to the best possible use for the common good. As Beckert observes, such an approach puts what constitutes common good entirely at the donor’s discretion.

Others (Odendahl 1989, 1990; Ostrander 1989, 2007) have interpreted this aspect of giving by the wealthy in the US as a means of securing and maintaining privilege and control. Odendahl finds that the US millionaires she interviewed placed a high value on wanting to maintain control over the disposition of their money rather than providing it directly to the government. She argues that the philanthropic elite use their giving to exercise power and to retain control of key social spending initiatives. The respondents’ control over the funds and the associated belief in their ability to use the money more effectively than the government, contribute to Odendahl’s criticism of US
charitable tax policy as entrenching inequality (1989). Her argument (1990) that contemporary American philanthropy is fundamentally a self-serving and self-perpetuating system by which the wealthy exercise social control and help themselves more than others is paralleled by findings in the late 1980s that fewer than 10 per cent of US philanthropic giving is directed at those with less access to resources than the donor/s (Ostrander 1989: 221).

Schervish on the other hand identifies this propensity to influence and control as “hyperagency” (Schervish 1997b, 2008): the combination of psychological and material capacity to not just contribute to or support causes, but to relatively single-handedly produce new philanthropic organisations or new direction in existing ones. These differences in language highlight how similar characteristics can be interpreted and represented in different ways. While to a degree Odendahl’s interpretation of her interview data serves to validate a class-based ideological antipathy to the wealthy, her analysis does provide a contrast to many other studies of philanthropic values and behaviours. Her highly critical perspective is at odds with Schervish and with much of the commissioned and non-academic literature associated with fundraising and wealth management, which tends to incorporate a sympathetic bias reflecting an agenda to encourage more charitable giving by more of the wealthy.

**Elite Culture:** The major characteristic of private giving by the wealthy in the United States identified by Theresa Lloyd (2004) is that charitable giving is an integral and defining element of the elite culture. The importance of charitable giving to elite culture in the US has also been identified by American researchers (Havens & Schervish 2001; Odendahl 1987; Ostrower 1995; Schervish & Havens 1997; Schervish 1997a). In her ground breaking study of elite philanthropy in New York, Francie Ostrower (1995) finds wealthy donors to be generally focused on their peers as the audience for their philanthropy. It is these people who provide the normative framework and the associated sanctions and rewards that are most powerful. The cultural interplay for wealthy New Yorkers demonstrates the point that obligations are most strongly felt where the ties are strongest. In a network, or a social circle where there is
a strong expectation that those with wealth give, then those who are concerned with securing and retaining membership of that network participate in (expected) philanthropic giving.

Mauss’s theory of the obligations of giving are evident in Ostrower who observes that “philanthropy is as much about the idea that individuals should ‘do their share’ to support the organisations from which they benefit as it is about giving to others” (1995: 8). More than 80 per cent of Ostrower’s respondents (all active philanthropists) agreed that for the wealthy philanthropy is an obligation, noting that the specific interpretations of “obligation” varied among individual and particular charitable traditions from tzedaka in the Jewish tradition (a Hebrew term that means justice rather than charity and is therefore considered an obligation) through to the more secular notion of “giving back”.

Similarly, the importance of normative pressures and reciprocal obligations are apparent in the development of what Paul Schervish calls Identification Theory (Havens & Schervish 2001; Schervish & Havens 1997; Schervish 1997a). Schervish rejects the altruism model of giving and draws on the tenets of social capital in an adaptation of rational actor theory in which he argues that giving to others is a rational action by those who identify strongly with others. Schervish and colleagues argue that for charitable giving, what matters most is an abundance of associational capital in the form of social networks, invitation, and identification (Schervish, O'Herlihy & Havens 2001: 12). In interviews with 173 wealthy donors Schervish et al. (2001) find that while these individuals see themselves as in control and as primarily responsible for their own success, they acknowledge the contribution of others and report a strong sense of obligation to give back amongst wealthy Americans.
Australia

In Australia, there is no comparable expectation that those with the greatest capacity will give. Michael Liffman’s description of the philanthropic landscape in Australia relative to that of the United States is instructive on the national perspective on charitable giving by the wealthy:

Australia has little tradition of significant philanthropic giving. Compared with the United States, private donated wealth has played a minor part in the building of Australia’s major civic, welfare, and cultural institutions. Australia still has no real counterparts to the Carnegies, Rockefellers, Fords, or their more recent manifestations: Bill Gates, George Soros or the Packard family. Australia’s wealthy families have neither their mythic quality, their power, their reputation for beneficence, nor, perhaps, their notoriety (Liffman 2004: 1)

Australian-based research indicates that in relative terms the wealthy in Australia are considerably less generous than their US counterparts (Tracey 2005; Tracey & Baker 2004). Unlike in the US where many services are provided by way of private funds, in Australia the provision of most social and community services are regarded fundamentally as a normal and expected function of government. In addition, the difference in scale between the economies and the level of wealth in the US and Australia make it possible for wealthy donors in the US, individually and in aggregate, to allocate very large sums of money to charitable purposes. The framework identified by Theresa Lloyd (2004) as characteristic of giving by the wealthy in the United States (targeted taxation benefits; antipathy to the state having a primary role in the provision of welfare; and giving as a defining element of the elite culture) does not have the same relevance in the Australian context. Of the three, only the attraction of targeted taxation benefits is applicable in the Australian context, and then only in relation to inter vivos giving.
Targeted taxation benefits do apply in Australia to *inter vivos* charitable giving, however as previously discussed the absence of estate/inheritance taxes in Australia results in an absence of taxation incentives for *post mortem* charitable giving. In relation to *inter vivos* charitable giving, only higher deductible amounts tend to be claimed and the wealthy are more likely to claim eligible donations (Giving Australia 2005). Madden and Scaife (2008a) observe that it is unsurprising that wealthy Australians are more likely to claim their eligible gifts, given firstly that the wealthy are more likely to use professional support to prepare their tax returns and secondly that the size of gifts by the wealthy (where made) may often be larger.

Findings drawing on data from the height of the economic boom in Australia indicate that *inter vivos* charitable giving by wealthy Australians did not keep pace with the substantial increases in personal wealth that had been characteristic of the previous decade (Madden & Scaife 2008a). Australian Taxation Office data shows that in 2005 approximately two thirds of individual Australians with a taxable income of one million dollars or more were participating in charitable giving, as measured by tax deductible donations made and claimed (McGregor-Lowndes & Newton 2007). Madden and Scaife (2008a) note the very high probability that all individuals earning a taxable income of one million dollars or more will take professional advice on the preparation of their tax returns. In accordance with their fiduciary duties, the advisers will seek to ensure that any tax deductible donations made are claimed. The data indicates that approximately one in three Australians earning a million dollars or more in 2005 did not make any tax deductible gifts.

The previously referenced 87 per cent participation rate in *inter vivos* charitable giving (claimed and unclaimed) by adult Australians is an indication that charitable giving is incorporated into the normative expectations of Australian society as a whole. The absence of claimed tax deductible donations by high income earning Australians is one indication of a relative lack of expectation that those with the most should give accordingly. Indeed, it may be that in Australia the norms associated with giving by the wealthy are
less like those which operate in the United States, and more like that those of the United Kingdom where the prevailing model of charitable giving in the UK has been characterised by Edwards (2002) as typified by spontaneous, spare change donations regardless of income. Capacity is a precondition for charitable giving, it is not sufficient condition. In Australia there is no pervasive antipathy to state involvement in the provision of services; substantive charitable giving is not a societal expectation of the nation’s wealthy; and substantive charitable giving is not an integral and defining element of the elite culture.

**Giving Post Mortem**

The sense of obligation, of reciprocity and of responding to the expectations of peers and the wider society as it relates to charitable giving has been addressed most often in qualitative research in relation to *inter vivos* giving. Some studies have specifically addressed *post mortem* charitable giving, including by the wealthy (Ostrower 1995; Schervish, O'Herlihy & Havens 2001). Nearly 60 per cent of New York philanthropists interviewed by Ostrower reported that they had made a charitable provision in their will (1995: 103). The corollary is equally stark. These were individuals with both the capacity and the propensity to give charitably. They were active members an elite where *inter vivos* charitable giving was an expectation for membership. Nevertheless, more than 40 per cent of this cohort self-reported they had not made provision for a *post mortem* charitable distribution from their estate.

Some of the very wealthy interviewed by Schervish, O'Herlihy and Havens (2001) made no real distinction in their giving between family and charity – arguing that leaving money to educated and trustworthy children assumes the children will themselves maintain a considered approach to giving. The fact that Schervish and colleagues appear to accept such comments at face value is indicative of a lack of critical analysis of the responses received. It may well be that the respondents have good reason to believe that leaving all their estate to their children is simply a matter of giving the charitable distribution
decisions to their children. It may also be an example of the creative capacity of people to find *post hoc* excuses for not giving (Hibert, Chatzidakis & Smith 2005). Such responses do however highlight that even in the context of the United States where there is a strong cultural expectation that those with the capacity to give will do so, this does not necessarily result in *post mortem* giving outside the family.

In the United Kingdom Lloyd specifically reports on the challenges of wealth transfer planning and its implications for charitable bequests. Many interviewees expressed concern with the question of how “to strike a balance between leaving an “appropriate” amount for their children and for other, particularly charitable, purposes” (Lloyd 2006: 6). While such consideration of “appropriate” familial bequests may form part of the thinking of many wealthy families, it takes part against a backdrop of general expectations in the United Kingdom (Finch et al. 1996), the United States (Coleman & Ganong 1998) and Australia (Preece 2000) to leave assets directly to family members.

Beyond giving by the wealthy, the need for a boost to the fundraising coffers of nonprofit organisations has provided the catalyst for contemporary developments in research into *post mortem* charitable giving more broadly. In a number of US based investigations which have addressed the relationship between *inter vivos* and *post mortem* charitable giving, the findings indicate that people who leave a charitable bequest in their will are more likely to have been steady donors during their lifetimes (Chang, Okunade & Kumar 1999; Hodgkinson & Weitzman 1990; Krauser 2007). These research based findings lend support to the “giving begets giving” fundraising adage espoused by Harold Seymour in his 1966 practitioner’s guide *Designs for fund-raising*: “the best bequests usually come from the steadiest of the annual contributors” (Seymour 1966: 28).

Nevertheless "[D]espite its importance, the topic of charitable bequests remains grievously under-researched" (Routley, Sargeant & Scaife 2007: 194) and the research that has begun to be undertaken in this area has been
conducted from a marketing and fundraising perspective with an emphasis on seeking to understand the drivers of charitable bequest behaviour. Adrian Sargeant and colleagues (Sargeant, Ford & Hudson 2008; Sargeant, Hilton & Wymer 2006; Sargeant & Jay 2004; Sargeant & Shang 2008; Sargeant & Woodliffe 2007; Sargeant, Wymer & Hilton 2006) have conducted research on both sides of the Atlantic and extended the bounds of charitable bequest theory and analysis, primarily from the perspective of seeking to provide practical marketing advice to organisations seeking to secure charitable bequests.

With regards to research into post mortem charitable giving in the United States the preferred method of Sargeant and colleagues is to work with the donors of large nonprofit organisations and in particular with those donors who have advised a beneficiary organisation of their commitment to making a charitable bequest to that organisation (pledgers). The trustworthiness of beneficiary organisations is found to be important to post mortem charitable givers and influenced by the personal significance of a bequest as the largest charitable gift a donor will make (Sargeant, Ford & West 2006; Sargeant, Hilton & Wymer 2006). Pledgers are found to be significantly more likely than other donors to be seeking a means to reciprocate; organisations demonstrating professionalism “were significantly more likely to be trusted with a pledge” (Sargeant, Hilton & Wymer 2006: 55); and personal connection enhances trust for those individuals whose lives had been directly impacted by the organisation concerned. The advice to fundraisers from Sargeant, Hilton and Wymer (2006) study includes the importance of establishing a trusting relationship with potential (and committed) bequeathors, and of providing assurance that the organisation is a worthy steward of gifted funds.

Further evidence of the importance of building relationships and trust, of providing the basis for reciprocal obligations is provided in a study conducted in the United Kingdom. Sargeant and Hilton (2005) find in their analysis of donors to five major charities that those most likely to make post mortem gifts to a charity are those with whom the charity has an existing relationship: their
own supporters and the users of their services. In a separate exploration of charitable giving in the United Kingdom, Pharoah and Harrow also observe that trust is central to post mortem charitable giving and that giving to “well-established major charities with a strong reputation for impact in their field is a way of addressing risk in what is essentially a very major investment – particularly when the donor is not around to monitor performance” (2009: 7). This can operate to the disadvantage of charities with less strong brands and lower capacity (Pharoah & Harrow 2009) and in the United States has been found to result in a small minority of charitable beneficiaries receiving relatively large sums (Richardson & Chapman 2005).

Sargeant and Shang (2008) build on the earlier investigations into differences in what influences inter vivos and post mortem charitable giving in the US (Sargeant, Hilton & Wymer 2006) and in the UK (Sargeant & Hilton 2005). Sargeant and Shang (2008) identify motivations specific to post mortem charitable givers in the US: The Need to Live On (also identified by Kopczuk and Lupton (2007) as the egoistic bequest motive); Family Need (specifically the perceived lack of need for members of the immediate family to inherit the entire estate); Tax (specifically its minimisation); Spite (making a charitable bequest to limit the amount received by “undeserving” family members); and Making a Difference (recognising the potential for a post mortem gift to be larger than regular inter vivos gifts and to have a larger impact).

These findings advance understanding of the influences of post mortem charitable gift pledgers and make practical recommendations directed at those in nonprofit organisations who seek to maximise bequest income. Nevertheless, many of these studies share the methodological limitation that much post mortem giving research is based on the expressed intentions of pledgers (as opposed to realised post mortem gifts) and that the individuals involved are frequently drawn from a narrow cohort of donors with an existing relationship with high profile charitable organisations.
Qualitative research into post mortem charitable giving in Australia has been far from extensive. A recent study however has sought to use some of the methodology refined by Sargeant and colleagues to directly compare the attitudes and behaviours of some 1,000 Australian charity donors, approximately half of whom had pledged a bequest (Madden & Scaife 2008b). This study found many similarities in the views of the two groups of givers. In findings which highlight the importance of relationship building, of ties and of trust, the likelihood of leaving a bequest is greater amongst those who agree that charity “performance” is vital; and amongst those who strongly believe in “reciprocity” in terms giving back to charities which have been helpful to the individual or those close to them. One finding of difference between pledgers and other givers is that while the level of inter vivos giving was widely varied throughout the surveyed population, a greater proportion of pledgers reported higher levels of annual giving.

Madden and Scaife also find two of the strongest influences of the intention to make a post mortem charitable gift to be family related. One of these strong influences is a perception that the family is already adequately provided for; and the other is the absence of a family to provide for (Madden & Scaife 2008b: 36). On the surface, the strong response rate to the family already being “adequately provided for” would suggest that those with significant capacity will be more likely to include a charitable gift in their will, an assumption which seems to be made without substantive justification in a study into bequest giving to Australian universities (McGill, Rundle-Thiele & Lye 2009). What constitutes “adequately provided for” however is inevitably a subjective and relative judgment. It is also a judgment which readily lends itself to the kind of previously referenced self-serving thinking of some of the very wealthy in the US who indicated (Schervish & Havens 2001) they would leave all to the family in order to enable the children to determine for themselves what and when to give charitably. The extent to which assessments of adequate provision in Australia translates to actual charitable gifts from estates remains untested.
Giving in Australia

In this chapter I have explored the literature pertinent to charitable giving in the context of individual estate transmission behaviour. I have argued that estate transmission decisions are anchored in the social and cultural milieu in which they are embedded. Social context, prevailing norms, obligations to others, and taxation and legal regimes play an interactive role in estate transmission decisions and charitable bequests. In the course of this review I have incorporated Australian research and related data as and where applicable. As a precursor to articulating the research questions for my study as a result of this review, I will briefly revisit key aspects of the Australian context.

The first observation to be made is that there is little reliable data and less research undertaken in Australia in relation to estate transmission decisions and post mortem charitable giving. In large part, US research is referenced and used to guide practitioner action in those areas where there is an absence of Australian-specific studies. What we do know includes the finding by Giving Australia (2005) that nearly 9 in 10 adult Australians (87%) participate in inter vivos charitable giving. This is indicative of a broad societal norm that Australians give. Giving Australia also notes that there is no reliable data on post mortem charitable giving. Based on survey data, Giving Australia also estimates that of the 58 per cent of Australians who have a will, 7.5 per cent self-report including a charitable gift. This gap in participation rates in inter vivos and post mortem charitable giving is substantial.

The default pattern in estate transmission in Australia is for the spouse and children of the will-maker to receive all or the bulk of the estate of the will-maker (Preece 2000). The extent to which inheritance practices are “being closely interwoven with the normative fabric of society” (Beckert 2008b: 521) is indicated by the trend in Australian family law decisions to increasingly uphold family challenges against charitable bequests and to portray these decisions as based on moral obligation (McGregor-Lowndes & Hannah 2008). Qualitative research involving active inter vivos givers in Australia has provided
some insights into *post mortem* charitable gift intentions. Madden and Scaife (2008b) find that a sense of reciprocal obligation is more common to those who pledge *post mortem* charitable gifts then those who do not. This is in addition to their earlier cited finding that the two factors most likely to influence an individual to leave a charitable gift are the absence of a family or where there is a family that its members are already adequately provided for.

The characteristics which Lloyd (2004) identified as key contributors to greater charitable giving by the wealthy in the US are largely not applicable in Australia. There is no expectation in Australia (either in the society as a whole or amongst the wealthy themselves) that those with capacity should give or "give back". The wealthy in Australia have been found to be less generous than those in the US (Tracey & Baker 2004) and while there are taxation incentives to give *inter vivos*, analysis by way of income shows that a third of Australians earning more than one million a year do not make and claim tax any deductible charitable gifts (McGregor-Lowndes & Newton 2007). Australian advisers to wealthy individuals and families have been found to be reluctant to raise charitable giving with their clients (Madden 2004) and while expressing a growing willingness to provide giving advice to clients with capacity many advisers remain unprepared to do so (Madden 2009; Madden & Newton 2006).

**Conclusion**

In the late 18th and early 19th centuries the seminal work of classical sociology identified the importance of solidarity between individuals and collectives to the effective functioning of society. Marcel Mauss highlighted the importance of gift exchange to the creation and maintenance of solidarity through the establishment of interrelated obligations of giving, receiving and reciprocity. Mauss's insights were both complex and nuanced, establishing that the act of giving is inevitably the result of the complex interplay of a multiplicity of influences: individual, collective, cultural, legal, historical and institutional. The strength of relationships and the related ties have a considerable bearing on gift giving practices as does the emotional charge ascribed to the particular
gift. There are few more emotionally charged gifts than those associated with the transmission of what remains at the end of a person’s life.

In this chapter I have argued that these insights provide a basis for understanding key influences on estate transmission decisions, including decisions to gift some or all of a residual estate to charitable purposes (*post mortem* charitable giving). I have identified a series of gaps in scholarly investigations into *post mortem* charitable giving as a separate and distinct form of charitable giving and a separate and distinct form of estate transmission. While there is a substantial body of scholarly work that addresses the desire of many to leave residual wealth *per se* (a bequest motivation) this literature rarely addresses charitable bequests specifically. Equally, while there is a substantial body of research into influences of *inter vivos* charitable giving, there is little that seeks to explore how these same forces may change or lose valence when it comes to *post mortem* giving.

The research that does exist in relation to *post mortem* giving is in large part based on the reported intentions of individuals who have pledged to make a charitable gift from their estate, rather than on the actual gifts made from deceased estates. In addition, much of this research is conducted in the United States. My discussion of both theoretical insights and empirical data has illustrated how estate transmission decisions are anchored in the social and cultural milieu in which they are embedded. I have argued that social context, prevailing norms, and obligations to others, along with taxation and legal regimes all play an interactive role in estate transmission decisions and charitable gifts. As the “‘total’ social phenomena” in operation in the United States will inevitably be different to those in operation in other countries, I have argued that findings in relation to estate transmission and charitable giving behaviour in that country may not necessarily apply in other national contexts. As a case in point, I have demonstrated in this chapter that key defining characteristics of charitable giving by the wealthy in the United States are largely not applicable in Australia.
While there are assumptions, assertions and shared understanding that there are significant differences in participation rates in *inter vivos* and *post mortem* charitable giving, there has been negligible substantive data on the extent of the differences or the possible reasons for those differences, in the particular context in which they take place. In the case of Australia there simply is no empirical data available on *post mortem* charitable giving. In the United States, research has indicated that those who do make charitable *post mortem* gifts are influenced both by fundraisers and by financial and estate planning advisers. The insights of these intermediaries into estate transmission decisions and *post mortem* charitable giving remain largely unexplored.

In this dissertation I focus primarily on seeking to understand what is occurring in terms of *post mortem* charitable giving in Australia. I seek to establish a foundation of knowledge about *post mortem* charitable giving in Australia against which future research can be compared. I do not focus in any detail on where the *post mortem* gifts are being directed, except to the extent that these patterns relate to theoretical insights into the importance of relationships, trust and reciprocal obligations. Nor do I address questions as to the effectiveness of beneficiary use of *post mortem* charitable gifts. These remain areas for separate, future research. I focus in this dissertation on patterns of *post mortem* charitable giving in Australia.

The main research questions which form the basis of my exploratory study and which guide my overall analysis are threefold: What are the contemporary patterns of *post mortem* charitable giving in Australia? How do key intermediaries (fundraisers and advisers) understand estate transmission and *post mortem* charitable giving? What is the relationship between *inter vivos* and *post mortem* charitable giving?

In the following chapter I describe the methodology I employed in gathering and analysing data in response to these questions.
Chapter Four: Methodology

Introduction

I begin this chapter by making a case for superior accuracy of empirical data, relative to expressed intentions, in the examination of charitable giving from personal estates. I also argue for the value of supplementing quantitative, empirical data with qualitative input by way of the views and perspectives of third parties involved in the domain of estate transmission and charitable giving. In relation to the quantitative data, I provide a brief background on the nature of probate files, describe the sample and the methods employed in analysis of data, and outline a range of advantages and limitations to this approach. For the qualitative data sets, I outline why the two groups of intermediaries were chosen for this study and why a semi-structured interview approach was adopted for collecting their views. As with the quantitative data, I describe the samples and the method employed in analysis and I outline a range of advantages and limitations. I finish the chapter with a reflection on the process of combining two separate methods in this study.

Beginnings

The starting point for an understanding of behaviour as it is lived as opposed to envisaged, is to access documentary evidence of actual transactions. This holds as true for intergenerational wealth transfers via estate transmissions and for post mortem charitable giving as it does for other forms of lived behaviour. The starting point for this study was to move beyond the more common methodology of examining the perspectives of those who have pledged to make charitable gifts from their wills (Richardson & Chapman 2005) and to undertake the process of gathering publicly available empirical information on how deceased Australian estates are distributed, including charitable gifts made from those estates. This approach enabled me to overcome the limitations of estimates and assumptions about the levels of
giving from estates in Australia and to avoid the potential distortions associated with self-reporting in relation to socially desirable behaviours.

The documentation required to give effect to estate distributions presents empirical evidence that may confirm, qualify or contradict what is broadly assumed, intuited or derived from experience. As empirical data is otherwise not available in relation to post mortem giving in Australia, the collation and analysis of probate data in itself makes a material contribution to knowledge in this field. Probate data captures how estate transition is given effect and what charitable gifts are made. Interpretation of that data can provide additional insights, however the interpretation is constrained in its ability to explain the complex mix of motivations and thinking behind the behaviour revealed in such data.

For insight into the influences of charitable giving practices and any potential differences between post mortem and inter vivos giving, it is necessary to enter more into the realms of ethnography and engage with individuals in context. Asking individuals about their intentions with regard to charitable giving from their own estate comes with methodological limitations. These include the constraints associated with sample size and selection (Berk 1983; 1988; Singh 2007; Winship 1992) and the potential for response biases to limit the accuracy of self-reporting (Crowne & Marlowe 1964; Edwards 1982; Paulhus 1984; Paulhus & Reid 1991). The limitations of sampling include that samples are almost always confined in scale due to practical considerations such as cost and the potential for even random samples to be skewed by issues such as accessibility, time, lack of privacy concerns (Madden & Scaife 2008a) or increased preparedness of those with a particular orientation (such as charitable propensity) to participate in a survey related to a theme of attraction to them (such as charitable giving). Reliance on self-reporting when asking individuals about their giving intentions is subject to the general risk of socially desirable responding (Paulhus & Reid 1991) whereby respondents are prone to give responses they believe are socially desirable, and consequently to respond in line with how they believe they “should”
respond or behave as opposed to their actual practice (Edwards 1982). Andrioni (2006) found the tendency for socially desirable responding to be active in surveys of personal charitable giving, and Breeze (2005: 2) observed: "It is notoriously hard to extract honest answers from people on an issue as charged as personal generosity, because lies and exaggeration are tempting and difficult to detect." This is a particular concern for post mortem charitable giving data where as Richardson and Chapman (2005) have emphasised, the limited amount of research available is almost exclusively based on self-reported intentions (pledgers) rather than on realised gifts (legators).

The expressed intention to leave a charitable gift in one's will may well be genuine. However such an intention may forever remain in the unrealised category of an individual’s good intentions. As an alternative to interviewing individuals about their own estate intentions, I chose to interview two groups of professional intermediaries who have been found in the United States to have an influence on charitable giving from estates (NCPG 2001): fundraisers and those involved in providing estate planning and financial planning advice. These individuals interact directly in their professional roles with will-makers who have given, may give or who have committed to post mortem charitable giving. Interviewing these intermediaries provides an alternative means of methodological access to charitable giving behaviours and allows the interviewee to comment on the behaviours of others as opposed to their own behaviour. Third party comment limits the potential for distortion from socially desirable responding, at least in relation to the comments provided in relation to others.

Interviewing fundraisers and advisers also provides me with means of addressing some surprises for the researcher which arose from insights gained from the quantitative data during the course of this study. These will be addressed in detail later in this dissertation; suffice to say for now that they included the low level of participation in post mortem charitable giving amongst the estates examined. How could it be that so few people make charitable distributions from their estate, yet there is a whole segment of the
fundraising industry devoted to identifying and securing, or at least seeking to secure, *post mortem* prospects and their gifts? Could it be that despite the size of the sample of probate data, the results were in some way at odds with industry experience? These questions further underpinned the potential value of interviewing fundraisers directly involved in bequest management within charitable organisations and of interviewing advisers involved in providing professional guidance to individuals considering estate transition issues.

Given the above, this thesis uses two fundamental research methods to gather and analyse data in relation to estate transmission and charitable giving. The first is quantitative and involves the gathering and analysis of empirical data provided by probate records. In this first part of the study I set out to establish empirically valid, base-line data on patterns of *post mortem* charitable giving. My expectation was that the data gathered and analysed would shed an informed and substantiated light on contemporary patterns of *post mortem* charitable giving.

The exploratory nature of the qualitative components of this study is compounded by the use of previously underutilised data sources both in relation to quantitative data (probate) and qualitative data (interviews with practitioners in the field). In Australia there has been very little research attention paid to these potentially rich sources of data on estate transmission and charitable giving. Internationally, there are few examples where quantitative and qualitative data has been combined in the analysis of these issues. One example is the combination by Beth Egan (2001) of a review of data from an existing survey of *inter vivos* donors in the United Kingdom combined with interviews of charitable sector experts. By way of this combination Egan argues there remains in the United Kingdom a negative correlation between the level of income received and the percentage of income gifted to charity.
**Quantitative Data (Probate)**

In this study the information contained in the probate files of individual deceased estates is the source of quantitative data. While the issue of probate was addressed in some detail in Chapter Two to this thesis, I will now provide a brief overview on probate as a precursor to outlining the specifics for the sample used in this study.

In broad terms probate is the legal authority of a duly designated court to enable the administration of a deceased person’s estate. Probate documentation can also serve to provide the basis for determining the relevant tax applicable in countries where some form of tax may be payable on a deceased person’s taxable estate (for example, Estate Tax / Inheritance Tax in the United States; and Inheritance Tax / Capital Transfer Tax in the United Kingdom). In Australia, there has been no inheritance tax payable for the last three decades (Gans & Leigh 2006; Pedrick 1981; Smith 1993) and as a result there have been no resources committed to maintaining a database of the content of probate files. Prior to the abolition of duties payable on an estate at death, it been common practice for those with wealth to seek to minimise the value of their personal estate in order to avoid or minimise tax(es) payable (Rubinstein 1979: 33). As such, the demise of tax on deceased estates in Australia removed one of the major motivations for individuals and/or their executors to seek to downplay the value of the estate. While wealthy Australians continue to seek to minimise the value of their personal estate, this is now primarily a function of wealth protection (to limit liability in the event of business failure or legal proceedings). It should also be noted that while there may be a popular perception that Capital Gains Tax in Australia has effectively substituted for death duties, this is not the case. In brief, there is a “special rule” in Australian taxation regulations which allows any capital gain or loss to be disregarded for capital gains tax purposes if, when a person dies, the asset they owned passes to their legal personal representative or to a beneficiary (ATO 2004a).
Data Source

As previously discussed, to give effect to a transfer of assets from the previous ownership of a deceased individual in Australia, an order is required under the auspices of the Supreme Court of the relevant state. The responsibility for processing probate is state-based and there are no consolidated holdings of probate files nationally. At a state level detailed probate information is not retained in any existing databases. Consequently, the only way of gathering data on the actual practice of estate transmission and associated post mortem charitable giving in contemporary Australia is by way of on-site, detailed examination of individual, paper-based probate files.

Given the constraints of access to individual files, for the purposes of this study it was determined in the first instance as a matter of practicality to access probate data in the home state of the researcher: the State of Victoria. Victoria is the nation’s second most populous state with 5.126 million residents as at 30 June 2006, just under 25 per cent of the nation’s total resident population. In terms of age demographics, Victoria is broadly characteristic of Australia with 13.5 per cent of its population aged 65 years or older (ABS 2008a), against an Australian average of 13.1 per cent (ABS 2008b).

In contemporary Victoria there are approximately 16,500 applications per annum received by the Probate Office. The information recorded in probate files includes a valuation of the deceased estate in terms of both Real Estate (property) and Personal Estate (including cash, insurance policies and shares). In most circumstances, superannuation (pension) assets are excluded as they do not form part of the estate, given that superannuation assets are distributed by and at the discretion of the trustees of the superannuation fund. Probate files also include the last will of the deceased, where one exists, and a copy of the death certificate for the individual. The death certificate contains basic biographical information including the marital status of the individual and the age of surviving children at the date of the will-maker’s death. Significantly, in the light of the nature of changes to family structures and relationships over recent decades, a death certificate does not record de facto
relationships or step-children, despite changes in 1997 to intestacy laws to acknowledge the potential legitimate claim on an estate by individuals with de facto &/or step relationships (Law Institute of Victoria 2006).

Probate files are searchable court records retained by the Probate Office for 10 years in Victoria, at which time they are released to the Public Record Office Victoria. While the public has access to contemporary probate files once processed (given their status as searchable court records), this requires application to the relevant Supreme Court Probate Office and the payment of a fee per file accessed ($27.50 per file in Victoria in 2006).

The Victorian Registrar agreed to a written request from the University to grant me as a post-graduate research student access to multiple files, free of charge, for the purposes of research. This was a generous concession especially as the Probate Office was very tightly resourced and research visits needed to be coordinated with non-working days of part time employees simply to enable me access to a desk space from which to work. A similar request made to the Registrar of Probates in New South Wales (NSW) was declined. The NSW Registrar asked why one would want to gather information on charitable estate distributions and why one would be interested in such data, observing “Surely people are entitled to distribute their estate entirely as they please!”

The resultant request for fee-free access to NSW probate files for research purposes was declined. The significance of this anecdote is that the response of the NSW Registrar highlights the emotive nature of post mortem charitable giving. It also highlights that not all in the community are of the view that charitable giving from estates is necessarily a desirable end. Also as a result of being declined research access to NSW files, this study has consequently focused on data drawn from a single state. While it would have been ideal to include a sample of estates processed for probate in each Australian state, it was not practical to do so. The extent to which the Victorian data on estate transmission and related charitable giving patterns are broadly reflective of
Australia as a whole can not be determined by this current study and is an area for potential future research.

The quantitative component of this study then focused on the review of over 1,800 individual Victorian probate files processed in 2006. A random sample was generated by way of sorting through probate files batched in boxes of approximately fifty. As the Probate Office files applications in order of processing, the way in which they are stored is in itself random, with no batching by way of location, person/firm lodging the application, size or degree of complexity of file. With very few exceptions, these files were for individuals who had died in 2005 or 2006. From the full data set, files for which adequate information was not available were excluded along with files where the individual had died in another jurisdiction. As a result, data was collected on a total of 1729 files. This is a total sample in excess of 10 per cent of the number of probate files that the Probate Office, Supreme Court of Victoria would expect to process over the course of the calendar year (16,500). A copy of the fields for which data was recorded is at Appendix A.

Data Analysis

The analysis firstly addressed the entire sample of 1729 files and therefore included those estates where there was a surviving spouse; and intestate estates for which an application had been made to the Probate Office in Victoria.

In order to ensure that the extent of charitable giving from estates was not curtailed by definitional limitations, all estate distributions that could potentially be characterised as having been made to charitable purposes and/or organisations were coded as “charitable gifts”. For example, distributions for as little as $100 to a parish priest for the specific purpose of saying mass for the repose of the soul of the deceased were coded as charitable. If an organisation was named as a beneficiary and it looked as though it could be deemed to be of a charitable nature it was also coded charitable, without reversion to definitions of charitable or tax-deductible
status at law. Transfers to family members were not deemed to be charitable. Distributions to named individuals (often with no indication as to the familial or other relationship to the deceased) similarly were not coded as charitable gifts, unless so specified.

As identified by Schervish, Havens and Whitaker (2006: 11): "Most research on charitable bequests ... does not distinguish between first estates (estates of the first spouse to die) and final estates (estates for which there is no surviving spouse)". They argue that as it is common for individuals with a surviving spouse to pass through an estate in its entirety to the spouse, the source of more meaningful charitable giving analysis is the wills of individuals who do not have a surviving spouse. This study includes the analysis of "final estates". From the total data set of 1,729 probate files, a more targeted data set of 1,213 "final estates" was established by eliminating all intestate estates \( N = 235 \) and all first estates \( N = 281 \) with a will and a surviving spouse.

The data captured from individual probate files was entered directly into an Excel spreadsheet. Analysis of the data was undertaken against most of the categories of information collected. Demographic data provided the basis for initial analysis. A simple sort of age data by way of "year of birth" was undertaken to determine age distribution. The "gender" of the deceased was similarly used to identify gender distributions overall and within subsequent data sets. "Residence" as recorded on the death certificate was assessed in the data capture process as being of little value for analysis. The residence of the individual was frequently that of the hospital, hospice or residential care facility in which the individual had spent the final part of his or her life. This address was not necessarily an indication of where the individual had lived and worked prior to moving into a care facility where they would eventually die. As a result, the data was assessed as not being fit for the purpose of undertaking residential analysis.

Similarly, the "occupation" of the deceased is provided on the death certificate. It became apparent that there is no commonly used standard for recording
occupation. Nor is there a common standard for whether the occupation on a death certificate describes the working life of the individual or their working status at the time of their demise. It would appear that the latter is most frequently used. The most frequently recorded occupations were those of “retired”, “widow”, “widower”, “pensioner” and “home duties”. With the possible exception of “home duties” the descriptors used for the occupations of many individuals were of such a generic nature as to provide no insights into the type of occupation the individuals had pursued during their working lifetimes. As a result no analysis was undertaken on the basis of occupation.

In addition to the primary demographic criteria of age and gender, the major interrogations of the data were made in relation to whether or not there was a surviving spouse; and whether or not there were surviving children. As discussed above, analysis was undertaken against both the full data set and the more tightly defined set of “final estates”. Analysis of charitable giving as a proportion of estates was undertaken against the total net value of estates. The net value of each estate was calculated by deducting total liabilities from total assets. For example, if an estate had assets to the value of $400,000 and an outstanding loan to the value of $100,000 then the total net value of the estate is calculated as $300,000. For the purposes of analysis estates were grouped on the basis of net value in $500,000 increments. The participation rate in charitable giving from estates was calculated, as was the proportional value of estates directed to charitable gifts. A separate comparison was undertaken of estates with and without surviving children to analyse differences in transfer patterns.

The results yielded by the spread sheet analysis raised the question as to the statistical significance of some of the findings. As a result the excel data was converted across to SPSS to enable a small number of significance tests to be run. A chi-square test of independence was performed to assess the relationship between the presence of a surviving spouse and the making of a charitable gift from willed estates. A chi-square test was also performed to examine the statistical significance of the relationship between the presence of
surviving children and the making of a charitable gift from final estates. An analysis of variance (ANOVA) test was performed to determine whether or not the proportion of estates gifted to charitable purposes was statistically significant for less wealthy and more wealthy estates. The average proportion of estate value gifted to charity (the independent variable) was tested against the five categories of estate value (as the levels of the one dependent continuous variable).

**Advantages and limitations**

Probate data provides empirical evidence of how transfers from individual estates have actually been given effect. This is a source of data which has been neglected. In Australia the examination and extraction of detail from individual probate files is a labour intensive and time consuming process. The cost of access to contemporary probate files is also a potential impediment to research using this source. The probate data collected for this study contributes in a material way to what is known about intergenerational transfers and the extent to which charitable gifting is included. Because probate deals with actual deceased estates, in a nation where life expectancy is above 80 years of age, the majority of any sample of probate files will relate in large part to an older generation. Life expectancy in Australia is amongst the highest in the world: 81.9 years (at birth) relative to a global average of 67.2 years and 79.4 years in the United Kingdom and 78.2 years in the United States (ABS 2008b).

While it is a statement of the mathematically obvious, the ages of will-makers in the study sample highlights the demographic practicality that it is mostly older people who die. In the case of Victorian probate applications processed in 2006, the majority of the individuals concerned are from a cohort born before 1930. These are people born before World War II and many before World War I. The probate data gathered therefore provides clear insight into how this particular segment of the population is currently behaving in relation to estate transfers. From this data it is not possible to assess or infer what younger individuals may be planning or contemplating. As observed by the
historian and social scientist WD Rubinstein (1979: 29), generalisations about society as a whole from probate data will inevitably be flawed. This data does however provide a snapshot of the practices of a particular generation and does provide insight into how this particular segment of our society is currently behaving in relation to estate transfers and post mortem charitable giving. The data also provides insight into the prevailing post mortem charitable giving norms and it identifies the estate transfer behaviours that are currently being role-modelled.

The limitations of data available via probate records include that while such data provides clear insight into transfers that have been made from deceased estates, it does not provide any insights into inter vivos gifts by an individual to children or to charitable causes. The greater the wealth of a household in Australia, the greater the probability that assets will not be held in an individual’s name but held by a separate legal entity such as a discretionary trusts. Consequently, probate data is under-representative of true wealth of affluent individuals (Rubinstein 1979).

**Qualitative Data (Interviews)**

The second major research method used in this study is interviews. The quantitative data from probate files primarily addresses the first of the research questions for this study: What are the contemporary patterns of post mortem charitable giving in Australia? To help address the remaining research questions, semi-structured interviews were conducted with the two groups of professional intermediaries who have been found in the United States to have an influence on charitable giving from estates (NCPG 2001): fundraisers and those involved in providing estate planning and financial planning advice to individuals and families. The interviews were designed to gain access to the perspectives of key intermediaries into post mortem giving patterns in Australia; to explore the insights of these individuals into the extent to which inter vivos and post mortem charitable giving practices differ; and elicit their insights into the social phenomena which contribute to actions and patterns they observe.
Data Source

In order to determine an appropriate sample of interviewees from amongst fundraisers involved in sourcing and securing post mortem charitable gifts from within charitable organisations, I sought first to identify a consistent typology. The review undertaken served to highlight the lack of a consistent or agreed typology of beneficiary, charitable organisations.

In Australia while a charity may be exempt from paying income tax, to be able to receive donations that are tax deductible for the donor, the charity must have “Deductible Gift Recipient” (DGR) status. Division 30 of the Income Tax Assessment Act 1997 details a dozen “General Categories of DGR” under which nearly forty specific categories are listed. At the time of developing the framework for this study, the Australian Centre of Philanthropy and Nonprofit Studies (2006) at Queensland University of Technology had published an analysis of Deductible Gift Recipients with a breakdown by scale of the nearly 22,000 DGRs endorsed in Australia in 2005. (For a breakdown of the relative scale of each of the twelve general categories used by the Australian Taxation Office refer Appendix F, Table F.1.) A different analysis of beneficiaries of the recipients of monetary giving by Australians is provided in the Giving Australia (2005) report which identifies thirteen categories of gift recipient. (For a breakdown of the relative receipts by each category refer Appendix F, Table F.2.) As the Giving Australia analysis includes all giving it is far broader than just those beneficiaries with DGR status. There is no direct correlation between the General Categories of DGRs and the recipient sectors identified by Giving Australia.

The model I settled on is from the commercial fundraising sector in Australia, where the charitable research firm Givewell (Thompson 2005) in its analysis of fundraising income consolidates multiple revenue streams under seven “cause related” groupings: Health; Humanitarian; Community Support; Conservation, Environment and Animals; Overseas Aid; Disability; Hospitals (refer Table 4.1 for details of the constituents of these grouping).
**Table 4.1: Cause related charitable activities**

<table>
<thead>
<tr>
<th>Cause</th>
<th>Constituents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health</td>
<td>Health Promotion, Major Diseases, Medical Services, Mental Illness, Drug / Alcohol Addiction</td>
</tr>
<tr>
<td>Humanitarian</td>
<td>Organisations committed to and/or advocating a cause which affects the broader community by virtue of</td>
</tr>
<tr>
<td></td>
<td>natural causes, cultural or political influences. Includes charities supporting educational institutions</td>
</tr>
<tr>
<td>Community Support</td>
<td>Aged Care, Aboriginal Support, Emergency Services, Children, Arts/Culture, Unemployment, Welfare, Youth</td>
</tr>
<tr>
<td>Conservation, Environment and</td>
<td>Conservation and Environment, Animal Welfare</td>
</tr>
<tr>
<td>Animals</td>
<td></td>
</tr>
<tr>
<td>Overseas Aid</td>
<td>Overseas Aid</td>
</tr>
<tr>
<td>Disability</td>
<td>People with Disabilities</td>
</tr>
<tr>
<td>Hospitals</td>
<td>Hospitals, Medical Research</td>
</tr>
</tbody>
</table>

Source: Thompson 2005: 19

**Interviewee Sample**

Fourteen fundraisers from within charitable organisations were interviewed, with at least one from each of the seven cause-related groupings, as summarised at Table 4.2. I also sought to ensure that the interviewees selected were experienced professional fundraisers, with particular expertise related to charitable bequests. To ensure the sample was extended beyond personal contacts, an approach was made to the national peak body representing professional fundraising in Australia, the Fundraising Institute Australia (FIA). The Sydney based national office of the FIA generously distributed an email to members advising of the research and providing contact details for the researcher for anyone interested in participating. This led to three immediate offers of participation by individuals who fitted my target profile. The FIA email also led to an invitation to make a brief presentation to an FIA “Bequests Special Interest Group” meeting in Melbourne. After the formal proceedings I made targeted approaches to
individuals (from the relevant framework categories) who had been identified by initial volunteer interviewees as individuals of experience, expertise and/or insight. Participants were interviewed on the basis that neither they nor their organisations would be identified (without prior written approval).

**Table 4.2: Fundraiser interviewees employed by a charity**

<table>
<thead>
<tr>
<th>Cause Related Grouping</th>
<th>Number (N = 14)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health</td>
<td>2</td>
</tr>
<tr>
<td>Humanitarian</td>
<td>2</td>
</tr>
<tr>
<td>Community Support</td>
<td>4</td>
</tr>
<tr>
<td>Conservation, Environment &amp; Animals</td>
<td>1</td>
</tr>
<tr>
<td>Overseas Aid</td>
<td>1</td>
</tr>
<tr>
<td>Disabilities</td>
<td>1</td>
</tr>
<tr>
<td>Hospitals</td>
<td>3</td>
</tr>
</tbody>
</table>

On the basis that nearly 50 per cent of Deductible Gift Recipients received total donations of under $7,000 per annum; and approximately 75 per cent under $35,000 per annum (CPNS 2006: 5) it is probable that the majority of small charitable organisations would have little successful experience with *post mortem* gifts. In order to ameliorate potential bias in the interviewee sample which might come from selection of only larger, higher profile charitable organisations, I included in the sample one smaller charitable organisation with DGR status.

The organisation chosen, while smaller than charities with a nationally recognisable name, was nevertheless of sufficient scale to employ a part time fundraiser. That person advised that to her knowledge smaller charities are infrequent and irregular receivers of charitable bequests. In the case of the particular charity she was employed by, the fundraiser advised that *post mortem* gifts are only received by known supporters - users of the facility or members of their immediate family. She also clarified the irregularity of such bequest income: “We only get a bequest every second or third year, at this
stage.” The qualifying clause “at this stage” is indicative of the hope in the sector that bequests may be a growing income stream. The same qualifier may also be an indication that as a fundraiser speaking to a researcher on charitable bequests, the interviewee may have felt a degree of discomfort in advising that the charity she was working for had no active bequest program.

In addition to fundraisers working within charitable organisations, additional expert fundraiser input was sourced. At the recommendation of several of the fundraisers initially interviewed, I extended the professional fundraiser sample to include a senior representative from each of two fundraising consulting organisations, which advise on securing charitable bequests. Collectively, the sixteen fundraisers interviewed had 217 years of fundraising experience.

In the selection of a sample of advisers to interview in relation to estate transition practices and post mortem charitable giving I focused on estate planning and financial planning advisers who also have expertise in the area of philanthropy and charitable giving. In this respect I have focused on the category of advisers identified by Theresa Odendahl (1990) as those whose orientation includes the facilitation of the charitable application of wealth as opposed to those technicians whose primary orientation is towards the wealth in its own right. Advisers without charitable orientation or expertise would have been far less able to contribute to providing insights and experience pertinent to answering my research questions. My means of accessing this category of adviser and their associated expertise was by way of my knowledge of participants in or contributors to the educational programs run by the Asia-Pacific Centre for Philanthropy and Social Investment at Swinburne University of Technology.

As trustee companies are the prime holders of philanthropic funds in Australia (Andrews 2007), I directly approached a senior representative from one of Australia’s largest trustee companies. That individual agreed without hesitation to be interviewed. I also approached the Chief Executive Officer (CEO) of another of Australia’s largest trustee companies and I was referred by
the CEO to a senior representative with experience in the United Kingdom and in Australia with regards to estate planning, philanthropy and charitable trusts.

In addition to these trustee company representatives I approached three individuals who provide estate and financial planning advice to high net worth clients. Each adviser agreed to participate. I selected advisers who provide services to different client groups based on the recommended minimum assets that a client requires to justify the level of expertise and related cost of the adviser and the firm that he or she is employed by: i) one million dollars or more in total assets; ii) five million dollars or more in investable assets; iii) $30 million or more in investable assets. The $30 million plus category is known in the international language of the wealth management industry as Ultra High Net Worth Individuals (Ultra-HNWIs). One of the advisers interviewed is also a solicitor. Collectively, the five professional advisers I interviewed had 96 years of advisory experience.

Table 4.3: Intermediaries interviewed

<table>
<thead>
<tr>
<th>Interviewee category</th>
<th>Number</th>
<th>Experience (Years)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fundraisers</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee of charitable organisation</td>
<td>16</td>
<td>217</td>
</tr>
<tr>
<td>Fundraising consultant</td>
<td>14</td>
<td></td>
</tr>
<tr>
<td><strong>Advisers</strong></td>
<td>5</td>
<td>96</td>
</tr>
<tr>
<td>Trustee Company representative</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Adviser to HNWIs and Ultra-HNWIs</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>21</td>
</tr>
</tbody>
</table>

Interview Process

Each individual approached agreed to be interviewed. This may well have been a function of two factors. The first is the collaborative nature of the philanthropic sector at a professional level and the shared interest in and support for research in this arena. The second is my own background and the
nature of the approach made to each individual in my capacity as researcher. At the time of commencing the interviews I was 50 years old. I had worked for over 25 years in Human Resources working for large organisations. My work experience included several years as a senior executive working for the ANZ Banking Group, one of Australia’s largest listed companies. In addition, since 1999 I had been on the National Board of Management of The Salvation Army Employment Plus (TSAEP), a nation-wide provider of employment services. At the time the interviews were conducted I was Chairman of the TSAEP Board and a Fellow of the Australian Institute of Company Directors. My own value systems and my experience, including that of working with and for The Salvation Army, are such that I believe that charitable giving is a positive process and one which has the potential to contribute to the quality of societies and especially to the quality of life of the less advantaged.

The importance of understanding the ways in which the personal background of the researcher may influence the research processes has long been of interest to social researchers (Ackroyd & Hughes 1992; Alvesson & Sköldberg 2000; Geertz 1988; Hammersley & Atkinson 1983; Mauthner & Doucet 2003; Plummer 2001). The difficult nature of this “problem of reflexivity” (Denzin 1997: 27) has been identified by Mauthner and Doucet (2003) as a requirement for self-awareness on the part of the researcher, which is made fundamentally difficult by the limits of self-awareness. As Plummer (Plummer 2001) has argued, a researcher’s own social position, personal attributes and beliefs are in themselves a potential influence over components of both the research process and its outcomes. My description of myself and my background were usually addressed in the initial contact discussion. I structured this advice with the intention of assisting in establishing “a suitably relaxed and encouraging relationship … (to) communicate trust, reassurance and even likeableness” (Ackroyd & Hughes 1992: 108); to build rapport and credibility; and to establish myself as “one of us”.

For this study, my approach involved personal contact with each individual. My two modes of initial contact were over the phone or face to face in those
cases where initial contact was made at the Fundraising Institute Australia’s “Bequest Special Interest Group” meeting. If an introduction had been provided or a recommendation made, I referenced this early in the conversation.

Initial verbal advice to all potential interviewees was in line with the content of the relevant Project Information Statement approved by the Swinburne University of Technology Ethics Committee (refer Appendix E). When approaching a person who was a direct employee of a charity, I made reference in particular to aspects of my experience as a Board member of The Salvation Army Employment Plus. When approaching both fundraising consultants and advisers I provided additional information to establish my understanding of both governance and financial management issues in the process of advising that I had recently been a senior human resources executive at one of Australia’s major banks where my portfolio had included human resources responsibility for the Bank’s national network of financial planners and advisers.

As a criterion for approaching the individuals concerned was that they have relevant expertise and experience, the majority were senior practitioners. As a result, my own maturity may also have been of assistance in establishing my credibility. While the age of interviewees was never broached it is estimated that four of the 21 interviewees would have been under the age of forty five. After the initial discussion and before the actual interview, I followed up on my verbal undertaking and emailed to each interviewee a PDF version of the relevant Project Information Sheet (refer Appendix B) and Individual Consent Form (refer Appendix C) approved by the University Ethics Committee.

All interviews were conducted face to face over the period September 2007 to January 2008. Interviews averaged one hour and ranged from 50 minutes to 70 minutes. Five of the interviewees were Sydney based, and three of these were interviewed in Sydney. The remaining 17 participants were interviewed in Melbourne.
Interviews of advisers and of fundraising consultants were generally conducted in a meeting room. The facilities of the fundraising consultants were professional but modest, in keeping with the sensibilities of the industry they service. The meeting rooms of the financial advisers to high net worth individuals were in high quality, very well appointed consulting rooms in the offices of the adviser’s firm. All interviewees signed a Consent Form. The interviews were digitally recorded and all were transcribed by the researcher. The format employed was that of semi-structured interviews which seeks to make use of the standardisation of structured interviews while accessing the flexibility of open-ended format interviews.

Data Analysis

In my analysis of the interviews in this study I adopted an iterative and inductive approach of using the content of the transcripts themselves to initially identify, and then refine key themes. The process of a general, inductive and interpretative research method of thematic analysis is one of “many ways to move from the field to the text” (Denzin 1994: 511) and draws on the approach developed by Barney Glaser and Anslem Strauss, known as grounded theory (Glaser & Strauss 1967). While the main difference between grounded theory and thematic analysis is that grounded theory “includes theoretical sampling ... [T]he techniques used for analysing data in thematic analysis and grounded theory are broadly similar” (Liamputtong & Ezzy 1999: 265). The inductive process in which concepts, patterns and themes are identified and developed during the course of the research itself has been described by Strauss and Corbin as a methodology whereby the researcher does not begin with preconceived outcomes in mind but allows the outcomes to emerge from the data (1998: 12).

Given the exploratory nature of the qualitative components of my own research I adopted the iterative and data driven inductive approach of thematic analysis while recognising that my adoption of this research methodology would itself be dynamic and align with the observation of Case (2007: 197) that in practice “[F]ew investigators or studies stick solely to
induction or deduction. Rather, they tend to move back and forth between those modes”. To add to the richness of the qualitative data that would be available to me in the iterative analytical process, in addition to recording the spoken word, during the course of each interview I also took supplementary notes to help remind me of context and interviewee demeanour. In each case I personally prepared a full transcript from the recording. Initial analysis was undertaken during transcription. Prompt preparation of the transcripts enabled me to recall the non-verbal elements of the exchange (not captured on the sound recording) in order to inform early observations and insights.

Once all interviews had been undertaken and transcripts prepared, a codification system was developed based on themes identified during the transcription and early analysis. Each transcript was then reviewed against the initial set of themes to further refine the thematic codification structure. The number of themes used were consolidated and the descriptors correspondingly modified in an iterative process of “grouping and re-grouping responses into areas of similarities ... (and) reading responses carefully, thinking about commonalities” (McMurray, Pace & Scott 2004: 248).

The analytical process in this way was also used to check for variations or bias in the way in which the responses were both elicited and provided. Both interviewer and interviewee perceptions and expectations of one another can influence the way in which situations are described and stories told. Because the parties to an interview are human beings, “biasing factors can never be overcome completely, although their effects can be reduced” (Hoyle, Harris & Judd 2007: 150). Accordingly, steps were taken to minimise the potential for bias. The semi-structured interview format was designed to provide a degree of standardisation, and the analytical process was designed to ensure the detailed review of responses in context. Nevertheless, the responses provided by individual interviewees are the responses that they gave on that day, in that particular context and to me as I presented in the course of the interview. A variation in any of these criteria might well result in variations to the responses.
The quantitative questions asked of fundraisers directly employed by a charity yielded very little usable data. The interviewees in many cases simply did not know the answers. The reasons for this included: no personal knowledge of the financial details; functional separation of bequests from other gifted income; and/or simply the complexity of measurement. The complexity of measuring bequest income is exemplified by the fact that the more complex estates may take a considerable number of years to be finalised but may result in bequest income at varying levels over each of those years. As a result of the patchy quality of responses to the quantitative component of the interviews it was not possible to assemble sufficient meaningful data to enable its analysis.

In the process of conducting the interviews, I used the structured format of the interview schedules to provide the framework against which I asked questions, though they were not necessarily addressed in the same order. In an effort to respond to the diverse backgrounds and differing levels of expertise of my interviewees, and to take advantage of what Colin Robson describes as “the possibility of modifying one’s line of enquiry, following up interesting responses and investigating underlying motives in a way that … questionnaires cannot” (Robson 2002: 272), the order in which questions were asked depended on the flow of the individual interviews.

In relation to one issue it only emerged after I had begun the thematic analysis that I might usefully have pursued an issue of relevance in greater depth. On review the transcripts from my interviews it became apparent to me that there was only one occasion on which any individual had expressed a view that people “should” make post mortem gifts. To the extent to which fundraisers and advisers hold a view on this matter, it was not clear to me why this had not been raised in the interviews? It may be that the reasons for this include that the interviewees were seeking to demonstrate to me as a researcher that they are professional and beyond resorting to moral admonition. It may be the reasons include that in the secular milieu that is characteristic of contemporary Australia, direct appeals to moral obligation is
seen to be too contentious and potentially counter-productive to fundraising or to the provision of advisory services.

**Advantages and Limitations**

The interview was employed in this second phase of data gathering because it is an enquiry technique that provides access to richness of data from individuals that is not accessible by way of surveys and indirect questioning techniques. The advantages and disadvantages generally ascribed to face-to-face interviews have been broadly canvassed (see for example: Hoyle, Harris & Judd 2007: 101; McMurray, Pace & Scott 2004: 110-111; Robson 2002: 272-3). The advantages include that interviews provide the interviewer with the potential to correct misunderstandings, to probe inadequate responses, to control the order in which questions are addressed, to take (more) time to control for bias, and as a result of these factors to generate superior quality of responses. The semi-structured interview in particular seeks to make use of the standardisation provided by structured interviews while accessing the flexibility of open-ended format interviews. As such, semi-structured interviews provide a technique that is particularly suitable to eliciting insights into and from the skills, experience, and perspectives of experts in a field (Hoyle, Harris & Judd 2007).

As Tim May (1993) observes, the advantages of semi-structured interviews include that they make use of the standardisation provided by structured interviews while providing the interviewer with greater freedom to probe and to seek both clarification and elaboration from the interviewee. Similarly, from the other side of the interview process, a perceived strength of semi-structured interviews is that they “allow people to answer more on their own terms than the standardized interview permits, but still provide a greater structure for comparability” (May 1993: 93) relative to open ended interviews.

The very same flexibility means that the degree of standardisation from a semi-structured interview is not as high as with a more tightly structured data gathering process. The greater flexibility and the improvement in the quality
of data collected via semi-structured interviews come at the cost of a relative reduction in the rigor of standardisation. In addition, as discussed above, the nature of interpersonal interaction means that it is difficult to be completely sure that all biases have been ruled out. The interview is in itself a social encounter and it is important to recognise that the way in which individuals represent their motivations and actions is influenced by how they wish to be perceived. A story told by an interviewee provides an interpretation of events and experience in the context of the particular discussion with the individual conducting the interview:

interview data report not on an external reality displayed in the respondent’s utterances but on the internal reality constructed as both parties contrive to produce appearances of a recognisable interview (Silverman 1985: 166)

This does not diminish the value of the insights provided, however it does mean that the researcher needs to be cognisant of the fact and not seek to assess interpretation as fact. In this study, the qualitative data gathered presents the views and interpretations of a range of individuals. The interviewees are experts in their field and in many cases have decades of experience in a multiplicity of organisational settings and organisations. The interviewees are consequently well informed and the insights and interpretations they have provided are significant. Nevertheless, as with all areas of human endeavour, there are always multiple ways of viewing the same or similar experience and the views even of experts are no more and certainly no less than the views of individual experts.

The disadvantages generally ascribed to face-to-face interviews (Hoyle, Harris & Judd 2007; McMurray, Pace & Scott 2004; Robson 2002) include: the absence of strict standardisation; difficulty in ruling out bias; the time consuming and costly nature of interviewing in all its forms. Interviews require careful preparation, prior contact with the interviewees, scheduling and travel time; then careful attention during the interview; followed by detailed review and preparation of a written record for subsequent analysis (Robson 2002:
In the case of this study, the time hungry nature of interviewing placed constraints on the number of individuals interviewed, however the time invested has provided the study with an aggregation of qualitative data not otherwise accessible and a body of information that contributes to the knowledge in this field.

The selection of my sample of interviewees may in itself be a limitation of the interview methodology I employed. In the case of the fundraisers I interviewed, all bar one were members of the national professional body, the Fundraising Institute Australia, and part of a subset of professional fundraisers who have a particular interest in charitable bequests. They are most likely known to one another, participating in related professional development and networking opportunities presented in this arena. As a subset within an emerging profession, they may well be subject to particularly strong homogenising forces (DiMaggio & Powell 1983; 1991), mitigating against material diversity in their perspectives (Carbone 1986).

In the case of the advisers, deliberately chose a sample of individuals with an interest and expertise in charitable giving. While advisers of this orientation are amongst those who have been found in the United States specifically to exercise an influence on the charitable giving practices of the wealthy in particular (Marcus & Hall 1992), in Australia they represent only a small minority of estate planning and financial advisers (Madden 2004; Madden & Newton 2006). In hindsight it may have been of value to include interviews with advisers who have no particular interest or skills in advising clients on charitable giving. It may be however, that advisers who are neither interested nor skilled in the provision of charitable giving advice would have been more reluctant to participate in this study and less able to contribute relevant insights.
**Combined Methodologies**

In this study I have employed a combination of quantitative and qualitative methods. Before reflecting on the consequences of this combination, it is valuable to revert to one of the key and concurrent strengths and weaknesses of research *per se*. As described quintessentially by Norman Denzin and Yvonna Lincoln (2008: 31): “All research is interpretive”. At the heart of this truism is the understanding that all research “is guided by the researcher’s set of beliefs and feelings about the world and how it should be understood and studied” (Denzin & Lincoln 2008: 31).

The quantitative data and analysis undertaken to commence this study raised questions for me about the lack of alignment between the low level of participation in charitable bequests in Australia, and my impression of an active community of charities and fundraisers working persistently to secure charitable bequests. The apparent miss-match helped frame the research questions for this study. The qualitative data and analysis assisted in addressing issues raised by the quantitative data. The interview data both complemented and supplemented the probate data. This approach of combining two separate and distinct data gathering methods is in line with the approach of Ewe Flick (2002) who argues that the combination of methods is best employed not as a strategy for validation but as an alternative to validation. Given that objective reality is not knowable, the combination of methods provides a means of enhancing the rigor, depth and complexity of understanding of the phenomena of inquiry (Flick 2002: 227-229).

While a very practical disadvantage of combining methodologies is that it adds to the time required to undertake research, one of the epistemological advantages of combining methods is what Colin Robson has described as “the reduction of *inappropriate certainty*” (Robson 2002: 370 original emphasis). The gathering of data via two different methods and from two different sources provides for a process of cross-referencing or triangulation. In this study the complementary qualitative methodology was chosen explicitly to interplay with the findings from the assembled probate data, as well as to provide qualitative
practitioner insight into both the “what” and the “why” of contemporary practice in Australia in relation to estate transmission and post mortem charitable giving. The resultant combination has contributed to an understanding of the accuracy or appropriate certainty of the practice of intergenerational transfers and the extent of post mortem charitable giving via deceased estates. The combination of the two methods and their juxtaposition has helped to address interrelated, but different, research questions and played an important role in the process of identifying the extent to which estate transmission decisions and associated post mortem charitable gifts are anchored in the social and cultural milieu in which they take place.

In the following chapters I outline the findings of my study. Because the quantitative data informed my subsequent interviews of fundraisers and advisers, I begin by examining this data. I then separately explore the findings from my interviews with fundraisers and advisers given that the motivations of and the influences over these two groups emerged as fundamentally different.
Chapter Five: Patterns of post mortem charitable giving

Introduction

Using information derived from probate files in the State of Victoria this chapter presents data on estate transmissions and post mortem charitable giving in the context of contemporary Australia. The data gathered is unique in contemporary Australia. The findings reported in this chapter directly address the first of my general research questions: What are the contemporary patterns of post mortem charitable giving in Australia? Analysis of this data is undertaken with a view to the two further research questions which I address in detail in subsequent chapters.

In this chapter I first outline some of the key aspects of the socio-economic context in which my analysis of probate data takes place. I then detail the results of the total sample of 1729 Victorian probated estates. My analysis includes a break down of the estates by net worth in order to compare and contrast by level of wealth the rates of participation in charitable giving and the relative share of estates being gifted to charitable purposes. I then provide the same analysis of the smaller number of 1213 “final estates”, for which there is no surviving spouse. Additional analysis of the data is provided from the perspective of the impact of familial obligations on post mortem charitable giving and in particular the influence of surviving children on estate transmission patterns.

This data provides insights into the strength of familial relationships and their associated norms and obligations in relation to estate transmissions. In the final section of this chapter I provide an analysis of the kinds of charities which are the major beneficiaries of post mortem charitable gifts from individual estates in those relatively rare circumstances where such gifts are made.
Context of Probate Analysis

As already detailed, my study includes data recording and analysis of contemporary probate files. All of the 1,729 individual probate files reviewed were processed by the Probate Office in Victoria during the course of the calendar year of 2006. These files overwhelmingly related to individuals who had died in 2005 or 2006. The probate data provides a snapshot of the transmission of individual estates as given effect in a particular society at a particular point in time. Estate transmission is universally associated with family, family practices and expectations. As Michael Gilding (1997: 27) observed, the ways in which families raise their children and “the ways in which they see their obligations and responsibilities are not simply private decisions” (emphasis added) but decisions made in the wider social context in which they take place.

Understanding wealth and its distribution is particularly relevant when considering post mortem charitable giving capacity. In the Summer 2007 edition of its Economic Roundup, the Australian Treasury (2007) noted that June 2006 marked the fifteenth consecutive year of growth in net wealth per Australian. With net wealth per Australian at $361,000 in June 2006, Treasury noted this had more than doubled from $150,000 only five years earlier. In Australia there is a high level of home ownership (70%) and more than half (58%) of the country’s net private wealth at June 2006 was held in housing. The sustained period of economic growth and increases in private wealth were, however, not evenly distributed.

The Australian Bureau of Statistics (ABS) detailed in 2004 that the wealthiest 20 per cent of Australian households held close to 60 per cent of total household wealth with an average net worth of $1.4 million each, while the poorest 20 per cent had held 1 per cent of the total at an average net worth of $23,800 per household (Australian Bureau of Statistics 2006b). Australian wealth distribution was also included in an international study which found personal wealth to be highly concentrated in developed western nations and
much more concentrated than the distribution of income (Davies et al. 2006). Davies et al. identified that the poorest half (50%) of Australian households hold fewer than 10 per cent of the nation’s private wealth, while the wealthiest five per cent of Australian households account for very nearly one third (32%) of private wealth holdings (2006: 46). The capacity of the few to give is far greater than for the capacity of the majority.

Of additional significance to this study is the strong correlation between age and wealth. The longer an individual continues to earn an income from paid employment the more they are able to build their wealth holdings or at least delay in drawing on those accumulated assets. In Australia, well before government policy initiatives to extend the participation of older workers in the labour force (see Encel & Ranzinj 2007), older individuals were continuing to work in paid employment beyond their “retirement” (Encel 1997; Encel & Studencki 1996). Australian researchers have demonstrated that older Australians are relatively wealthy (Harding, King & Kelly 2002; Kelly & Harding 2003). The share of total wealth held by older Australians is increasing, in part because wealth takes time to accumulate (Kelly 2002). The Australian Bureau of Statistics has specifically noted that the unequal distribution in household net worth in part reflects “the common pattern of people generally accumulating wealth throughout their working life” (Australian Bureau of Statistics 2006b). Consequently, as a cohort, older Australians are comparatively well placed in terms of their capacity to make a *post mortem* charitable gift, even in circumstances where they are income poor.

The combined average life expectancy of Australian males and females in 2005 was 80.2 years (Australian Bureau of Statistics 2006a). One of the significant implications of such longevity in the population is that the majority of Australians dying over the course of a year will be elderly. As a consequence, the surviving children of those who die are themselves likely to be in their fifties, sixties and seventies. Consequently, the children of the majority of Australians who die are most unlikely to be economically dependent on their parent/s. Surviving children will in most cases be past the point in time where
they are establishing their career, home and/or family. While an inheritance will in most circumstances provide a welcome economic fillip, it is no longer likely to contribute substantially to laying the foundations of the lives of a surviving child. The retirement age of 65 was initially set by Chancellor Bismark in the late 1800s when the average life expectancy in the German Republic was 46 years (Graebner 1980) and subsequently adopted in countries including United States, United Kingdom and Australia. The majority of individual citizens were not expected to exceed their retirement age by many years, if at all. In these circumstances, the family assets were passed on to adult children who were still in the building and accumulating phases of their lives. In contemporary Australia, an inheritance may help to reduce a mortgage or to add to a nest egg for the beneficiary’s own extended life, however adult children are likely to be beyond the building phase of their lives and an inheritance is less of foundational consequence.

Another outcome of longevity in the Australian population is that the majority of the estates covered by the data set being considered are not from the demographic wave of baby boomers (MacKay 1997). Individual Australians dying in 2006 at or around the average age of approximately eighty will have been born prior to World War II. As such they were raised in a largely homogenous culture significantly influenced by the strong British heritage of the time. Many will have entered into family building relationships after having gone through the privations of the depression and WWII. They will have been part of a time in Australian history when the nuclear family was the predominant family form (Gilding 1997; Reiger 2005), and the vast majority of the population were active in primarily Christian religious practice (ABS 2006b) and, as such, participants in a culture that expected and extolled charitable giving.

The year of death and estate distribution for most of the individuals whose estates are included in this study was close to the pinnacle of a decade and a half of economic prosperity and unprecedented growth in net wealth per Australian (Australian Treasury 2007). In addition, 2006 was a year when
inter vivos charitable giving as measured by trends in tax deductible donations made and claimed had also been consistently increasing in real terms for many years (Giving Australia 2005; McGregor-Lowndes & Newton 2008). The expectation of those involved in the nonprofit sector in Australia was that post mortem charitable giving was likely to increase, in line with improved personal wealth and financial confidence. This expectation was supported by the high profile estimates in the United States (Havens & Schervish 1999) that some 16 per cent of the value of estates to be transferred over the first half of this century would be directed to charitable purposes.

All estates and post mortem charitable bequests

As at mid-2006 the Probate Office, Supreme Court of Victoria expected to receive approximately 16,500 applications over the course of that calendar year. This estimate was made against an anticipated number of deaths in Victoria in 2006 of 34,000\(^2\). The collection of detailed data on more than 1700 probate files was undertaken to ensure that a sample was in excess of 10 per cent of probate files processed in Victoria in the year. The actual number of deaths recorded in Victoria for 2006 was 33,311 (ABS 2007). As the number of applications received by the Probate Office in 2006 was 15,850\(^3\), my sample is more than 10 per cent of those applications.

The analysis which follows firstly addresses the total sample of 1729 files from which usable data was collected. This data set therefore includes those “first estates” where there is a surviving spouse. It also includes “intestate estates” for which an application had been made to the Registrar of Probate. In most circumstances intestate estates are processed by the Probate Office only where the estates are of sufficient value to require a court ruling to enable their subsequent transmission. As such, intestate estates processed by the Probate Office have sufficient net worth to make possible a post mortem charitable gift. Some individuals who die intestate may have intended to write a will and failed

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\(^2\) Interview with Michael Halpin, Registrar of Probates, Supreme Court of Victoria, 5 July 2006

\(^3\) Email advice received from the Probate Office, 26 November 2009
to do so. The net result is the same as where individuals do not include a charitable gift in their wills. Whether considered and declined or simply overlooked, no post mortem charitable gift is made despite ostensible capacity to do so. Therefore, from the perspective of the capacity of an estate to make a charitable gift, intestate estates are included in this overarching analysis. The full sample provides an overview of post mortem charitable giving by including all those individuals with a formal will and all those who died intestate with sufficient wealth in their estate to require a court order for its settlement.

Of the 1729 estates from which data were captured, a total of 86 (4.97%), or approximately one in twenty, made some form of post mortem charitable gift, as shown at Figure 5.1.

**Figure 5.1:** Participation in post mortem charitable gifts – all probated estates

[Diagram showing participation rates: 86 (5%) made post mortem gifts, 1643 (95%) did not.]

This participation rate in post mortem charitable giving of five per cent compares with the two previously referenced estimates of Australian participation rates in inter vivos charitable giving of 69 per cent (Lyons & Hocking 2000) 87 per cent (Giving Australia 2005). The very large difference in participation between charitable giving during life and from personal estates strongly supports the contention that in the charitable giving behaviour of
individuals there are significant differences in considerations that come into play between the two modes. The extent to which probate data provides insight into the differences is explored below.

The aggregate value of the 1729 estates in the full data set is $837 million (refer Table 5.1). The 86 charitable gifts from these estates have an aggregate value of just under $12 million ($11.9m) or just fewer than one and a half per cent (1.42%) of the aggregate net value of the sample estates.

As an indication of capacity, the estates were grouped by net value. For the purposes of this aggregate analysis, I use increments of five hundred thousand dollars. While this is an arbitrary figure, based on data from the Reserve Bank of Australia (2004) and the Treasury (Goldbloom & Craston 2008) my calculations are that $0.5m is a round figure in the vicinity of the average Australian household net wealth in 2006⁴. The five categories used start at “less than $0.5m”. They go up in half million dollar increments and end with “more than $2.0m”. Approximately 70 per cent of the sample estates had a net worth of less than $500,000 and between them these estates were valued in total at $272.6m. These lower value estates together accounted for close to one third (32.6%) of the aggregate value of all estates in the sample. They contributed $3.9m of the total $11.9m of post mortem charitable gifts. At the high end of the capacity spectrum, fewer than 4 per cent (3.6%) of the sample estates had a net worth of more than $2 million. These estates had a total combined value of $263.3m. These 62 highest value estates together accounted for close to one third (31.5%) of the aggregate value of all estates in the sample. They contributed $3.0m of the total $11.9m of post mortem charitable gifts.

⁴ In 2002 the net wealth of the average Australian household as assessed via a survey of over 7,000 Australian households was $404,300 (Reserve Bank of Australia 2004). Application of the average long run growth rate for Australian household net wealth of 10.5 per cent (Goldbloom & Cranston 2008) for each of the subsequent years lifts the average household figure to a little above $500,000.
Table 5.1: *Post mortem* charitable gifts from all probated estates (N = 1729)

<table>
<thead>
<tr>
<th>Estate by Net Value (Millions)</th>
<th>No. of Estates</th>
<th>% of all Estates</th>
<th>No. of gifts</th>
<th>Participation rate</th>
<th>Net Value of Estates (Millions)</th>
<th>% value of all Estates</th>
<th>Value of gifts (Mill’s)</th>
<th>Gifts as % of Estate Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $0.5</td>
<td>1207</td>
<td>69.81%</td>
<td>53</td>
<td>4.39%</td>
<td>$272.6</td>
<td>32.58%</td>
<td>$3.9</td>
<td>1.44%</td>
</tr>
<tr>
<td>$0.5 to $0.999</td>
<td>356</td>
<td>20.59%</td>
<td>11</td>
<td>3.09%</td>
<td>$161.1</td>
<td>19.26%</td>
<td>$1.9</td>
<td>1.17%</td>
</tr>
<tr>
<td>$1.0 to $1.499</td>
<td>74</td>
<td>4.28%</td>
<td>6</td>
<td>8.11%</td>
<td>$88.9</td>
<td>10.63%</td>
<td>$1.6</td>
<td>1.83%</td>
</tr>
<tr>
<td>$1.5 to $2.0</td>
<td>30</td>
<td>1.74%</td>
<td>4</td>
<td>13.33%</td>
<td>$50.7</td>
<td>6.06%</td>
<td>$1.4</td>
<td>2.80%</td>
</tr>
<tr>
<td>More than $2.0</td>
<td>62</td>
<td>3.59%</td>
<td>12</td>
<td>19.35%</td>
<td>$263.3</td>
<td>31.47%</td>
<td>$3.0</td>
<td>1.14%</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>1729</strong></td>
<td><strong>100%</strong></td>
<td><strong>86</strong></td>
<td><strong>4.97%</strong></td>
<td><strong>$836.6</strong></td>
<td><strong>100%</strong></td>
<td><strong>$11.9</strong></td>
<td><strong>1.42%</strong></td>
</tr>
</tbody>
</table>

Note: As a result of rounding, values in columns may not add exactly to totals.

Between them, the 70 per cent of estates valued at less than $500,000 accounted for one third of the total net wealth of all the estates in this data set and contributed one third of the *post mortem* charitable gifts by value (refer Table 5.2). Another third of the aggregate net wealth was held by the 3.6 per cent of highest net wealth estates and these contributed a quarter (25%) of total charitable gifts. This contrasting of the highest and lowest value estates highlights an unexpected finding that at an aggregate level the least wealthy collectively contributed a higher proportion of the total value of *post mortem* charitable gifts than did those with the highest value estates. Those in the
category with the greatest capacity did contribute a significant proportion of the value total post mortem charitable gifts, however at 25 per cent of all post mortem charitable gifts this is a considerably lower share of aggregate post mortem giving by the very wealthy than has been found to be the case in the United States (Schervish 2003a).

**Table 5.2**: Post mortem charitable giving contribution by least wealthy and most wealthy estates (N = 1729)

<table>
<thead>
<tr>
<th>Value of Estate (Millions)</th>
<th>% of all estates</th>
<th>% of value of all estates</th>
<th>% of value of all gifts</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $0.5</td>
<td>69.8%</td>
<td>32.6%</td>
<td>32.8%</td>
</tr>
<tr>
<td>$0.5 to $0.999</td>
<td>20.6%</td>
<td>19.3%</td>
<td>16.0%</td>
</tr>
<tr>
<td>$1.0 to $1.499</td>
<td>4.3%</td>
<td>10.6%</td>
<td>13.4%</td>
</tr>
<tr>
<td>$1.5 to $2.0</td>
<td>1.7%</td>
<td>6.1%</td>
<td>11.8%</td>
</tr>
<tr>
<td>&gt; $2.0</td>
<td>3.6%</td>
<td>31.5%</td>
<td>25.2%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

**of 1729 estates**        **of $836.6M**       **of $11.9M**

Source: Derived from Table 5.1

Note: As a result of rounding, percentages may not add to exactly 100.

Additional insights into the differences in post mortem charitable giving by capacity are also provided by analysis of participation rates and of gifts as a percentage of estate value (refer Table 5.3).

**Participation rates**: There is no consistent pattern in participation rates in post mortem charitable giving by value of estate. The two ends of the capacity spectrum do however show widely divergent levels of participation. Of estates valued at less than $500,000 a charitable gift was made by 4.4 per cent. The participation rate of estates valued at more than $2 million is more than four times higher, at nearly one in five (19.4%).

**Proportional giving**: There is again no consistent pattern across post mortem gifts as a proportion of estate value. Whereas the participation rate is
considerably lower for lower value estates, this is not the case for gifts as a proportion of estate value. Of estates valued at less than $500,000 the average proportion of estate gifted is 1.44 per cent. This is higher than the average of 1.14 per cent of estate value gifted from estates valued at more than $2 million. This finding is contrary to expectations based on research in the United States that, on average, the proportion of an estate directed to charity increases with the value of the estates (Clotfelter 1985; Schervish 2003; Schervish, Havens & Whitaker 2006).

Table 5.3: Participation rate and share of estates gifted post mortem by value of estates (N = 1729)

<table>
<thead>
<tr>
<th>Value of Estate (Millions)</th>
<th>Participation rate %</th>
<th>Gifts as % of Estate Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $0.5</td>
<td>4.4%</td>
<td>1.44%</td>
</tr>
<tr>
<td>$0.5 to $0.999</td>
<td>3.1%</td>
<td>1.17%</td>
</tr>
<tr>
<td>$1.0 to $1.499</td>
<td>8.1%</td>
<td>1.83%</td>
</tr>
<tr>
<td>$1.5 to $2.0</td>
<td>2.8%</td>
<td>2.80%*</td>
</tr>
<tr>
<td>&gt; $2.0</td>
<td>19.4%</td>
<td>1.14%</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td><strong>5.0%</strong></td>
<td><strong>1.42%</strong></td>
</tr>
</tbody>
</table>

Source: Derived from Table 5.1

*: This anomaly is influenced by the small number of estates valued at $1.5 to $2.0M (N=30) and a charitable bequest from one of these estates of $1.4M

The results from the full data set of 1729 probate files provide an overview of post mortem charitable gifts processed in Victoria in 2006. They indicate that of those estates with a capacity to make a charitable gift, just on five per cent actually did so. Further analysis of the breakdowns within the collected data is undertaken below in relation to final estates, where the data set has been reduced to remove estates without a will (intestate) and willed estates where there is a surviving spouse.

Surviving Spouses
Schervish, Havens and Whitaker (2006) have argued that in the analysis of post mortem giving from estates, it is important to separate out the estates of the first spouse to die, first estates, and to focus on estates for which there is no surviving spouse: final estates (2006: 11). The underlying rationale is that the common practice of couples is for the transmission of their estate to be by default to the surviving spouse. Only in the event of the spouse not surviving the will-maker, do alternative and more detailed instructions come into play for the distribution of the estate. As such, analysis of charitable giving practices from estates will be more meaningful if the focus is confined to final estates.

Analysis of the data set used for this study supports the Schervish, Havens and Whitaker (2006) contentions. Of the 281 first estates (with a surviving spouse) in the sample there were two only from which a post mortem charitable gift was made. Of the willed estates with a surviving spouse, 0.71 per cent made a charitable gift from their estate. One was from an estate with a net value of less than $0.5m and the other from an estate valued at more than $2.0m. The two gifts combined totalled less than $5,000.

A chi-square test of independence was performed to examine the statistical relationship between the presence of a surviving spouse and the making of a charitable gift from willed estates. The relationship between these variables was highly significant, $\chi^2 (1, N = 1494) = 16.14, p < .001$. The test demonstrates that, in the willed estates, the presence of a surviving spouse significantly reduces the likelihood of a post mortem charitable gift.

The effective absence of post mortem charitable giving from first estates and the confirming statistical relationship supports the argument by Schervish, Havens and Whitaker (2006) for analysis of post mortem charitable giving focused on final estates.

**Charitable Gifts from Final Estates**

For this second stage of analysis the 281 first estates were removed along with the 235 intestate estates, where there was no will to indicate the individual’s intentions for the transmission of his or her estate. Of the 1213 final estates
from which data were captured, a total of 84 (6.9%) made some form of post mortem charitable gift, as shown in Figure 5.2. This participation rate in post mortem charitable giving of 6.9 per cent of final estates compares with the estimate made by Giving Australia in 2005 as a result of household survey data that 7.5 per cent of Australians who have made a will have included a charitable gift in that will (Giving Australia 2005: 35).

Figure 5.2: Participation in post mortem charitable gifts – final estates

Source: Derived from Table 5.1

A participation rate of 6.9 per cent in post mortem giving is higher than the participation rate of 5.0 per cent of the total sample in this study. It remains however in stark contrast with either of the two previously referenced estimates of Australian participation rates in inter vivos charitable giving of 69 per cent (Lyons & Hocking 2000) 87 per cent (Giving Australia 2005), and to the assessed 36.5 per cent of Australian taxpayers who made and claimed a deductible inter vivos charitable gift in the financial year ending June 2006 (McGregor-Lowndes & Newton 2008). The large discrepancy in participation rates for these two charitable giving modes indicates that the influences over the two modes of giving are considerably different.

The aggregate value of the 1213 final estates is $667 million (refer Table 5.4).
The 84 charitable gifts from these estates have an aggregate value of just under $12 million ($11.9m). The total value of post mortem charitable gifts is 1.79 per cent of the aggregate net value of the sample estates.

Table 5.4: Post mortem charitable gifts from Final Estates (N = 1213)

<table>
<thead>
<tr>
<th>Estate by Net Value (Millions)</th>
<th>No. of Estates</th>
<th>% of all Estates</th>
<th>No. of gifts</th>
<th>Participation rate</th>
<th>Net Value of Estates (Millions)</th>
<th>% value of all Estates</th>
<th>Value of gifts (Mill's)</th>
<th>Gifts as % of Estate Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $0.5</td>
<td>911</td>
<td>75.10%</td>
<td>52</td>
<td>5.71%</td>
<td>$217.3</td>
<td>32.59%</td>
<td>$3.9</td>
<td>1.81%</td>
</tr>
<tr>
<td>$0.5 To $0.999</td>
<td>186</td>
<td>15.33%</td>
<td>11</td>
<td>5.91%</td>
<td>$118.8</td>
<td>17.82%</td>
<td>$1.9</td>
<td>1.63%</td>
</tr>
<tr>
<td>$1.0 To $1.499</td>
<td>49</td>
<td>4.04%</td>
<td>6</td>
<td>12.24%</td>
<td>$71.1</td>
<td>10.66%</td>
<td>$1.6</td>
<td>2.27%</td>
</tr>
<tr>
<td>$1.5 To $2.0</td>
<td>21</td>
<td>1.73%</td>
<td>4</td>
<td>19.05%</td>
<td>$35.7</td>
<td>5.35%</td>
<td>$1.4</td>
<td>3.98%</td>
</tr>
<tr>
<td>More than $2.0</td>
<td>46</td>
<td>3.79%</td>
<td>11</td>
<td>23.91%</td>
<td>$223.9</td>
<td>33.58%</td>
<td>$3.0</td>
<td>1.34%</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>1213</strong></td>
<td><strong>100%</strong></td>
<td><strong>84</strong></td>
<td><strong>6.93%</strong></td>
<td><strong>$666.7</strong></td>
<td><strong>100%</strong></td>
<td><strong>$11.9</strong></td>
<td><strong>1.79%</strong></td>
</tr>
</tbody>
</table>

Note: As a result of rounding, percentages may not add to exactly 100.

Approximately 75 per cent of these final estates had a net value of less than $500,000 and between them they were valued in total at $217.3 million. These lower value estates together accounted for close to one third (32.6%) of the aggregate value of all estates in the sample. They contributed $3.9m of the total $11.9m of post mortem charitable gifts.
From this data the average value of the charitable gifts made can be calculated at approximately $140,000. While it is fundraising industry practice to use “average bequest value” as a means for projecting potential income (see for example Stergiou 2007), the variations that occur in individual gifts in this sample exemplify how important it is to be aware of how imprecise such a measure tends to be. The largest post mortem charitable gift made was $2,485,000. This gift from a single estate constitutes just over 20 per cent of the total of $11.9m gifted by all estates. The second largest gift was $1,415,000. These two gifts together constitute just over a third of the total gifted by the 84 participating final estates. The distorting effects of large gifts are exemplified by the calculation of other statistical “averages”. Using the same data, the “median” or the middle number of all the gifts is $20,000. The “mode” or most frequently occurring gift is just $1,000.

Of the final estates, approximately 75 per cent had a net value of less than $500,000. These 911 estates were valued in total at $217m. These estates accounted for close to one third (32.6%) of the aggregate value of all final estates and contributed gifts also accounted for close to one third (32.8%) of the total $11.9m in post mortem charitable gifts. At the other end of the spectrum, the estates with a net value in excess of $2.0m accounted for just over one third (33.6%) of the aggregate value of all estates and contributed $3.0m or just over one quarter (25.2%) of the total $11.9m in post mortem charitable gifts (refer Table 5.5).

At an aggregate level, the patterns are the same as observed for total estates. The estates with the least capacity collectively contributed a higher proportion of the total value of post mortem charitable gifts than did those with the highest value estates. This is significant in that it varies from findings in the United States (Schervish 2003a) that the majority of absolute dollars from post mortem charitable gifts come from the highest value estates. The data from this study indicates that in Australia the low value estates collectively contribute a third of all gifts, estates valued between $0.5m and $2.0m a little
over a third, and the estates with the greatest capacity contributed about a quarter of all \textit{post mortem} charitable dollars.

\textbf{Table 5.5:} Final Estates \textit{post mortem} charitable giving by value of estate (N = 1213)

<table>
<thead>
<tr>
<th>Value of Estate (Millions)</th>
<th>% of all estates</th>
<th>% of aggregate net value of final estates</th>
<th>% of gifts</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $0.5</td>
<td>75.0%</td>
<td>32.6%</td>
<td>32.8%</td>
</tr>
<tr>
<td>$0.5 to $0.999</td>
<td>15.3%</td>
<td>17.8%</td>
<td>15.9%</td>
</tr>
<tr>
<td>$1.0 to $1.499</td>
<td>4.0%</td>
<td>10.7%</td>
<td>13.4%</td>
</tr>
<tr>
<td>$1.5 to $2.0</td>
<td>1.7%</td>
<td>5.3%</td>
<td>11.7%</td>
</tr>
<tr>
<td>&gt; $2.0</td>
<td>3.8%</td>
<td>33.6%</td>
<td>25.2%</td>
</tr>
<tr>
<td>\textbf{Totals}</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: Derived from Table 5.4

Note: As a result of rounding, percentages may not add to exactly 100.

A more detailed insight into differences in \textit{post mortem} charitable giving by capacity is again provided by participation rates and gifts as a percentage of estate value as summarised in Table 5.6. In relation to the highest value and lowest value estates the same patterns are observed in the full data set (as summarised at Table 5.2). For final estates, participation in \textit{post mortem} charitable giving is considerably higher for will-makers with the highest value estates. The proportion of estates making a \textit{post mortem} charitable gift increases as the value of the final estate increases: from 5.7 per cent of estates with a value of less than $0.5m; through to nearly 24 per cent (23.9\%) of estates valued at more than $2.0m. That is, the category of estates with the lowest capacity has the lowest participation rate in \textit{post mortem} charitable giving, and the category with the highest capacity estates has the highest participation rate in charitable giving. Participation rates contrast with relative share of estate value distributed as charitable gifts.
Table 5.6: Participation rate and share of final estates gifted post mortem, by net value of Final Estates (N = 1213)

<table>
<thead>
<tr>
<th>Value of Estate (Millions)</th>
<th>Participation rate %</th>
<th>Gifts as a percentage of Estate Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $0.5</td>
<td>5.71%</td>
<td>1.81%</td>
</tr>
<tr>
<td>$0.5 to $0.999</td>
<td>5.91%</td>
<td>1.63%</td>
</tr>
<tr>
<td>$1.0 to $1.499</td>
<td>12.24%</td>
<td>2.27%</td>
</tr>
<tr>
<td>$1.5 to $2.0</td>
<td>19.1%</td>
<td>3.98%</td>
</tr>
<tr>
<td>&gt; $2.0</td>
<td>23.9%</td>
<td>1.34%</td>
</tr>
<tr>
<td><strong>Sample Average</strong></td>
<td><strong>6.93%</strong></td>
<td><strong>1.79%</strong></td>
</tr>
</tbody>
</table>

Source: Derived from Table 5.4

In relation to the proportion of estates gifted by net value of the estates, those estates with net value of less than $0.5m gift on average just a little more than estates with a net value of between $0.5m and $1.0m. The next three net worth categories give increasing proportions of their estates until a reversal of this upward trend in the category of estates with the highest value (more than $2.0m). Given the small scale of the proportions of estate value gifted, a one-way analysis of variance (ANOVA) test was performed to determine whether or not the proportion of estates gifted to charitable purposes was statistically significant, relative to the level of wealth of the estates. The average proportion of estate value gifted to charity was tested against the five categories of estate value. The effect of estate value on the proportion of estate gifted to charity is non-significant $F(4,88) = 1.56, p > .05$. The test demonstrates that in the final estates in this study the value of the estates does not significantly influence the proportion of the estate gifted.

This does not mirror estate transmission practices in the United States where the proportion of estates gifted to charitable purposes has been found to increase as the value of the estates increases (Schervish 2003a). While there is no comparable data in relation to post mortem giving in Australia, in relation...
to charitable giving in general, *Giving Australia* has observed that “[T]hose with the greater financial capacity give more. ... Those with less capacity give what they can” (2005: ix/x).

The data in this study supports the contention that those with greater financial capacity are more likely to participate in making a charitable gift from their estate. In relation to *post mortem* charitable giving, this study does not support the contention those with greater financial capacity give more.

At the aggregate level, in the data set covered by this study, the proportion of estates gifted to charitable purposes does not increase along with the value of estates. In addition, closer analysis of the individual charitable gifts from the wealthiest of the sample reveals that the single gift of $2.48m referenced earlier was made (by definition) from one of the 46 final estates with a net value in excess of $2.0m. That is, of the $3.0m gifted from the wealthiest estates, $2.48m came from just one of these estates. This finding is consistent with the observation made by Auten and Rudney (1987), in their analysis of *inter vivos* giving in the United States, that it is not the majority of the wealthy who are generous but a few amongst the wealthy who are exceptionally generous. It also aligns with Clotfelter’s finding from his analysis of United States federal estate tax returns from 1976 that nearly half (47%) of the total value of all *post mortem* charitable gifts were contributed by a very, very small minority of the high value estates analysed (Clotfelter 1985: 232).

**The impact of children on *post mortem* charitable giving**

The data collected from the probate files in this study indicates that those estates without a surviving child are far more likely than those with children to make a *post mortem* charitable gift. Close to three quarters (71%) of all *post mortem* charitable gifts were made from estates with no surviving children (61 of 86 gifts). Of all 86 charitable gifts: 2 gifts were made from estates with a surviving spouse (first estates). In both cases there were no children. Of the 84 gifts from final estates, 59 were made from those estates with no children. This study also indicates that the larger *post mortem* charitable gifts in dollar
value also come from childless estates. Half of the 86 gifts had a value of $25,000 or more. Of these larger gifts 93 per cent (40 of 43) came from childless estates and 7 per cent (3 of 43) were made from estates with a surviving child (refer Table 5.7).

**Table 5.7:** Charitable gifts from estates sorted by net value of estate and the presence of surviving children (N= 86)

<table>
<thead>
<tr>
<th>Value of gift (000)</th>
<th>&lt; $1</th>
<th>$1 to $5</th>
<th>$5 to $10</th>
<th>$10 to $25</th>
<th>$25 to $50</th>
<th>$50 to $100</th>
<th>$100 to $250</th>
<th>$250 to $500</th>
<th>&gt; $500</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children</td>
<td>6</td>
<td>7</td>
<td>3</td>
<td>6</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td>25</td>
</tr>
<tr>
<td>No Child</td>
<td>4</td>
<td>8</td>
<td>4</td>
<td>3</td>
<td>7</td>
<td>9</td>
<td>14</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Total No.</td>
<td>86</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: The shaded area highlights the 43 gifts with a value of $25,000 or more.

The patterns are stark. They are rendered more so by an analysis of participation rates in charitable giving by estates with and without surviving children. Given that only two charitable gifts were made from first estates, for the analysis of participation rates it is appropriate to return to the data from final estates only. Of the 1213 final estates in this study, 977 had a surviving child or children and 236 did not have a surviving child. Of the final estates with a surviving child or children, 2.6 per cent (approximately one in forty) made a charitable gift. Of the estates without a surviving child, 25 per cent (one in four) made a charitable gift (refer Table 5.8). The 75 per cent (177) of final estates with no children who did not include a charitable gift invariably directed their estates to other family members (including step-children, parents, siblings, nieces and nephews) or to named individuals (whose relationship to the deceased was not specified).
For post mortem charitable giving the participation rates of the final estates examined, show that the prevalence of a charitable gift was very close to ten times higher for estates with no surviving children than for those with a surviving child or children.

**Table 5.8: Children and participation rates in charitable gifts from final estates (N = 1213)**

<table>
<thead>
<tr>
<th></th>
<th>Final Estates</th>
<th>Charitable gifts</th>
<th>Participation in post mortem giving</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estates with children</td>
<td>977</td>
<td>25</td>
<td>2.6%</td>
</tr>
<tr>
<td>Estates without children</td>
<td>236</td>
<td>59</td>
<td>25.0%</td>
</tr>
<tr>
<td>Totals</td>
<td>1213</td>
<td>84</td>
<td>6.9%</td>
</tr>
</tbody>
</table>

To examine the statistical relationship between the presence of surviving children and the making of a charitable gift from final estates, a chi-square test of independence was performed. The relationship between these variables was highly significant, $X^2 (1, N = 1213) = 139.53, p < .001$. The absence of surviving children was shown to have a strong statistical relationship with the likelihood of a charitable gift from a willed estate.

These results strongly indicate that there is an expectation that children take precedence in estate distribution. Very few individuals with a surviving child or children give a portion of their estate to charitable purposes. In the absence of children the potential for a final estate to make a charitable gift is ten times greater than for estates with a surviving child, but remains low at one in four.

The strength of the prevailing social norms in relation to estate transmission and the consequent patterns of post mortem charitable giving are exemplified by the high value final estates. One file I examined was that of a woman who had passed away aged 91. She had no surviving spouse, and three surviving children. The children were aged 71, 69 and 65 at the time of the will-maker’s
death. Because the 71 year old son was the executor of the will, the probate file included information that he was a retired barrister of Toorak. (Toorak is one of Australia’s most exclusive and prestigious suburbs.) As a retired barrister the son was unlikely to be an economic dependent of his mother. The $10 million of her estate was distributed in total and in equal share to her three children.

In the course of my examination of probate files I came to think of this case as illustrative of the emergent patterns. I related this example to a number of the fundraising professionals I interviewed after the collection of the probate data for this study. Many observed that had this individual gifted 10 per cent of the value of her estate, the resultant one million dollars would have constituted a significant contribution to a beneficiary charity or charities. The net distribution to each of her three children would have reduced, in broad terms, from $3.3m each to $3.0m each. One of the most experienced and most successful of these fundraisers responded immediately: “She had never been asked!” This practitioner went on to explain that in her experience elderly people who believe their children not to be in need of the entire proceeds of the parental estate, will often consider distributing a portion of that estate to a charity. This requires that the charity has previously taken the time to “nurture” a relationship with the will-maker. Being asked to consider leaving part of the estate to the charity is often a further precondition for such a gift to be made.

**Beneficiaries from final estates**

There is a wide discrepancy in the participation rates of charitable giving from final estates with and without children. These very different participation rates support the thesis that in the contemporary practice of sole surviving parents, the bonds of kinship and of immediate family in particular take precedence. The presence of surviving children results in a very low propensity for a charitable gift to be made from a final estate. The absence of children significantly increases the propensity to gift, by a factor of 10. This indicates that the children of the will-maker are the primary beneficiaries of the estates
with surviving children. This is consistent with other findings from the United Kingdom (Finch et al. 1996), the United States (Coleman & Ganong 1998) and Australia (Preece 2000) which indicate that it is common practice for estates to go directly to surviving immediate family members.

In relation to my sample, where children survive the will-maker they are overwhelmingly the primary beneficiaries of contemporary final estates in Australia (refer Figure 5.3).

**Figure 5.3:** Primary beneficiaries of final estates with children (N= 977)

Of the total of 977 final estates with surviving children, 86 per cent (839) distributed more than ninety per cent of the value of the estate to the children, in equal share.

Those estates where the transmission process effectively jumps a generation by directing most of the estate’s assets to grandchildren were in a very small minority. Grandchildren were the direct beneficiaries of more than nine tenths of an estate in a little over 1 per cent (11) of the 977 final estates in the data set for this study. The practice of bequeathing estates directly to grandchildren remains a rarity. Approximately 13 per cent (127 estates) involved estates where the value of the estate was not distributed equally or where 10 per cent or more of the value of the estate was directed to others
such as siblings, nieces, nephews, and/or friends. The historical custom of primogeniture (see for example the exposition of Rogers & Tupper 1864) in which an estate or most of an estate is left to the eldest son, is not operative in Australia. The prevailing practice of intergenerational estate transmission in Australia is equal distribution to surviving children, without regard to gender or age.

Where there are surviving children, a charitable gift is made on very rare occasions (27 out of 977, or fewer than 3 per cent). When a charitable gift is made from an estate with surviving children, that gift is likely to be of a lower value, both in absolute terms and as a proportion of the value of the estate. Where there are no surviving children, the likelihood increases for a charitable gift being made from an estate, as does the potential for a higher value charitable gift.

**Charitable beneficiaries**

In estates sampled, the common practice for those will-markers who did leave a *post mortem* charitable gift was to name multiple charitable beneficiaries (refer Table 5.9). The 86 estates which made a charitable gift named a total of 206 separate charitable beneficiaries. More than a quarter (26.6%) of donors named a religious organisation to which they wished to direct a gift from their estate.

Religious organisations were the beneficiaries of nearly 40 per cent (39.2%) of the value of all charitable gifts. The Catholic church fared disproportionately well in that it received nearly half of all dollars gifted to religious organisations, whereas approximately a quarter of the Australian population indicate their religious affiliation as Catholic (ABS 2006b). The two gifts made to identifiably Jewish organisations or causes between them had a value of nearly one million dollars.
### Table 5.9: Charitable Beneficiaries (wills making charitable bequests N = 86; total beneficiaries named by those wills N = 206)

<table>
<thead>
<tr>
<th>Beneficiary category</th>
<th>Frequency beneficiary included</th>
<th>Frequency beneficiary included %</th>
<th>Value of charitable gifts (000s)</th>
<th>Share of charitable gifts %</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RELIGIOUS ORGANISATIONS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>25</td>
<td>2307.7</td>
<td>39.20%</td>
<td></td>
</tr>
<tr>
<td>Missions</td>
<td>5</td>
<td>478.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jewish</td>
<td>2</td>
<td>928.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>23</td>
<td>941.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>WELFARE</strong></td>
<td>35</td>
<td>17.39%</td>
<td>$2,637</td>
<td>22.20%</td>
</tr>
<tr>
<td>The Salvation Army</td>
<td>8</td>
<td>917.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>27</td>
<td>1625.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>EDUCATION</strong></td>
<td>7</td>
<td>3.38%</td>
<td>$267</td>
<td>2.25%</td>
</tr>
<tr>
<td>Tertiary Institutions</td>
<td>3</td>
<td>102.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
<td>164.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>HEALTH &amp; HOSPITALS</strong></td>
<td>71</td>
<td>34.30%</td>
<td>$2,806</td>
<td>23.62%</td>
</tr>
<tr>
<td>Hospitals and hostels</td>
<td>21</td>
<td>929.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heart</td>
<td>11</td>
<td>206.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Anti Cancer Councils</td>
<td>8</td>
<td>258.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Peter MacCallum Cancer Centre</td>
<td>2</td>
<td>105.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>29</td>
<td>1306.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ANIMALS &amp; ENVIRONMENT</strong></td>
<td>29</td>
<td>14.01%</td>
<td>$615</td>
<td>5.18%</td>
</tr>
<tr>
<td>Lost Dogs</td>
<td>8</td>
<td>50.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RSPCA</td>
<td>6</td>
<td>265.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>15</td>
<td>298.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>OTHER Including the Arts</strong></td>
<td>9</td>
<td>4.35%</td>
<td>$897</td>
<td>7.55%</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td>206</td>
<td>100%</td>
<td>$11,878</td>
<td>100%</td>
</tr>
</tbody>
</table>

Notes: 1. Categories derived from codification of beneficiaries as named in wills.
2. As a result of rounding, percentages may not add to exactly 100.
In addition to religious organisations the other charitable beneficiary categories to receive more than twenty per cent of the gifted dollars were those of Welfare and Health & Hospitals. The Welfare category received 17.4 per cent of all gifts and over 22 per cent of the dollars. This is fewer gifts but of higher aggregate value than the Health & Hospitals category which received 34.3 per cent of all gifts and 23.6 per cent of the dollars.

It is, however, difficult to draw firm conclusions from this data given the lack of any insights provided by probate data about the relevant networks, associations and relationships of the deceased outside the family. Except in circumstances where the recorded residential address of the deceased is the same as one of the charitable beneficiaries named by the will-maker, it is impossible to tell from probate data what if any form of pre-existing relationship a post mortem donor may have had with a named charitable beneficiary. It may be that the nomination of a particular charitable beneficiary is the result of a strong sense of either specific or generalised reciprocity (Putnam 2000). It could be the result of a desire for specific reciprocity arising from the nature of the services provided by the charitable beneficiary to the donor or a relative, or arising from specific interactions such as by way of volunteering which have generated and reinforced systems of mutual trust and obligation. It may be that the donor’s decision is influenced more by a trust in the “good work” of the charitable beneficiary and a more generalised sense of reciprocity.

The naming of particular religious organisations as beneficiaries suggests an element of religious affiliation or a sense of reciprocity for the contribution religious organisations have made to the well being of the individual in their lifetime. The available data however cannot validate this inference. Similarly, welfare services may be nominated because of a belief and trust in the work of a particular welfare organisation or service or as a result of the will-maker directly benefiting on a personal level from the associated good works. The same holds true for Health & Hospitals, which were the most frequently nominated of charitable beneficiaries. The final residential address of the
person making a post mortem charitable gift to a hospital, hostel or related aged-care facility often coincided with the address of the health related beneficiary institution.

While it can be reasonably inferred from the name of a charitable organisation so nominated that reciprocity may have played a role in the decision to make it a beneficiary, in the majority of cases probate data does not provide any means of identifying the strength or nature of the relationships or obligations involved. The data does however highlight that whatever the nature and strength of reciprocal obligations at play between post mortem donors and specific charitable organisations, when it comes to the transmission of a person’s residual estate, all relationships are rendered subservient to the operation of the ties and obligations to immediate family.

Discussion

The findings in this chapter are based on an analysis of a sample of more than ten per cent of estates processed for probate in 2006 in the second most populous state of Australia. In recording and analysing the charitable gifts given effect from a sample of 1729 probated estates, the results provide benchmark data on understanding estate distribution and charitable giving patterns in contemporary Australian estate transmission practices. The patterns observed highlight the pivotal role of immediate family.

The key findings include that of all the estates with the potential capacity to make a post mortem charitable contribution, fewer than five per cent did so. Given a further finding that only two of the 281 willed estates with a surviving spouse made any form of charitable gift, I have presented an analysis of gifts from the 1213 final estates, where there is no surviving spouse. Through this analysis I have found that the participation rate in post mortem charitable giving for this sample of final estates was 6.9 per cent. There is a large discrepancy between this and inter vivos participation rates in Australia.
In a closer examination of the composition of these final estates, I have found that participation in *post mortem* charitable giving is higher for those with the greatest capacity than it is for those with less capacity. Close to a quarter of final estates with a net value of more than $2m made a *post mortem* charitable gift, compared to fewer than 6 per cent of those with an estate with a net value of less than $0.5m. Unlike the case in the United States (Havens & Schervish 1999), I found that, on average, the proportion of estates gifted by the will-makers with the greatest capacity was no greater than that gifted by those with the least capacity. I also found that contrary to expectations in both the United States (Schervish 2003a) and Australia (Giving Australia 2005) in relation to all charitable giving (*inter vivos* and *post mortem*), those with the greatest capacity did not give more *post mortem* charitable dollars than those with the least capacity.

These findings from probate data also contrast with attitudinal research into the expressed views of older Australians (Olsberg & Winters 2005). While the findings from my study do not provide insight into the extent to which older Australians are acting on their reported increased propensity to spend rather than to protect assets to leave them to the children, the probate data is contrary to the findings of Olsberg and Winters (2005) that the attitudes of older Australians are moving away from obligation when it comes to estate transfer. The probate data demonstrates that in case there was something unspent, where there were remaining estate assets, they went overwhelmingly to the children.

Estates with no surviving children were approximately ten times more likely to make a charitable gift than those with a surviving child or children. Very few deviated from the prevailing pattern of familial primacy in estate transmission. Where children survive, they receive the estate. Where more than one child survives the parent, then the children mostly receive the estate in equal share, irrespective of age, gender, need or relative wealth. The results for this study indicate that in Australia the “*total* social phenomena” observed by Mauss (1990) as influencing the processes of giving and receiving, include an over-
riding and near universal expectation that estates are transmitted to the children. The hegemonic presence of this expectation may well result in a self-reinforcing corollary of the absence of social expectation of post mortem charitable giving.

In this chapter I have provided an overview of the charitable beneficiaries of post mortem gifts from final estates where made. I have pointed to the indications of specific and generalised reciprocity at play while noting the limitations of probate data in helping to identify the nature and/or intensity of the relationships involved. The results presented in this chapter serve to reinforce the centrality of immediate family in making estate transition determinations and the resultant impact on charitable giving. These findings do not support the contention that trust and mutual obligation born of and reinforced by networks and relationships with individuals and institutions beyond the family provide an important avenue to post mortem charitable giving. The data in this study suggests that with regard to post mortem charitable giving in Australia, in all but exceptional cases any sense of reciprocal obligation that an individual may feel towards a charitable organisation is over-ridden by his or her sense of obligation to distribute residual assets to one’s spouse, and in the absence of a surviving spouse to the children, in equal share. These findings also support the thesis that the power and pervasiveness of the convention to leave estate assets to the family is such that it has a curtailing impact on post mortem charitable giving.

The probate data provides no indication of the broader social milieu in which estate transmission and charitable giving decisions are made. In the following two chapters I present the results of my interviews with intermediaries. Firstly, I report my findings from interviews with fundraisers involved in securing post mortem charitable bequests. Secondly, I report my findings from interviews with advisers who support and guide individuals on their estate transmission planning. I draw on the perspectives and insights provided by these intermediaries to focus on the context in which estate transmission and post mortem giving decisions are framed and the social phenomena at play.
Chapter Six: Fundraisers’ perspectives

Introduction

Giving from an estate post mortem is by definition a one-off event, and unlike inter vivos giving which can be regular or intermittent throughout the life of a donor. In this chapter I examine how professional fundraisers in Australia understand the role of charitable giving in the transmission of individual, deceased estates. The chapter includes an exploration of fundraisers’ perspectives on the extent to which post mortem giving is subject to different influences and considerations than the more continuous processes of giving, receiving and reciprocity. I use the conceptual framework developed by Mauss (1990) of the interconnected and independent nature of “total’ social phenomena” that underpins the nature of gift giving per se. I use this in conjunction with more contemporary sociological concepts of social capital and trust to examine the extent to which the propensity and capacity of individuals to give post mortem is similar to or different from inter vivos giving.

In examining how professional fundraisers in Australia understand the influences of charitable giving in the transmission of individual, deceased estates I first place fundraisers in context by providing an overview of the fundraising profession. I then explore fundraisers’ perspectives on: i) the extent to which post mortem giving is a result of familial, personal and organisational networks and associated perceptions of trust, trustworthiness and reciprocity; and ii) the extent to which the giving behaviour of individuals is influenced by prevailing social norms and expectations. In this chapter I analyse interviews of 16 separate fundraising practitioners: 14 employed directly by their respective charitable organisations; and two individuals who work as fundraising consultants rather than as employees of an individual

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charitable organisation. While the perspectives of these individuals are born of considerable practical experience, they are inevitably subjective and informed by their location within a particular industry sector and profession. In the final section I draw some conclusions based on my analysis of the perspectives of the fundraisers.

The Fundraising Profession

The Fundraising Institute Australia (FIA) notes that in Australia the earliest record of individuals being employed for fundraising purposes dates back to the 1870s when Australia’s oldest charitable organisation, the Benevolent Society of NSW, employed "organising secretaries ... (to) organise the philanthropic instincts of the citizens of the colony of NSW" (FIA 2008). Nevertheless, it was not until the 1950s that the emergence of modern fundraising as a profession began to take shape, when in 1954 a subsidiary of the “Wells Organisation”, established in the United States predominantly as a Church Fundraising program, commenced operations in Australia and subsequently in South Africa, New Zealand and England.

Even in the home of the Wells Organisation, the United States, the first organisation of fundraisers was not formed until 1960. On formation, the National Society for Fund Raising Executives (NSFRE) had 197 members (Cutlip 1990). Membership received a significant boost following the Society’s introduction of an accreditation program in 1981 and had reached over 10,000 by the end of the 1980s. In 2001 the NSFRE changed its name to the Association of Fundraising Professionals (AFP) “as the fundraising profession was becoming an important part of the economy and society” (AFP 2008). At the end of 2008 the AFP website reported its membership as in excess of 30,000.

The emergent nature of the fundraising profession is highlighted even more starkly by how recently a professional body has been formed in the United Kingdom. It was not until 1983 that the Institute of Charity Fundraising Managers (ICFM) was established when its inaugural meeting was attended by
52 “prominent fundraisers” (Professional Fundraising 2008). Now known as the Institute of Fundraising, membership of the professional body for UK fundraising had grown to approximately 4,600 individuals by 2008.

The first organisation of fundraisers in Australia took place in the same decade as its counterpart in the United States when in 1968 the Australasian Society of Fundraisers [ASF] was formed. The youth of the Institute is exemplified by the fact that when in 2007 I completed the Institute’s “Skills 1” introductory program in Melbourne, one of the founding members of the ASF, Mr Arthur Venn, was one of the industry presenters. The constitution of the ASF was revised and in September 1972 The Australasian Institute of Fundraising [TAIF] was formed. The first chapter (Victoria) had some 30 members. The TAIF changed its name in 1992 to the Fundraising Institute Australia (FIA) and in June 2008 the FIA had a membership of approximately 1,600 (FIA 2008). The Institute advises that the number of individuals who participate in FIA development programs and attend FIA events is close to 5,000.

Given the recent emergence of fundraising as a profession, it is no surprise to find that scholarly consideration of the professionalism of fundraising is also a relatively recent phenomenon (see Scaife & Madden 2006 for an overview). The fundraising profession is generally considered (Bloland & Tempel 2004; Kelly 1995; Lindahl & Conley 2002) as having paid insufficient attention to theory. As noted by Scaife and Madden, while progress has begun to be made against the “key deficit of a codified body of knowledge that moves fundraising from art to science ... much remains to achieve in the way of paradigms and a theoretical base” (Scaife & Madden 2006: 5).

Each of the fundraisers interviewed for this study was a member of the Fundraising Institute Australia, the first objective of which is to “promote and enhance education, training & professional development of fundraisers” (FIA 2008). The FIA was a founding member of the World Fundraising Council and maintains an international network with national fundraising bodies including the Association of Fundraising Professionals in the United States and the
Institute of Fundraising in the UK. FIA is also a Participating Organisation in the international body established to provide certification for fundraising professionals and all FIA members are bound by “FIA’s Principles & Standards of Fundraising Practice”. As part of their experience in the sector, all of the interviewees for this study had worked for more than one charity and some had worked for many. In summary, the views, perspectives and stories of the fundraising interviewees for this study are informed by their personal experience and the interpretation of this experience is mediated to varying degrees by their membership of an emergent professional body.

In relation to shared views and perspectives, it was only after I had begun the thematic analysis, that I realised I might usefully have pursued interviewee perspectives on the obligation, or otherwise, of individuals to direct a share of their estates to charitable purposes. On reviewing the transcripts it became apparent to me that there was only a single occasion on which any individual had expressed a view that people “should” make post mortem charitable gifts:

I think the challenge is simply to get people to make the bequest. Because everybody has the potential to leave a bequest, even if it is a small bequest, everybody can do that. It is not like it is only for the wealthy, even though most organisations in Australia when they think bequests they think “Oh, we’re after the one million dollar bequest” or “the big bequest”. A bequest is an option that anybody can use. ... Doesn’t matter in terms of the size of the bequest, it should not be an excuse for not giving (Fundraising Consultant I – original emphasis)

The proposition that a low dollar value estate “should not be an excuse for not giving” incorporates a sense of moral obligation that was not raised by any other fundraiser or by any advisers. On reflection, I was surprised that this issue had not been raised by any of the other fundraisers in particular. It may well be that some of the interviewed fundraisers share a sense that everyone “should” give to charitable causes from their estates. As I had not anticipated
this issue however and I had not identified its absence until all interviews were concluded, I had not explored this theme directly with interviewees. Do fundraisers involved directly in seeking to secure *post mortem* charitable gifts hold no view, a shared view, or markedly different views on whether or not individuals with a capacity to do so have some degree of moral obligation to make such a gift? I did not address this matter in the work carried out in my current study and further research would be warranted.

**The Business of Bequests – “Extremes at both ends”**

The fundraising professionals interviewed in this study expressed the view that *post mortem* charitable gift income is of fundamental importance to the charitable sector and of significant value to it. They also expressed their frustration that so much of the business of bequests is characterised by uncertainty.

Amongst fundraisers and in the not for profit sector generally in Australia, the generic term “bequest” is used to describe a *post mortem* charitable gift. Throughout this chapter I use bequests in the same manner (even though bequest has a more generic application which is not confined to charitable distributions from estates). The value of bequests to the sector is in part a function of the ever-present need of charitable organisations for gifted funds. In Australia it has been estimated that for the sector as a whole, bequests comprise some nine per cent of gifted income (Thompson 2005). Relatively few organisations receive significant bequest income but for those that do, income from bequests can comprise more than 50 per cent of all gifted income received. Bequests in these circumstances tend to be treated differently to *inter vivos* gifts. Funds received via *inter vivos* gifts are generally utilised at the time the gifts are made. They tend to be directed to general purpose programs and activities, or to the specific purpose or campaign for which they were gifted. *Inter vivos* gifts slake the thirst for immediate, operational cash.

By contrast, bequest income tends to be allocated to provide the capital certainty required for more long-term, strategic initiatives. In addition to
straight monetary gifts, post mortem gifts can also be made in the form of readily realisable assets such as equities or real estate which are usually sold and converted to cash. Bequests can also be received in the form of operating businesses which may be more complex to realise as cash. In some cases a charitable organisation may even continue to operate such an income generating asset. In most circumstances however bequest funds are received or converted to cash. Bequest funds are often allocated for capital purposes (such as building construction) or to establish an income generating base for ongoing funding, such as research initiatives or scholarly fellowships.

The uncertainties associated with bequest income however are many and varied. In many cases will-makers do not advise the charitable beneficiary of the bequest included in their will. The charity only becomes aware of the bequest on the demise of the will-maker. Even in the circumstances where a charitable organisation is made aware of the fact that an individual has included the organisation in his or her will, both the timing and the value of that gift may be indeterminate. It may be many (many) years before the bequest yields the pledged gift, and in cases where the bequest is a percentage of the residual estate, the value of that estate may have increased or decreased over the years, sometimes to the point where the charity’s share of what remains is zero.

There were two aspects of bequest income variability highlighted by the fundraisers. Firstly, while the general sentiment expressed was that bequest income is “very important” or even “absolutely critical”, the flow of bequest income varies appreciably between different charities. The receipt of bequest income aligned broadly with the size and the public profile of the charity itself. Large charitable organisations with a high public profile are most successful in securing bequests. The converse is also true. The fundraiser from a relatively small charity put it this way:

By and large, we receive bequests from family members of those people who live (and die) in this facility. We only get a bequest
every second or third year at this stage. We are currently on a $5 million per annum budget and we’d get a $50,000 bequest every two or three years (Disability I).

Even in this case, in describing the variable and low contribution of bequests to the charity’s income, the fundraiser adds the aspirational qualifier “at this stage”. This qualifier implies a hope, if not an expectation, that there may be greater future prospects for bequest income. At the other end of the spectrum, large and high profile charitable organisations with established bequest programs reported receiving as much as 64 per cent of their annual fund raising revenue from the “very important” source of bequests. The interviewees also identified a range of other factors characteristic of the charitable organisations which secure a high percentage of their considerable fundraising revenue. These include that charities receiving material charitable bequest funds tend to have a high community profile; to be a direct provider of services to a large section of the community; and to have “a very good [bequest] program” (Community Support III) which has been established for more than a decade. Those who work for charitable organisations which do receive considerable bequest income consistently expressed the view that sustained investment in a targeted bequest program is essential to success in bequest fund raising.

The second element of bequest income variability identified by fundraisers is that bequest income is highly variable within an individual charity, on a year by year basis. This experience of variability was reported as applying across the sector, from the previously referenced small charity with little bequest income: “we’d get a $50,000 bequest every two or three years” (Disability I) to the very largest of the bequest beneficiaries. For those with material bequest income the challenges of variability are also challenging. For some the issue was expressed mostly as a gentle, temporal qualification: “At the moment we are bringing in more than half of our overall fundraising in Victoria, close to $2 million last year from about 50 bequests” (Community
Support I – emphasis added). For others, the challenge was articulated explicitly:

The value of the bequests varies enormously. I mean we work on [an average bequest value of] $25,000 but so far this year we have received one of $700,000 and one of one hundred dollars. We have notice of one we now expect of $403,000. So, it makes it very difficult indeed to predict (Overseas Aid I)

There are some instances where we have received $500 as a bequest and in other cases ... they have been in the millions. There are extremes at both ends and some in the middle (Community Support IV)

For 2006/07 it [bequest income] is going to be more like 30 per cent, but that is because of a one-off large bequest, but this financial year it might be back to the five per cent it has been over the years (Environment I)

The significance for this thesis of the variability of bequest income both between charitable organisations and within individual charities, is that it highlights the degree of uncertainty which overlays the field. Fundraisers and their organisations develop budgets that forecast non-bequest fundraising income, and they achieve them. In large part, within the fundraising industry budgeting for bequest income is far less of a management science and more of a case of making an educated guess. Even the most effective of bequest fundraising programs has limited control over the flow of expected post mortem income as in the case of each individual bequest, crystallisation of the gift is dependent on the timing of the death of the donor. In most cases this cannot be predicted with any degree of accuracy. The variability is not only on the down-side as the interviewee from one of the more successful bequest raising charities noted proudly:
[This charity] has had a very good bequest program going for about 15 years, so it has really come to fruition. So, over the last three years the bequest program has come in $2million over budget, at least! That is now going to become a regular thing (Health I).

Whether the variability of bequest income be on the upside or downside, as Jill Thompson described succinctly in her analysis of Australian charity fundraising: “Bequest income’s only consistency is its unreliability” (Thompson 2005: 18). Accordingly, the perspectives of fundraisers are necessarily underpinned by what is, at its base, a field of experience in which the only real certainty is the need of the charitable organisations:

I think what drives it [the growing focus on bequests] is that fundraisers are becoming more incredibly needy for funds. They need to look wherever they can for income, so they are going out after bequests as well. This shows up in the FIA’s [Fundraising Institute Australia] Bequest Special Interest Group: it is the largest of the special interest groups and this shows just how much interest there is growing in this area (Fundraising Consultant I).

The interviewed fundraisers demonstrated a shared belief in the real and potential value of post mortem charitable gifts to the effectiveness of their charitable organisations. The sector hungers for additional bequest funds and the interviewees articulated a sense of frustration at the challenges presented by the uncertainties and unpredictability of the flow of gifted bequest funds. This context is important to my thesis as my findings from the probate data has shown the extent to which the principle of familial primacy in estate distribution has the effect of curtailing charitable giving from estates.
Unknown Relationships - “Out of the Blue”

The fundraisers interviewed also indicated that even for those charities with significant bequest income, uncertainty remains a major feature. The direct correlation between known donors on their database and those who leave a charitable bequest is consistently low.

In their stories, interviewees from charitable organisations with a significant bequest income reported that for the majority of bequests received they were unaware of the relationship between the bequest donor and the charity:

The majority of bequests we receive are not from our known donors or known members (Community Support I)

[Of the bequests received last year] 61 per cent we did not know of at all, but they still included [us] in their will (Community Support III)

We received 75 estates last year. 65 of those the fundraising office did not know anything about. Ten we know were previous donors (Hospital III)

Of the bequests we received in the last year, 56 per cent are known to us and 44 [per cent] unknown (Health I)

You will always get bequests completely out of the blue; well it is highly unlikely to happen here [a small professional membership based foundation without public profile] but at a public charity that will always happen (Humanitarian II)

Most of our bequests are coming from people who to us are anonymous. Perhaps three parts of the bequest money coming in yearly will come from people who we may have had contact with but we have no record of. But the other one quarter, if you like – these are very rubbery figures – do come from our [donor] database as they are very loyal people (Community Support II)
The absence of clear links between the donor and the charitable recipient can give rise to very practical challenges from the fundraising perspective. As one interviewee lamented:

It is lovely to receive money from people you have never heard of, but you can hardly go out and market to an unknown market! (Overseas Aid)

Nevertheless, some of those who leave a bequest to a charitable organisation are known to the charity in advance: by way of individuals who advise a charity in specific terms that they are leaving the charity a gift in their will and those who respond to charity communications and “tick the box” indicating they have included the charity in their will. The interviewees indicate that the majority of those who have advised them of their intention to include the charity are individuals who are already identified via specific fundraising donor management databases; there is a known association. Since the introduction of purpose-specific donor management databases in Australia in the 1980s, most charities with significant donor income record all those who regularly give to them on the charity’s donor database.

The existence of a donor database enables charities to determine whether or not a bequest is received from an individual who is already a registered inter vivos giver. It is the existence of these managed databases that has enabled the interviewed fundraisers to speak with authority on the lack of prior knowledge by charities of many bequest donors.

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6 In 2008 email correspondence with the President of the Victorian Chapter of the Fundraising Institute of Australia I was referred to Leo Orland as an authoritative source of both historical and contemporary practice in donor management databases. Orland advised that donor databases quickly became wide-spread after being trialed in Australia in the 1980s and are now considered essential by all charities with significant gifted income.
Different Sources – “Bequests come from capital”

A significant insight into the scale and nature of the discrepancy between those who give regularly to a charity and the lower numbers who give from their estates was expressed most succinctly by one fundraiser:

Bequests come from capital, whereas giving comes from income.
(Environment I)

In practice, fundraisers operate on this understanding. In the case of the individual quoted above, it was apparent that this fundraiser articulates and operates from a theoretical framework that the capacity and propensity to make charitable gifts needs to be considered on two different planes. Individuals who do make regular, inter vivos charitable gifts tend to do so from their income. Whether that giving is planned (as a result of a commitment to a particular organisation or cause) or reactionary (in response to a particular crisis or appeal), inter vivos giving is sourced from the individual’s disposable income. Bequests, on the other hand, are made from the assets or wealth of an individual, and by definition such gifts need to be planned. The fundraiser perception that charitable giving in Australia tends in large part to be more reactive and responsive, with one interviewee expressing this view directly and succinctly: “Planned giving is not a defining characteristic of charitable giving in Australia” (Humanitarian II). The absence of a planned approach to giving per se in Australia was perceived as giving rise to significant challenges for post mortem giving which by its very nature must be planned. The most vehement interpretation of a lack of planned giving led one of the interviewees to challenge the nation’s self-assessment of its giving culture:

I don’t believe Australians are philanthropic. I think we would like to think we are and the media would like to think that we are. But, I think we are very reactive: we react to emergency relief very well; we respond. But, in terms of general giving, in terms of thinking about what and when and how much we are going to give – I don’t think we are (Fundraising Consultant I).
The significance of planned giving and the availability of (capital) funds is nowhere more apparent than for elderly people who live on a relatively meagre income but in their own (owned) home. Such individuals are often referred to in popular parlance as being "cash poor but asset rich". An individual who has restricted capacity to make *inter vivos* gifts as a result of limited disposable income may nevertheless have the capacity to make a bequest from their estate, should they determine in advance to do so. It is understood by the fundraisers to be common practice among the elderly to tidy up their affairs and prepare or revise their final will as a precursor to going into care and as a preparation for impending physical or mental deterioration. This is a deliberate act of planning. It is in this context that fundraisers variously described a bequest as “the ultimate gift” (Humanitarian *II*) and “generally the most significant gift an individual is able to make” (Fundraising Consultant *II*) in the course of a lifetime. This perspective was also expressed in passionate terms by the fundraiser who identified the different sources for individual giving funds:

> Often the bequestors are not wealthy. The regular givers are making gifts out of income. Bequests come out of capital or the accumulated wealth over a lifetime. That’s why they are so special! ... It is a living legacy and there is something very special about it. It has come from a lifetime of work. (Environment *I*: original emphasis)

This emphasis on the “accumulated wealth of a lifetime” highlights the extent to which the funds for distribution from an estate are emotionally charged. The will-maker is not seen to be contemplating an objective, utilitarian sum of money, but one which is deeply imbued with personal, social and cultural significance (Singh 2001; Zelizer 1997). The funds available for distribution from a residual estate are emotionally charged and considered differently from other funds. In the terminology of Zelizer (1997) they are “earmarked” as special. This special nature of bequests, gifted from a source representing “a lifetime of work” (Environment *I*) highlights the extent to which the dynamic
interplay between the propensity to give and the capacity to give can be fundamentally different when considering *inter vivos* and *post mortem* charitable giving. This provides at least partial explanation of the large differences in the participation rates in *inter vivos* and *post mortem* giving and why estates go to the family.

The distinction between capital and income as sources for different forms of charitable giving may also provide an insight into why such a high proportion of bequeathors are unknown to their charitable beneficiaries as it points to some of the limitations of contemporary donor databases faced by fundraisers seeking to secure *post mortem* gifts. By way of example, someone who may have made regular or occasional gifts to a charity during their income earning years may cease *inter vivos* giving once on a fixed income yet live for another 20 years or more before then making a bequest from their remaining assets. Given that purpose-specific fundraising databases have only been common in Australian charities since the mid to late 1980s, it may also be that the earlier donor relationships go unidentified as earlier donor record systems often proved impractical or too costly to migrate into the new systems. In addition, in a society where approximately one in every five dollars gifted to the nonprofits is “claimed” for tax deductibility (Lyons & Passey 2005), by deduction approximately four fifths are either not eligible or eligible and not claimed. At least some of these funds will be by way of gifts that are made to charitable organisations in ways which are not captured on donor databases.

In other cases where tracking difficulties arise, it may be that on determining to leave a charitable bequest, an individual decides not to make subsequent regular *inter vivos* gifts. The concern of the interviewed fundraisers at the potential inadequacy of relying on *inter vivos* giving to identify a link with bequest donors is well illustrated by one of the stories told:

> The year before last, a lady died in Malvern. She had given us $25 three times, $35 twice, and that’s all. She had not been visited by a
bequest officer (because we have so many on our database we have to set priorities). She died and we shared a very large bequest with two other charities (Health I).

This particular anecdote also includes an example of an approach to securing bequests which does not lend itself to effective system or organisation. The story itself is without reference to underlying principle or theory and in large part it is not based on repeat and consistent experience but drawn from an exception. While acknowledging the need to set priorities, the moral of the story appears to be that any attempt to judge a person’s propensity to give based on their track record could easily be mistaken, and the fundraiser should make no assumptions.

The fundraisers noted that a relationship between an individual and a charity can be long established without there being any record of *inter vivos* gifts. The primary examples provided relate to where an individual has personally benefited from the service provided by an organisation (such as cancer treatment, heart surgery or hospice care) to which they later leave a *post mortem* gift. In the case of one hospital providing specialist treatment, the fundraiser advised that a review of the charity’s bequest records of the past 15 years revealed that while close to one third of bequests received had come from existing *inter vivos* donors (on the donor database), close to three quarters of bequest donors were identifiable as past patients: “Grateful patients. Quite frequently they have had an operation where the impact that it had had on their lives is extraordinary” (Hospital II). Some of the individuals who had received benefit through their treatment had not responded immediately and become (registered) *inter vivos* donors to the hospital, however the importance of the benefit they had received had not been forgotten and they had subsequently reciprocated from their estate.

This delayed honouring of a sense of reciprocal obligation is consistent with the contention that bequests are sourced from capital. The elderly are in large

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7 The responsibilities of a designated “bequest officer” usually include making visits in person to potential and existing bequest donors.
part the greatest users of hospital and health-care services, often incurring additional health and medical related expenses while earning diminished income relative to their prime earning years. It may be that in the case of the hospital, many of the bequeathors are asset rich and cash poor. Irrespective of this conjecture however, what is incontestable is that the past-patient donors have had a direct and personal association with the beneficiary charity and the bequest is associated with the benefit they perceived they gained from that association.

Not all charities have such a clear line of sight to (and searchable records of) those who benefit from their services or products. Even where there are searchable records, such as patient records, these will not account for those individuals whose association is a step removed. For example, there will be no record of an individual who leaves a bequest to a hospital as a result of his or her appreciation of the service provided to a parent, spouse, sibling, child or friend. The giving and the receiving of benefit by way of the services rendered provide the basis for reciprocity, either directly from the individual who benefits or indirectly from those who have an intimate, direct and personal bond with that individual: “I would say they [bequest donors] are patients or partners or family members or friends of patients” (Hospital II). While the relationship of the donor with the beneficiary charitable organisation in such circumstances may be one step (or more) removed, the post mortem gift has a foundation in reciprocity and of a specific rather than generalised nature.

Nevertheless, the relationship with a charitable organisation is not generally experienced as one of obligation, as evidenced for example by the relatively low proportion of patients who go on to leave a charitable bequest to a hospital in which they or someone important to them have received treatment which has made a significant, positive contribution to the quality of their lives. A sense of derived benefit is perceived to be a condition for making a bequest but insufficient condition on its own.
A pre-existing propensity to give may be required for triggering a sense of obligation to a charitable organisation for giving, receiving and reciprocating. Even for those with the pre-requisite propensity to give and who do so *inter vivos*, the fundraisers share a perspective that when it comes to the distribution of an estate, the obligations to family consistently take precedence.

For those individuals known to a charitable organisation and who do make a *post mortem* charitable gift, the fundraisers variously described the individuals concerned as being “touched” or “engaged” by the organisation, or “passionate” about its cause.

I think being long term supporters is the general guide. 20 years plus. It is not a function of wealth. It is a function of commitment to [this organisation]; of strongly held beliefs and views; and of satisfaction with dealing with [this organisation] over a long period of time. They have been “*engaged*” (Environment *I: original emphasis*).

The fundraisers’ operational principle is that there is an association, a relationship which provides for giving, receiving and reciprocating. The specifics can and do vary, but the principle remains constant. The benefit derived by an individual from the services provided by an environmental organisation may be, for example, by way of the individual feeling more satisfied and fulfilled because his or her contribution to this organisation involved with what she or he perceives to be good works. It may be the benefit of environmental improvements on a global scale or the protection of a local plant species in the local environment. The closer the engagement with the organisation and its cause, its works, the more the nature of the social capital shifts from bridging to bonding and the more direct the nature of the reciprocal obligation. It is in the circumstances of close bonds and the associated strength of reciprocal obligations that the individual is most likely to
plan to give a portion of their estate to the charitable organisation(s) concerned, to make “the ultimate gift”.

**Managing Relationships - “Touching experience”**

In the midst of the uncertainties characteristic of bequest environment, fundraisers identify two issues of crucial importance which provide the foundation for seeking to secure *post mortem* charitable gifts: relationships and trustworthiness. In the experience of the fundraising professionals interviewed, bequests tend to come either from: i) individuals with whom the beneficiary charity has an established relationship; or ii) from individuals who seek out organisations which do good works and can be trusted with their “ultimate gift” (Humanitarian II). As *post mortem* giving comes from capital, often the disposal of the family home, the perceived trustworthiness of a potential bequest beneficiary is of singular significance to the giver. It is particularly important that this final gift is placed in the hands of a charity or charities that can be trusted not to misappropriate, misuse or misdirect the funds received.

It has already been observed that organisations with a significant bequest income are often unaware of the relationship between the bequest giver and the charity. In the face of a lack of empirical knowledge about the relationship between a beneficiary organisation and many *post mortem* donors, fundraisers work with their learned experience and the shared wisdom of the sector. It is on this basis that interviewees speculate it is probable that bequest givers have had some form of association with their organisation or its work at some point in their life; and / or they have trust in the intrinsic value of the work done by the beneficiary charity and in its responsible stewardship of donated funds.

Reflecting Mauss’s three obligations of giving, receiving and reciprocating, the strongest perceived bond is where the individual has a specific relationship with the charitable organisation: where he or she has been the direct recipient
of a benefit from the charitable organisation, or where someone close to the individual (such as a family member) has received such a benefit.

Certainly if you look at the organisations that do reap a huge proportion of their income from bequests, it is health based organisations. We know that one in three people are touched by cancer in some way during their lives. The same is true for heart disease. Now the Heart Foundation may not know that my Uncle Dave died of a heart attack, but it is without doubt my Uncle Dave’s death from a heart attack that lead to me putting the Heart Foundation in my will. That touching experience, the catalyst must be there. … My personal view is that there always is some touch-point with a cause or an organisation, whether or not the organisation is aware of it (Fundraising Consultant II)

It is also the derived wisdom of some, that where there has been no specific relationship, no direct touching experience, a less direct relationship provides the basis for a more generalised reciprocity. A belief in the “good works” of the charitable organisation may be the link in circumstances where “Sadly … they don’t have anyone else to give it [their estate] to. So what do they do with their money? They leave it to a charity they trust” (Community Support I - emphasis added). As a representative of a charity which sources 60 per cent of its significant annual income via bequests explained: “With us, we’ve got the brand, we’re out there. People know what we do and we’re seen as a trustworthy organisation” (Health I).

For those individuals with whom the charity does have a relationship and are potential or committed post mortem donors, nurturing the relationship is seen by the interviewed fundraisers as imperative: a bequest program is “all about relationships”. The interviewees consistently acknowledged the importance of building and sustaining a direct relationship with those individuals who have made a commitment to a bequest: “The purpose of our bequest society is to engage committed bequestors in the work of [this place] so they feel as
though they are included. So they feel they are part of the family” (Hospital III). Offering opportunities to engage and participate are seen as central to strengthening the bond that is felt between the individual and the charity. It is correspondingly seen to be a way of nurturing bonds and reducing the likelihood that an individual will change their mind and their gift to a different charity. “We have a special relationship with our bequestors. ... We do not want them to think ‘Now they’ve got the money they’ve forgotten all about me’” (Health I).

At the heart of this commitment to relationship nurturing is an intention on the part of the charity firstly to improve the likelihood of a bequest prospect becoming a committed post mortem gift giver when asked; and secondly to build and maintain a sense of reciprocal obligation with committed and potential bequeathors. In practice the fundraisers adopt a two part strategy in seeking to generate bequests on behalf of their organisations. One part is to establish an organisational profile and reputation for trustworthiness in order to maximise the potential for unknown post mortem donors. The other is to build social capital and trust with those who are known to have an existing relationship with them in order to maximise the potential for post mortem gifts to be made, and not rescinded (Baker 2008).

Familial Primacy - “Look after the family first”

The most common theme running through the interviews of the professional fundraisers was consistent with what has been revealed by the probate data: when it comes to estate distribution in Australia the obligation to family comes first. This underlying principle came up in the interviews repeatedly and from a range of different entry points. It was in discussing the practical process of field visits that one interviewee concisely captured the sentiment often expressed by the prospective bequeathors:

Certainly when you are out there approaching people and bringing up the question of bequests, people often say ‘Oh, family comes first’ (Overseas Aid I).
From the perspective of the charitable fundraisers, the profession, the principle of addressing the needs of the family first when considering estate transmission was repeated consistently and with the conviction of certainty. The words used to express the sentiment did vary in detail. However, the underlying principle was both universal and unerring: “You should absolutely expect people to give to their families first and you should encourage them to give to their family first” (Disability I). Some of the fundraisers who held strongly to the “family first” mantra also made the point rather more meekly of incorporating language which emphasises that “first” should not necessarily mean “only”:

We say to them “look after all of your loved ones, make sure your family is well looked after, but then consider leaving us a percentage if there is anything left over” (Health I)

As can be seen by this example, even when moving into the language of persuasion, the shared understanding of familial primacy is articulated as the given. The words chosen indicate the professional approach of the fundraiser(s) to avoid any sense of obligation beyond the family. The solicitation to the potential bequeathor includes an explicit deference to the principle of family first. In saying that the family should be “well looked after” this fundraiser gives voice to the general expectation that the sentiment of family first is not confined to ensuring the “needs” of the family are met. There is considerable scope for personal interpretation (and for largesse) in estate transmission decisions where a guiding principle is to ensure that all in the family are “well looked after” before any and all other considerations. “Well looked after” enables an individual to move beyond even the broadest concept of meeting family “need”. This can be done without reference to any extra-familial criteria of balance or appropriateness and most certainly without any sense that such action would be subject to societal disapproval or sanction, in the comforting knowledge that a decision of this nature would not meet with social disapproval, irrespective of family circumstances and all other criteria.
The strength and consistency with which this theme was repeated across the fundraiser interviews reflects the extent to which the principal of familial primacy in estate transmission is embedded in the normative frameworks of contemporary Australia. The cultural dominance of this principle is such that even amongst fundraising professionals who are charged with securing charitable bequests, the concept of “to the family goes the estate” reigns supreme, irrespective of all other considerations, including the age, needs and wealth of the family members involved. Consequently, the fundraisers work with this habituated social expectation and accept that even for those who may have a propensity to give *inter vivos*, when it comes to *post mortem* giving the primary consideration will remain: looking after the family first. Then and only then does the possibility of making a charitable bequest from the remaining estate surplus arise. The unchallenged and unchallenging deference to the hegemonic principle of “family first” in estate distributions translates in practice to fundraisers working with this as a given, and only occasionally and somewhat carefully venturing a proposition that primary obligation does not necessarily equate to sole option.

Even in circumstances where the fundraiser is making a case for a bequest after the family is provided for, the potential to make a *post mortem* gift outside the family to a charitable organisation clearly ranks a very distant subservient consideration. While the consistent story is one of asking individuals to consider leaving a bequest only after the family is provided for, in practice the concession was made that family first translates to family first, family second and family last. This was exemplified by one interviewee’s description of a very pragmatic approach to allocating fundraising effort and in the face of clear cases of family first:

> As a practitioner I am always interested in the family background because as we always say … “consider us after you’ve looked after your family. Look after your family first” … A lot of people say “I wouldn’t leave a bequest to [charity name]. Bequests are for the
family”. I basically back out of a discussion when it gets to that stage (Health I)

While the rhetoric of “family first” inherently allows for another beneficiary to come second, the illustrations provided by the interviewees indicated that “first” is used far more as an expression of hope than it is of expectation. The circumstances identified by fundraisers in which an estate might be gifted to charity as an alternative to all or most going to the family tended to be illustrative of the point that considerations are only given beyond the family in extreme circumstances:

I consider it appropriate that they have precedence if they are a family member AND (original emphasis) they haven’t been endowed with great wealth. But where that has happened, where there has been a great endowment of wealth and it is not necessary to bolster a family member … (it) presents a wonderful opportunity for the non profit sector to tap into people’s estates and resources (Community Support IV)

The example above is indicative of the strength of the sentiment which dictates that the estate goes to the family. An exception to the norm of intra-familial distribution of an estate is only considered where family members have been endowed with “great wealth”, not just sufficient wealth not to require the (full) estate.

In characterising people who do leave charitable bequests, interviewees consistently and repeatedly emphasised the primacy of family. The shared perspective of interviewees was that individuals who die without direct family are the individuals most likely to make a distribution from their estate to charity. Given the strength of the family first sentiment, a logical extension is that individuals in circumstances where they are unencumbered by obligations to family are those most likely to give at least a portion of their estate to a charitable organisation:
People who are usually the last of their line are the ones who tend to go for charitable distributions. When there are family members available they tend to clearly rate a priority. Where there are children, they get it, or at least most of it (Community Support IV)

It is often people with no close relatives at all. Not just no children, but no close relatives: no nieces and nephews. Brothers, sisters, nieces, and nephews – they are still blood relatives (Environment I)

Others expressed the view that a charity is more likely to receive a gift from the estate in the absence of the strong bonds of immediate family members:

I get the sense that they [individuals with no surviving children] want to give a certain amount to nieces and nephews, but don’t feel an obligation to give everything to nieces and nephews. I don’t know if you have got into challenged estates at all, but in what I see, the typical person to challenge an estate is a niece or nephew. People have known they have an aunty or uncle who has a bit of money or a valuable house, and they are not happy when they leave their money to charity (Community Service I)

The perspective expressed here includes an additional insight into just how strongly in contemporary Australia is the expectation that estates are distributed to family. The analysis undertaken by McGregor-Lowndes and Hannah (2008) on challenges in recent years to charitable bequests by family members in Australia concluded that the principle of testamentary freedom in Australia is now seriously challenged. Far from adhering to this principle which provides for an individual in sound mind to distribute his or her estate as s/he chooses, the courts in Australia are themselves adhering to a far broader principle of familial primacy and regularly overturning the clearly stated charitable intentions of individual will-makers in favour of family challengers.

Leaving the realities of the courts to one side, the shared understanding conveyed is that the childless are more likely to leave a charitable bequest.
One interviewee smiled broadly as she captured the sentiment of her professional fundraiser colleagues: “The dream of the fundraiser is the single, little old lady with no family” (Disability I). It is noteworthy that in all but a very few instances, the interviewees considered the notion of “family first” in relation to estate distribution to be so fundamental and so universally agreed that no attempt was made to explain why this is or should be so. The principal of familial primacy is intrinsically accepted as a universal given without need for explanation. This shared understanding amongst fundraisers of the prevailing community norms in relation to asset transmission translates into pragmatic bequest prospect targeting practices, in line with the objectives of the fundraiser’s role:

In our advertising strategy we are trying to look at ways we can access the female single market (Community Support II)

The hard-nosed reality is that the people I want to talk to are women, 75 plus, living alone … preferably Miss! (Hospital III; original emphasis)

These marketing tactics and the perspectives that have been outlined earlier in this section reinforce the shared view that the prevalence of family first is so strong that it has to be taken as a given and worked with or around. However, one of the most experienced fundraisers expressed a very different point of view. This experienced and senior individual was critical of the fundraising profession for accepting conventional wisdom and not looking beyond their own practices and self-fulfilling expectations:

With the growth in the fundraising profession and people now going out and promoting the whole bequest concept … there is a corresponding growth from other industry sectors telling people to spend it. “You can’t take it with you. You might as well spend it now. You might as well move into very expensive but very nice retirement village and spend your money. You might as well have the overseas trips and do all the things you always wanted to.
Reverse mortgage your house!” There is a huge industry out there trying to convince you to spend it, so that there is nothing left to give. ... You’re not competing against other charities! ... You are competing against a much more intelligent, well financed, professionally qualified industry competing for the money (Hospital I).

The insights provided by this analysis include that others involved in seeking access to the wealth potentially tied up in estates are not acquiescing to the dictates of family first. To the contrary, those interested in selling consumer products and services clearly seek to offer an alternative model to leaving it all to the family. In the analysis of the fundraiser quoted above, these “intelligent, well financed, professionally qualified” competitors for individuals’ assets seek to displace family first with self first. The whole notion of SKI or Spending the Kids Inheritance (Rowlingson 2006; Rowlingson & McKay 2005) is predicated on the identification of aging baby boomers presenting a lucrative market (Dann 2007) and supported by advertising that emphasises the notion that “you deserve it”: that you have already met your obligations to your children; to your family; you are no longer required to reciprocate; and your major obligation is to yourself.

Of significance to this thesis is that those advocating self-directed consumption over and above the need to leave an inheritance have demonstrated that the hegemony of family first can be challenged. Importantly, this challenge is by way of accessing the assets or the spending power of the individual before it crystallises to become part of their estate. Notwithstanding the unchallenged dominance of the “family first” dictate in relation to estate transmission, it is being directly challenged by a range of commercial interests which operate primarily to secure profits for personal or shareholder gain. It may be that appeals to self-interest have a greater potential for success than appeals to wider or common good.
It may be that appeals to spend now are appealing because they do not challenge the distribution of whatever estate ultimately remains. What the commercial model does demonstrate is that accepting the status quo of community norms is not necessarily as much of a given as it is currently being taken to be by the fundraising community in Australia. Death triggers a significant change in the nature of familial obligations. Before death an individual can give to charity or spend down their accumulated wealth. Differentiated *inter vivos* transfers to children, large charitable giving and even profligate, self-indulgent spending appear not to alter the expectations of estate transfer *post mortem*. After death there is a pervasive norm at play that what remains is of special, emotionally charged significance and “should” go to the family.

In summary, the expectations which accompany kinships ties and the bonds of immediate family are clearly manifest in the prevailing understanding by fundraisers of who gives part of their estate to charity and why. The interviewed fundraisers themselves overwhelmingly share and reflect the commonly held view in Australian society that where there is immediate family, there is a corresponding expectation that the residual assets of an estate will transfer to those family members in all but exceptional cases. While this is expressed in terms of the majority of the assets going to immediate family members, in practical terms the expectation is that the immediate family will receive all of the estate assets.

The best prospects for making a charitable bequest are seen as those individuals who do not have immediate family to put first. It is in those circumstances that the fundraisers see the greatest potential for securing a share in the estate of a lone individual who has the capacity to make a bequest and an inclination (a propensity) to give that can be nurtured. The greatest identified threat is that the capacity of an individual to leave a *post mortem* gift may be diminished by highly professional commercial businesses which seek to increase their share of the potential spend-down of an individual’s lifetime of accumulation thus diluting the value of an estate available for *post*
mortem distribution. It was also apparent however that this challenge to the notion leaving all to the family is not being embraced by the fundraisers. In effectively acquiescing to the dominance of the principal of familial primacy in estate distribution, fundraisers are in practice reinforcing the very norm which operates in direct opposition to the potential for charitable bequest funds.

**Wealth and Bequests - “A totally different kettle of fish”**

Fundraisers’ views varied on the propensity of the wealthy to leave a post mortem charitable gift. In the interview process I sought to avoid the potential for the discussion around this issue to become focused on definitions of wealth. In each interview, I specified that I was interested in discussing the interviewee’s views on the wealthy without being concerned with definitional specificity. In each case the interviewee accepted the notion of working to a generalised concept of “wealthy” and spoke with relative comfort of this group without the need for any particular definition. To the extent that there are shared views on the wealthy amongst the fundraisers I interviewed, those views can be summarised as follows: in relation to post mortem charitable giving, people with wealth tend to think and act differently to those who do not have wealth; people with wealth tend to seek the guidance of professional advisers; accordingly, the wealthy who have a propensity to give are directed more towards inter vivos charitable giving; people with wealth tend to be more inclined to concern themselves with control of their charitable giving and the benefits they generate.

Before exploring these consistent themes it is important to acknowledge that some of the fundraisers were clear in their view that wealth is not a particularly relevant criterion when considering those who may or may not leave a post mortem charitable gift. Asked about the influences of wealth on the propensity of individuals to make a post mortem gift, fundraisers were inclined to reiterate what they considered to be the more important differentiating criteria: familial primacy and the strength of existing relationships between the giver and the charitable beneficiary. Increased capacity is generally perceived by the fundraisers to be inconsequential
relative to the dictates of family first: “I think the real bias comes in terms of
dependents rather than wealth, because the size of a potential bequest will
change as to whether they have got dependents or not” (Health I).

Despite this reservation about the significance of wealth to the propensity to
leave a bequest, the anecdotes that seem to contribute to fundraiser
mythology include apocryphal stories warning of the risks of underestimating
the wealth of individuals. Some of the stories told included explicitly
cautionsary observations about making assumptions about who has or does not
have wealth. These stories emphasised the importance of passion for the
cause as being of great significance: “You don’t know. I can think of a very
wealthy couple who love the environment and give huge gifts. I know that
when they die they will leave a substantial amount to a particular organisation –
because of their passion. Typecasting people is dangerous and you need to
be open minded” (Humanitarian II). Whether by superficial judgement
(typecasting) or by detailed research into individual wealth holdings,
fundraisers shared the view that wealth is of lesser importance: “We approach
people on the basis that they have had a long term relationship with the
organisation. So it is not quantified on wealth” (Overseas Aid I).

These responses are illustrative of the view that the relationship of an
individual with the cause or organisation (as evidenced by their commitment
and “passion”) is of greater significance to the probability of generating a post
mortem charitable bequest than is the existence of wealth alone. In advancing
personal engagement ahead of wealth, these practitioners articulated a view of
the world that sees a hierarchical relationship between propensity and capacity
when it comes to giving per se. Specifically, from the perspective of these
interviewees the existence of wealth is a secondary criterion for identifying a
charitable giving prospect. The interviewed fundraisers identified that the
propensity of an individual to give is more important to post mortem charitable
giving than is capacity. Further, the propensity to give is reduced by the
presence of surviving family and enhanced by the existence of an established
relationship with a particular organisation or cause. A long term relationship in
particular is taken as an indication of a strong bond which enhances the potential for a bequest.

**Wealth and Choices**

The fundraisers broadly shared an understanding that in relation to *post mortem* charitable giving, people with wealth tend to think and act differently to those who do not have wealth. This understanding relates directly to the early observations in relation to capacity, namely that for the majority of the population bequests are made from capital, rather than from income:

> People without real wealth have their family home as the major component of their estate ... People without wealth talking about leaving part of their estate are talking about leaving part of the family home. People with wealth are generating huge incomes with their wealth ... So how they distribute that wealth [to charitable purposes] and whether they put it in to a foundation or PPF [Prescribed Private Fund] or whatever it might be, is a totally different kettle of fish (Hospital I)

The notion that a large gift is usually only possible for most individuals once is inherently related to this understanding that such a gift can only be made on the realisation of the person’s accumulated assets at death. As such it applies to the majority who do not have sufficient capacity to make substantial gifts during their life times. Access to income and to capital beyond the family home provides the wealthy with more options. Wealth is perceived as providing greater freedom to think and act differently in relation to *post mortem* giving. There is a hope that the relative advantage which can be bestowed on children by familial *inter vivos* transfers will lead to more wealthy individuals exercising the choices available to them by way of including charitable giving in their estate transmission considerations:
The more wealthy are more likely to say “Actually my children have a very good life and I want to do something quite significant and I want the bulk of my estate to be used for this dramatic purpose.” So, in some ways charities are not competing with the children [for a share of a wealthy estate] as they are more likely to be with someone who has not been wealthy during their own lives. They [someone who has not been wealthy] will absolutely view that their obligation is to look after their children first, and only then a bequest. For some philanthropists, I think they are very much seeing the children getting what they have during their lifetimes and the PPF\(^8\) or the bequest being the way to make a really significant contribution (Fundraising Consultant \(\text{II}\))

The familial “obligation ... to look after their children first” (Health \(\text{I}\)) remains acknowledged as universal. For those with less wealth, the distribution of the estate is more likely to be consumed by that obligation, while for the wealthy there is scope for the familial obligation to be viewed by some as being fulfilled during life, thus providing those individuals with greater capacity with more choices on where and how to distribute their estate. The inclination to exercise the choice of directing estate wealth to charitable purposes rather than to (already looked-after) children is introduced by a double qualifier: “some philanthropists”. In this observation the term “philanthropists” conveys individuals of wealth who have an inclination to charitable giving as well as a track record in doing so. Even within this narrow segment of Australian society, the observed trend towards post mortem charitable giving is confined to a sub-set of “some” of these philanthropic individuals.

The sentiment of wealth providing greater choice in relation to post mortem giving was expressed by many of the interviewees. The articulation of this sentiment however appeared primarily to be part of a professional discourse targeted at the encouragement of charitable giving, which is integral to the

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\(^8\) Prescribed Private Fund – as explained in Chapter 2, PPFs were introduced in Australia in 2001 as a simplified, private charitable foundation structure with tax deductible status
fundraisers’ role. The ways in which this sentiment was expressed were more in terms of potential and of hope for the future of post mortem giving rather than comments on the way in which Australians with wealth actually give effect to the choices before them. In relation to wealth and choices, the major underlying theme emerging from the fundraiser interviews was that while wealth does increase the decision making choices available to individuals to include post mortem charitable gifts, in contemporary practice the greater capacity that goes with wealth does not necessarily increase the likelihood of charitable giving as part of the estate transmission process.

**Wealth and Professional Advisers**

This leads to two further major and interconnected themes related to wealth from the perspective of the fundraisers. The first is that people with wealth tend to take professional advice. The second is that within the Australian taxation environment, which provides an incentive for inter vivos charitable giving, those among the wealthy who are inclined to give are likely to be directed by their financial advisers towards inter vivos charitable giving.

In the first instance a theme which emerged from fundraiser comments on post mortem giving was that many charitable organisations do not regard the wealthy as a “happy hunting ground” for post mortem gifts:

> I think that people who have wealth, don’t talk to bequest officers. Because they surround themselves with people to advise them (Hospital III)

> The people who will give you a major gift through the course of their lifetime are more inclined not to leave you a bequest because they have family trusts for that. For people with big money - the estate tends to go to the family and the family trust. [For Bequests] it is more the donor who doesn’t have cash but has assets (Health I)

> Certainly it would appear from the data (and I can’t back this up) but it would appear that it is not people with high net wealth during...
their lifetimes [who leave charitable bequests] – it is people whose assets when they are realised, allow them to make a significant gift (Fundraising Consultant II)

The sentiment captured in this set of views shows a perception that the estates with the greatest capacity are not necessarily the primary source of post mortem charitable gifts. There is a lack of empirical data available to the fundraisers “to back this up”. Based on their experience, the fundraisers’ perception is that post mortem charitable giving is influenced significantly by the fact that those with wealth are more likely to take advice on the management of that wealth. Advice will be given in the context that at this time in Australia tax deductions can be secured for inter vivos gifts made to designated charitable organisations (charities with Deductible Gift Recipient status) but no deductions can be secured by way of charitable giving from an estate. Accordingly, as part of their fiduciary responsibilities financial advisers will explain to their clients the financial advantage of giving inter vivos relative to giving post mortem:

Those who have high net worth during their lifetimes, or who have estates of a significant size are more likely to have good financial advice and while they are alive to be thinking about optimising their tax [deductions]. They are more likely I would say to be planning how to best use their estates, before they die. And so for example the rise of things like Prescribed Private Funds in Australia. People who might previously have left a bequest to form a corpus of a significant piece of giving are now establishing a PPF and using it for their giving while they are alive. So I think that is an interesting dynamic (Fundraising Consultant II)

The emergence of Prescribed Private Funds (PPFs) as a new ingredient in the dynamic interplay of total social phenomena influencing how and when the wealthy make their charitable gifts leads to a further major theme arising from the perspectives of the interviewed fundraisers. In exercising the greater
choices that wealth provides, people with wealth tend to be more inclined to concern themselves with control of their charitable giving and the benefits they generate.

**Wealth and Control**

While the fundraisers did not use the word control in their observations, the ways in which they discussed the operation of private charitable structures such as trusts and foundations, including PPFs, indicate the extent to which control of gifted funds is perceived by the interviewees to be a key issue for the wealthy. The mechanisms and the rules associated with giving through structures rather than directly were not addressed or explained by any of the fundraisers as each operated on the assumption that I as the interviewer would be fully informed on such matters.

As the interview extracts below indicate, the fundraisers foresee increasing challenges from the emergence of the more readily accessible taxation and distribution structures of Prescribed Private Funds in particular. Such funds enable wealth holders to retain full control of the charitable funds directed into a PPF and to exercise influence and control more fully over the use of the revenue generated by that capital which is then distributed for charitable purposes:

> There are certainly a lot of wealthy families setting up PPFs. That is seen as a huge growth area in terms of philanthropy. Well, we don’t see them as a threat because we would hope to be a beneficiary of some of them. But it is a challenge for us ... The thing is you can’t access them. You don’t actually know they exist and you can’t actually approach them for distributions. They’re not ... if you go to the trouble of setting up a PPF, then it probably does mean that you have interest in where the money goes. They, of course, have to distribute every year, which is the way they are set up. So they obviously do have certain organisations or causes in mind (Environment I)
In this case, it is apparent that the fundraiser (and possibly the employing charitable organisation) is still coming to terms with the strength and implications of the growth in PPFs. On the one hand they are not seen as a threat because the PPFs do need to distribute the income they generate, somewhere. On the other hand, however, the ability to identify, lobby and solicit funds from PPFs is limited by the relative anonymity of these foundations. The beginning of an analysis can be seen in the recognition that to “go to the trouble of setting up a PPF” means that the initiator is likely to already have in mind how and where the generated funds are to be gifted. The implications of PPFs for bequest funds flowing to charities were being directly considered by some of the interviewees to be a threat:

I think the other issue is PPFs. I think that some of the more wealthy will divest some of their wealth into those areas. While [this organisation] may still be a recipient, they will be a recipient of a far smaller amount over a far longer period (Community Service III)

Other fundraisers similarly anticipate that the growth of PPFs is shifting the control of funds from the charity to the donor. The consequence is that instead of a lump sum bequest being delivered to the charity, where the management and use of the gifted funds is vested with the charity itself, a PPF structure leaves the capital and the associated certainty in the control of the giver through the established structure. The rate of the ongoing flow of funds will be at the behest of the PPF. The potential for funds to be gifted to a PPF inter vivos and/or post mortem has implications for charities for larger gifts of both varieties. From the perspective of the charity this is about a relative loss of control of the funds and the uses to which the gifted funds are put. From the perspective of the person or family establishing a PPF, the appeal includes greater control and a capacity to be more targeted in the use of their gifted funds and more strategic than is possible by way of simply writing a cheque for a charity.
The only people that I have been involved with who have made significant bequest commitments, and I am talking a million dollars plus, they have either rung or written for more information. They want to endow a fellowship, or something like that, and they set that up through their own lawyers. I’ve got one couple who have ANZ Trustees managing their affairs, but they wanted to do something specifically here and they wanted detail so they could pass it to their trustees (Hospital III)

In the examples given above, the individuals planning to make post mortem gifts have initiated the contact (rather than responding to solicitation) and sought information on how they can ensure that what they wish to do with their gift can be achieved. The example of the couple is one that implies the existence of a charitable trust managed on behalf of the donors by a trustee company. The capital funds are under the control of the donors and they are seeking support in ensuring that the future flow of gift funds will be in accordance with their requirements as well as the needs of the beneficiary charitable organisation. Similarly, a fundraiser from a charity which currently receives significant bequest income foresees changes are necessary in the way that charities seek post mortem gifts from wealthy donors in particular:

I think the bequests in future are going to be much more strategic. “I am going to leave you a lot of money to have my name on this building, or to do this particular type of research or to create this entity.” It is like running a capital appeal. It is going to be tied, it is going to be targeted and it’s going to be strategic (Hospital I)

The idea being expressed here is that the benefits of control, personal satisfaction and recognition need to be addressed in much the same way as they are for major gifts of an inter vivos nature. If wealthy donors in particular are to direct significant residual wealth directly to particular charitable organisations rather than to their own trusts or foundations, then there will need to be sufficient benefit for them to see such a gift as a viable
alternative. Based on experience, the alignment of the objectives of the giver and the recipient is not however something that all interviewed fundraisers perceive as being able to be taken for granted. As in the fellowship example cited above, rather than gift a capital sum to the beneficiary organisation with an instruction that the generated income be used to fund a fellowship, the donors chose to retain control of the capital within their own foundation. The emergence of structures such as PPFs which enable wealth holders to channel capital funds into them, to retain “branding” of the funds involved and to exercise greater control of those funds, is wisely identified as a risk to the charitable sector:

I also think people of significant wealth are now starting to use [their wealth] in a much more focused way. They are saying “I have a cause that I am utterly passionate about” and almost setting up in competition with charities, and setting up their own funding bodies - which is a really interesting challenge that I am not sure many charities have grasped yet (Fundraising Consultant II)

The fundraisers perceived that for the wealthy who do have a cause they are passionate about their wealth provides them with greater choices than the non-wealthy in meeting their familial and other reciprocal obligations. Their access to professional advisers provides them with an understanding of available structures and how they can optimise their giving from the perspective of taxation and control. Structures such as charitable foundations, including Prescribed Private Funds, provide mechanisms for achieving those ends. From the perspective of many of the interviewees, the explicit precondition for the wealthy in their giving is that they have a cause (or an organisation) with which they feel a bond. The potential threat is identified as greatest where the relationship with existing charitable organisations, or trust in the processes they employ are insufficient to reassure the giver that independent action is not the best charitable giving option.
Discussion

In this chapter I have provided an overview of the experience and perspectives of a group of sixteen fundraising professionals with knowledge of and expertise in *post mortem* charitable giving in Australia. The stories they tell and the anecdotes they share are informed by their own experience and by the learning associated with development and information exchange which is integral to professionalisation of fundraising. These fundraisers provide insights into a source of social expertise that has not been previously accessed for sociological analysis in relation to *post mortem* giving.

The interviewees have observed that from the perspective of charitable organisations *post mortem* giving is an income source that is inherently variable. In the experience of the interviewees, small charities rarely receive charitable bequests from deceased estates and when they do, such gifts tend to be from an individual with an intimate relationship with the organisation. Large, high profile charities with established bequest programs receive more *post mortem* gifts, however the rate at which these gifts are received is beyond the control of the charity and often beyond accurate prediction. The variability for large charities is exacerbated by the fact that many *post mortem* gifts come from individuals with whom the charity has no record of a prior relationship.

The considerable discrepancy between *inter vivos* and *post mortem* charitable giving is illuminated by the analysis that the two forms of charitable giving have fundamentally different sources for most individuals. *Inter vivos* giving is sourced from income, whereas *post mortem* giving is sourced from capital. For the cash poor but asset rich eighty year old who has been retired from an income earning role for many years, a *post mortem* charitable gift is imbued with emotional significance (Zelizer 1997) and will often constitute “the ultimate gift” (Humanitarian *II*) as it is both the last gift the individual will make and “generally the most significant gift” (Fundraising Consultant *II*) of the individual’s lifetime. This difference in the source of *post mortem* giving constitutes a fundamental change to the mix of interconnected and
interdependent social influences, described by Mauss (1990: 76) as “total’ social phenomena”, which contribute to shaping giving behaviour.

In relation to wealth, one of the major themes from the fundraisers was that wealth increases the choices available to an individual both in terms of *inter vivos* and *post mortem* giving. The fundraisers identified that the individual with wealth is better positioned to be able to meet familial obligations during their lifetimes. The potential to do so however, does not transcend the prevailing morphology of “family first”. Nevertheless, interviewees share the perspective that while wealth may or may not increase charitable giving as part of the estate transmission process, wealth does increase the decision making choices available to individuals to include *post mortem* charitable gifts. The professional fundraisers note that people with wealth tend to take professional advice to assist them in managing their financial affairs and making associated choices. In circumstances where the taxation regime provides relative advantage for *inter vivos* charitable giving, as is the case in Australia, those amongst the wealthy with the propensity to give are likely to be directed by their financial advisers towards doing their charitable giving *inter vivos*.

There was no expressed expectation amongst the interviewed fundraisers that the wealthy are either more or less charitable than less wealthy members of Australian society. There was a shared perspective that wealth provides individuals with greater choices in meeting their familial and other obligations. Access to professional advisers provides wealth holders with better understanding of available structures and of how they can optimise their giving from the perspective of taxation and control. From the perspective of the interviewed fundraisers, passion for a cause or an organisation is a particularly important precondition for the wealthy in determining to make a *post mortem* charitable gift. The passion when aligned with a relationship with the relevant organisation intensifies the bonds and the obligations of giving, receiving and reciprocity. For wealthy individuals who do have a propensity to give charitably, the attractions of *inter vivos* giving go beyond control and taxation
advantages to the ability to make arrangements during their life times to make
gifts (potentially from capital as well as from income) while retaining the
ability to direct their estate in line with the prevailing social norm. The
expressed view of many of the fundraisers that they do not consider wealthy
individuals as key prospects for a post mortem gift is an indication of the ‘total’
social phenomena, multiple and complex social influences, at play.

The fundraisers identified those individuals with whom a charity has an existing
relationship as one of the primary sources of post mortem gifts. This is
consistent with the findings of Sargeant and Hilton (2005) that fundraisers
looking to increase bequests should target their existing older supporters and
those who are users of the services of their organisations. The charitable
propensity of members and donors is established through the existing
relationship. While the fundraisers often cannot accurately assess the capacity
of an individual to give from their estate, they can work to ensure that the
propensity is secured.

In circumstances where a relationship already exists, the fundraisers seek to
maximise their bequest generation effectiveness by nurturing extant
relationships with members and/or donors, and especially with those who have
indicated that they have committed in their will to leave the organisation a
post mortem gift. Strengthening those relationships is perceived by many of
the interviewed fundraisers as a crucial means of strengthening the bonds
between the individual and the charity. In terms of fundraising practice the
interviewees indicate that they work to an understanding that the stronger the
bond between the individual and the charity, the greater the sense of
reciprocal obligation and the lower the potential that an individual will change
their mind as to the beneficiary of their post mortem charitable giving.

From amongst the unknown sources of post mortem charitable giving the
fundraisers identified those individuals who are unencumbered by the
hegemonic obligations of family first as the greatest prospects. Individuals
who do not have immediate family to leave their estate to are perceived to
often look to charitable organisations as potential beneficiaries. Nurturing known relationships with such individuals is widely understood by the fundraisers as potentially lucrative. Direct relationships strengthen bonds and direct reciprocal obligations. In the absence of known, direct relationships the avenue understood by fundraisers to be most viable for seeking to secure post mortem gifts is to ensure that the brand of the charity, the public image it projects and protects, is one of a trustworthy organisation doing good work. Ensuring public knowledge of the trustworthiness of a charity and its good work provides a practical means of establishing a clear basis for indirect reciprocity.

This wider perspective of the fundraisers on the importance of projecting to the community at large an image of good work and trustworthiness supports my argument that while a relationship will be most clear where it is direct and personal, the reciprocal connection may also be founded on an indirect relationship. Nevertheless, an individual’s belief in the “good works” of an organisation is a belief that real benefit is provided via the work of the organisation and while the individual him or herself may not receive direct benefit, s/he can engage in indirect reciprocity in making a charitable gift.

Consistent with the probate data analysed in this study, the fundraisers reflected and explicitly articulated the prevailing social norm that when it comes to the distribution of an estate, the family takes precedence. More than precedence, the interviewees demonstrated an acceptance of the “family first” mantra to such an extent that it was consistently raised as a given. In practical terms the understanding of the fundraisers was that the moderating term “first” has no real application and the familial primacy principle translates to a singular, exclusive obligation to look after the family.

Irrespective of intra-familial transfers which take place inter vivos, and irrespective of relative wealth or need of family members, the expectation that the estate of one generation will be transferred directly to the next is pervasive. This expectation is so pervasive that amongst fundraisers, those
charged with seeking post mortem charitable gifts from estates, the hegemonic principle of family first goes almost entirely unquestioned. The view of the fundraisers is born of experience and reflects the extent to which these expectations in relation to estate transmission in Australia are integral to the prevailing social norms.

The fundraisers themselves subscribe to the principle of familial primacy in estate transmission. They perform their professional work against an understanding that the vast majority of Australian will-makers, irrespective of their inter vivos charitable giving practices, will most frequently direct the distribution of estate assets to their families. When it comes to estate transmission, the obligations of family assume an unparalleled predominance. As the direct blood ties diminish so too does the familial bond and the perceived obligation to distribute an individual’s estate. In the expressed views of the fundraisers, individuals without children are far better prospects than those with children, and those without any family at all, are better prospects still. This is consistent with the qualitative research findings in Australia by Madden and Scaife (2008b) that pledgers of post mortem gifts are more likely to have no family.

I have found that in their practice the fundraisers accepted, to the point of advocacy, the principle of family first. The acceptance was countered by only the occasional and passive attempt to challenge the notion that “first” is being interpreted to mean “only”, irrespective of size of the estate or the needs of family members. In doing so, the fundraisers can be described as complicit in a process with functions to curtail charitable giving from estates. The nature of the interaction with individual will-makers may indeed make it inappropriate for fundraisers to challenge the “family first” principle in one-on-one discussions. However, without an understanding of the power of this principle and without a concerted effort by the profession to address the universality or the legitimacy of “family first” in estate transmission, it will remain unchallenged. In effectively acquiescing to the dominance of the principle of familial primacy in estate distribution, fundraisers are reinforcing the very
norm which operates to curtail both the frequency and scale of charitable bequests.
Chapter Seven: Advisers’ perspectives

Introduction

This chapter examines post mortem charitable giving from the perspective of professional advisers who are involved in assisting individuals and families with estate planning and transmission issues. One of the five interviewees had had management and governance oversight of a trustee company and provided insights gained from this perspective. Each of the other four professionals is skilled and experienced in providing estate planning and associated wealth transmission advice directly to individuals and families. Between them the five interviewees had 96 years of advisory experience. The interviewees are representatives of a relatively small number of advisers in Australia with expertise in advising clients on matters related to charitable giving. As such they are likely to be influenced by the education, culture, myths and legends which form part of their professional operating environment and subject to what DiMaggio and Powell (1983) identify as the homogenising influence of professional groupings and the industry to which they belong. In addition, research into related advisory roles in the United States (Odendahl 1987; Ostrower 1987) indicates that the advisers and the High Net Wealth Individuals (HNWIs) they support often come from similar backgrounds and shared networks. While being an insider facilitates close relationships and enhances the ability of advisers to influence (Marcus & Hall 1992), it also runs the risk of making the advisers complicit in the world view of their clients.

The specialised skills involved in providing advice on charitable giving means these individuals are not representative of professional wealth management advisers as a whole. Australian research (Madden 2004, 2009; Madden & Newton 2006) indicates that advisers with expertise in charitable giving are in a minority in the financial adviser sector in this country. Drawing on her 2002 study, Kym Madden observes that advisers in the United States report more
“overt interest” than Australian advisers in incorporating giving considerations into the planning process. Madden finds that while there have been improvements over time, many Australian advisers “feel ill equipped or reticent for reasons of ethics or professionalism to broach the topic of charitable giving with clients” (Madden 2004: 41). She further notes that such reticence is also common amongst advisers in the United Kingdom and that some adviser resistance to advising clients on charitable matters remains even in the United States.

In an Australian study Madden and Newton find that despite the latent interest detected in 2002, philanthropy remained a “no-go zone” (2006: 17) for many professional financial advisers in Australia, and only a minority of advisers refer clients interested in philanthropy to those who may be able to assist them. In her analysis of a 2008 version of the survey, Madden (2009) finds that contemporary Australian advisers are increasingly willing to provide philanthropic advice and support to their HNWI clients, however some 40 per cent indicated they feel insufficiently skilled and unsure as to how best to do so. This later observation aligns with the findings of a 2007 review of resources available to assist Australian financial advisers in the philanthropic area (Andrews 2007) which found that the quality and availability of resources to assist financial advisers provide insufficient guidance to address the feeling of the majority of advisers that they are ill equipped for charitable giving matters.

The advisers I interviewed possessed both the skills and confidence to advise their clients on charitable giving matters, differentiating them from the majority of their colleagues working in estate planning and financial advice. One clear example of this understanding of relative expertise was expressed explicitly:

I speak at seminars – seminars for practitioners advising high net worth individuals - where they put philanthropy on the agenda. If I am on a panel or speaking I will often say to the audience “How
many of you speak to your clients about philanthropy?” I would typically get a response of about five percent (Adviser II)

This interviewee went on to explain that in his experience the majority of financial advisers lack the skills and confidence to explore charitable giving issues with their clients. Another example exemplifies the way in which the interviewees generally framed their differentiation from the standard adviser by reference to the sense of confidence that skills and experience bring:

I have been doing estate planning for some 15 years and before becoming more aware of the difference that can be made, my approach for many years was like most lawyers and advisers, to simply react to what clients say they want. Whereas now I tend to be much more proactive and I am not afraid of raising issues that they have not considered (Adviser V)

As already discussed, advisers were included in this study as a supplement to the perspectives of fundraisers. Their inclusion is designed to ensure a contribution from those with particular insight into estate planning and charitable giving by the wealthy in Australia. This was important to the overall study given that the common practice of wealthy individuals not to hold assets in their personal estates but in alternative structures means that probate data is likely to understate the assets of the wealthy (Rubinstein 1979).

In this chapter my analysis of the perspectives provided and stories told by the estate planning and charitable giving advisers is undertaken using the themes identified from across the intermediary interviews, and mirrors the themes used in the previous chapter. The term philanthropy is frequently used in relation to charitable giving by the affluent and is the default term used by the interviewed advisers.
The business of charitable giving

For the interviewees, *post mortem* charitable gifts were of no great significance in their own right. The interviewees identified charitable giving more broadly as an important component of their service offerings for the relatively few high net worth clients who have a propensity to make charitable gifts. With those clients, discussion and advice about giving helps to build trust and to strengthen the bond between the adviser and the client.

The advisers interviewed made clear that while philanthropic giving, both *inter vivos* and *post mortem*, is important to them in their interaction with clients, the reasons why such giving is important are very different to those of fundraisers. “Funds Under Management” and its acronym “FUM” are terms used in the financial services sector as a measure of scale. In an industry where a fee has historically been paid for the management of funds / assets invested, funds under management provide a key basis for revenue for financial advisers. The significance for this study of FUM as a basis of advisory remuneration is that, in general, it is in the personal financial interests of those involved in the provision of estate planning and financial management advice to retain funds and not to have their clients give it away:

The private bankers often try to get clients to establish PPFs because they are capital accumulators inside the PPF. And guess what? The private bankers want to manage the capital inside the PPF. So they have often, other reasons for suggesting it (Adviser II)

While this particular interviewee attributes financial self-interest to a particular category of advisers, private bankers, remuneration based on the scale of funds (capital) under management is a standard basis for advisory remuneration. The potential for direct benefit to advisers in retaining client capital lends itself to recommendations for the establishment of private charitable trusts in preference to giving capital directly to charitable organisations, as direct gifts result in a reduction in FUM and associated income to advisers and their firms.
The importance of *post mortem* charitable gifts in the context of FUM and the provision of wealth advisory services is made particularly clear when considering charitable bequests in the wider context of financial advisory services, past and present. This is well exemplified by reference to trustee companies. In Australia, people with wealth who wish to have their financial affairs managed on their behalf frequently engage a trustee company to provide the required services. While the management of philanthropic trusts is only one of the services provided by such companies, trustee companies are the prime holders of philanthropic funds in Australia (Andrews 2007) and for this reason employees of trustee companies were included in the advisers interviewed.

As explained to me, charitable bequests have been particularly important to trustee companies throughout their history. Many trustee companies had their origins in what an interviewee described as "the old style triumvirate" (Adviser I): a trustee company; an executor; and an agency. These three services have the potential to link through over a long period of time in meeting the needs of a client. Initially, the trustee company provides investment services to a living client. Subsequently, the client appoints the firm as executor to the client’s will. Finally, the firm acts as the agent for the estate in managing any trust structures that may be established by the client’s will:

The management of bequests continues to be a significant part of what we do, at least in our private client division which is where we have the relationships with clients directly in a high net worth environment. It continues to be a significant role player, because we are interested as an organisation in helping clients through each different stage. And *it is obviously in our interests commercially to retain the business when somebody dies*, as if we can put that money into a charitable trust and we can manage it for them, we still have the funds in perpetuity. *We do the right thing, we also get rewarded.* So its value is not lost, from the organisation (Adviser I - emphasis added)
The advisers tended to characterise “bequests” in this way, as funds from an estate that are placed into a charitable trust from which distributions are made, rather than as donations to charitable organisations. This is a reasonable characterisation of a bequest from the standpoint of an adviser or firm where the main interest is in the funds themselves far more so than in the beneficiary of earnings generated by those funds. The associated analysis is very clear. Establishing relationships, especially with high net worth clients, is “obviously in our interests” as it enables a firm to retain funds under management and thus to secure an income stream from a client’s assets, not just during the client’s lifetime, but potentially for perpetuity. In addition, charitable trusts have traditionally involved relatively large FUM. In the United States charitable foundations are required to distribute a percentage of their capital annually. The situation is different in Australia where the most common distribution structure for charitable trusts has been to distribute (give away) on an annual basis only the earnings generated by the capital in the trust (its corpus). The implications of this were explained:

Charitable trusts have historically been for the wealthy and the extra wealthy. On the basis that given you are only distributing the income from a trust – say five percent per annum - if you don’t have a fairly large sum in there in the first place it is not worth it (Adviser III)

A Prescribed Private Fund (PPF) maintains this characteristic as PPF regulations require the annual distribution of all investment income, with the exception that an amount may be retained to maintain the real capital value of a fund in line with inflation (ATO 2004b). The costs of establishing and maintaining such a fund mean that as with the historical situation described above, PPFs tend to be the preserve of the wealthy. The rule of thumb in Australia is that a minimum of $500,000 is required set up a PPF (see for example AET 2008; Equity Trustees 2008; Perpetual 2008). Alternatives do exist whereby a donor can establish a sub-fund of a larger community or umbrella charitable foundation. A sub-fund is particularly attractive to those with smaller
amounts of money to give, as the administrative and compliance burden is amortised across the umbrella trust and the costs are held to a fixed management fee relative to FUM.

The importance of establishing a relationship of trust with the client was emphasised by each adviser. Significantly, one of the advisers interviewed clearly articulated that the management of FUM provides a particular and potentially powerful means of securing client trust and adding both depth and resilience to the adviser–client relationship. The identified strategy takes the form of recommending to a client the use of a sub-fund in preference to a PPF:

There are many advisers who would never think of advising clients to give money away, because that is then money that they no longer manage. To me, that is very short sighted. So what if a client puts a portion, a tenth a twelfth or even a quarter, into some structure where you don’t manage the funds? Depending on the market they can make that back up in a short time, but you have a client for life then. You have a client for life (Adviser IV)

The adviser is voicing a clear strategic intent. By recommending a sub-fund for charitable gifts, even where the client is looking to give significant amounts the adviser is deliberately working to strengthen the relationship with a client. In not advocating management of the client’s charitable funds “in-house”, the adviser reinforces personal and professional trustworthiness and ensures that the advice provided is differentiated from recommendations which could be seen to be self-serving or conflicted. Nevertheless, whether the interviewed advisers adopt an approach to clients with a philanthropic intent to establish their own charitable trust and retain the funds under the management of the advising firm or whether they recommend a sub-fund under an existing but externally managed umbrella trust, those operating in the advisory arena are very clear that they are providers of a commercial service. The firms involved have a specific presence in the philanthropic services arena for clear business reasons:
It is commercial. It’s business … when it comes to pricing for our services and that sort of thing, we do get favourable treatment [relative to other divisions within the firm], so we are able to be very, very competitive from a price point of view. We don’t do it from a charitable point of view though. It is a business (Adviser IV)

The importance of bequests to advisers is fundamentally different from the importance of bequests for fundraisers. For fundraisers, the primary purpose of a relationship with a donor or potential donor is to secure gifts to support the (charitable) organisation they represent. For advisers, the primary purpose of the relationship is fee for service. Charitable giving is a part of the service that the interviewed advisers provide to some clients. Even for these individuals with expertise in relation to charitable giving, the advice they provide in this arena is part of a wider asset management and estate planning service provision process. The potential distribution of charitable funds is an aspect for consideration in meeting the needs of the client and consequently the client’s comfort with paying for advice.

Charitable propensity and post mortem giving

In the experience of the advisers, those clients who make charitable gifts during their lifetime are more likely to give from their estates. Those clients who do not give during their lifetimes are most unlikely to give from their estates. The interviewed advisers agreed that those clients with charitable propensity who establish their own charitable trust *inter vivos* are perceived to be likely to make any *post mortem* charitable distribution directly to their own trust and unlikely to make any direct bequest to a charitable organisation.

The interviewed advisers recognised that many Australians who seek assistance in drawing up a will consult their local solicitor. As the majority of suburban solicitors are unlikely to have any significant training in relation to charitable giving, their advice in relation to such matters is likely to be limited.
Something I have learned in this industry as I have seen many people write wills as they work through their estate planning is that people don’t actually think through their estate planning. So an executor reads a will and presumes it expresses the person’s well considered preferences. I however have sat in enough will draftings over my career to say with confidence that actually, an awful lot of people get to the point in the drafting of their will where the lawyer asks “Who do you want it to go to?” and the client says “Well, I guess the Salvation Army”. They are being guided through a process by a lawyer. They are not familiar with the process, they have not spent a lot of time thinking about the detail, and suddenly they are confronted with the need to complete a clause. “What do you want to do with this?” “Oh, right. Give it to charity.” “We have to prepare a clause to go in the will, so who do you want to give it to?” “The RSPCA.” People look at the will later and say “Gee the RSPCA must really have been this person’s passion! They have clearly thought about this.” In my experience, that is often just not the case (Adviser I).

On the evidence of the probate analysis provided from this study and the estimates of Giving Australia (2005), the inclusion of a charitable beneficiary is a rare occurrence and as such the majority of individuals drafting a will simply skip the option. It may be that the “clause” to which the interviewee refers above is that relating to contingent beneficiaries, those who would receive the proceeds of the estate in the event that the primary beneficiaries do not survive the person making the will. In any case, the story provides additional insight as to one of the paths via which charities receive post mortem gifts “out of the blue”. In the absence of a direct relationship, those who do wish to gift a portion of their estates to charitable purposes will choose an organisation of which they are aware and perceive to be an appropriate beneficiary.

A shared perspective of the interviewed advisers on the articulation between inter vivos and post mortem giving was that the key determinant is that of the
propensity to give: “I can say that from my experience people who give through their lifetime are likely to give from their estate. If people don’t give during their lifetime, they are unlikely to give from their estate” (Adviser I). Those with a propensity to give and a history of giving *inter vivos* are viewed accordingly as likely to consider *post mortem* giving in their estate planning processes:

> My experience is that if someone is a regular giver, or for example they sponsor a World Vision child, they are already on the [charitable giving] track. They will generally raise the issue themselves of leaving a gift from their estate without any prompting from me (Adviser V).

Advisers agreed that where a relationship is established between an individual and a charitable organisation, where there is already in place a dynamic of giving, receiving and reciprocity, then there is an increased likelihood of subsequent and additional *post mortem* giving. In essence, *inter vivos* and *post mortem* charitable giving are seen by the interviewed advisers as part of a giving continuum such that “most clients who have either a sub-fund or a PPF would definitely be looking to put extra money in when they die” (Adviser IV).

This principle was also given voice by way of an example. An adviser described a particular client who had been very successful financially in his lifetime. This client had taken the view that his wealth would be distributed six ways “roughly a million to each of the [five] family members and a million to charitable causes”. Already a regular charitable giver, the client responded very positively when the adviser discussed with him the relative taxation advantages of giving the charitable component of his estate *inter vivos*. The adviser reported that the client was very happy to receive this advice: “Why [then] would I wait till I die? I might as well get a tax deduction now and pay no bloody tax!” The client consequently allocated the one sixth share of his
wealth for charitable causes to a charitable trust during his life time. The client also went on to make a “top-up” post mortem gift to his charitable trust.

The principle of post mortem giving being part of a continuum of giving was in this way frequently illustrated by reference to the planning processes of those with both the capacity and the propensity to give:

It is hard to say, but probably they [ultra high net worth clients] have a view that says: “Of my total wealth, \( x \) percent should go to the kids and \( y \) percent to charity.” So that \( y \) percent is probably fixed somewhat in their mind, not so much how much goes through their estate or how much goes currently. But what they sometimes do is start the whole process through inter vivos giving such as a PPF and they top it up through their estate (Adviser II)

This particular quote exemplifies the shared view of advisers that for those with both propensity and considerable capacity, estate distribution decisions are based on three primary options: i) the children; ii) charity; and iii) tax. These options are consistent with those identified by Havens and Schervish (1999) as being more generally characteristic of all those with considerable wealth in the United States environment. The above quote also highlights another perception shared by the interviewed advisers on the likely nature of the charitable beneficiary when the will-maker has established his or her own charitable trust for giving inter vivos:

I can tell you with good authority that for our clients [who have an established charitable trust] the prospects of them making a bequest are high to very high, and the prospects of them making a bequest to a charity other than the one they have established, is low to very low. Because, once you have got your PPF, any residue is going in there and not anywhere else (Adviser I)

The advisers shared a perception that in Australia relatively few wealthy individuals have a propensity to give which manifests in the establishment of
their own *inter vivos* charitable trust. The available data supports this perception. While there is no reliable data available on the number of charitable trusts and foundations set up before the establishment of Prescribed Private Funds (PPFs) in 2001, we do know that 769 PPFs had been approved by 30 June 2008 (CPNS 2008). As discussed, one way of giving this context is to look to the findings of the *World Wealth Report 2008* (Cap Gemini Merrill Lynch 2008) that in 2007 there were 172,000 Australians with one million dollars or more in financial assets.

For those Australians whose capacity and charitable propensity do come together such that they establish their own *inter vivos* charitable trust, the advisers share the perspective that as part of the giving continuum, such individuals are most likely to also give *post mortem*. The probate files examined for this study did not include any instances of a gift to a Prescribed Private Fund or other non-public charitable trusts or foundations.

**Managing Relationships**

The expressed views of the advisers indicate that for those individuals with sufficient wealth to seek wealth management and/or estate transmission advice, trustworthiness is a key concept. The trustworthiness of charitable beneficiary organisations is touched upon by the advisers, however from the adviser perspective the most important aspect is the client’s perceptions of the trustworthiness of the advisory firm and the adviser. Relationships with beneficiary organisations were not a theme that received emphasis from the advisers, with only occasional and cursory reference being made to the relationship of the client with potential end beneficiaries. This is in part explained by the universal and consistent advice of the interviewees that the best deductible giving mechanism in Australia for those with wealth and with a propensity to give is *inter vivos* giving via the mechanism of a private charitable trust (a foundation). As foundations are intermediary structures, the interest expressed by the advisers is not on the relationship of the client with end beneficiaries. Consistent with Marcus and Hall (1992), the adviser’s
focus is on the process of managing how funds are gifted and not on who or what benefits from the gifts made.

The importance of trustworthiness to the adviser/client relationship was underscored for me when in the foyer of a trust company I noted that the firm had its four values framed, on the wall and in public view. The first of the four values proclaimed “We are trustworthy”. I asked the interviewee about its significance. Given that the company value could make the interviewee potentially identifiable, I have withheld adviser identification from the response provided:

It [trustworthiness] is very important. The number one consideration that I still see with clients who want to enter into some form of charitable bequest and have us involved in it, is that they are aware that once they are gone they need some one they can trust. Firstly: to be around. So performance of a corporate trustee company is half of that level of trust – they have faith that you will still be there. In addition, you’ll be competent and unlike individuals you won’t die, you won’t lose capacity and you won’t lose interest. You’ll always be able to be held accountable … trustworthiness is central for us by the nature of our business; we are able to give people faith in the future management of their funds (Adviser identification withheld)

Based on the accounts provided by the advisers, trustworthiness is a necessary precondition for the relationship with the client especially when considering the management of their wealth in perpetuity. For charitable trusts the safe stewardship of the funds is important to the client. For those clients who are not attracted to a private charitable trust: “You are looking at the charities that have a high profile that have been around during their lifetime. Well established. Trustworthy” (Adviser I). An additional reason espoused for recommending a private charitable trust was perceived client concerns in
relation to the extent that they may or may not be able to trust individual charitable organisations:

Sometimes I’ll raise: “Have you ever thought about making a charitable gift?” They’ll say “Well, you can never be sure just what those charities are going to do with it.” I can see in those circumstances that there is a charitable inclination but they are not sure how to direct it. There is a mistrust based on what they’ve read here or there including concerns about administration costs. In those circumstances I’ll raise the notion of a family foundation (Adviser V)

As demonstrated by this example, when it comes to the management of charitably gifted funds, the advisers perceived a close correlation between trustworthiness and control in the eyes of their clients. Control is in large part viewed as having been ceded when a gift is made directly to a charitable organisation. Within a family foundation, the donor retains control. Advice proposing the establishment of some form of charitable trust is understood to address both control and trust issues for the client.

For the advisers, the most important focus is on their relationship with the client. Establishing a close working relationship with and understanding of the client is the key to forging personal and professional bonds. To do so the interviewed advisers seek to respond to the economic and the psychological needs of the client, including effective tax strategies, control, reputation and sense of self worth: “I get a foundation, I get a sense of community, I get to involve my family … I get benefits that justify the cost, I feel better about myself, I feel I’ve paid my debt, I get to be involved, I’ve something new and exciting to take on after my career is over” (Adviser I). The advisers work closely with their clients to understand and address their personal motivations, interests and circumstances. In doing so they identify strongly with their clients and in turn they are often highly trusted by those clients. The strength
of the bond combined with value provided to the client by way of the advice helps establish and strengthen the obligations between client and adviser.

**Familial Primacy - “Look after the family first”**

Underpinning the perspectives expressed by the advisers on beneficiary options is the assumption that even for those with both a propensity towards charitable giving and considerable capacity to do so, the prevailing social norm holds sway. The obligation that stands unquestioned is that the primary obligation of the will-maker in estate distribution considerations is to immediate family members.

If you have a spouse, nine times out of 10 you are going to take care of them. They are there ahead of any charity. The level of wealth makes a difference, but the basic pattern in terms of estate planning goes like this: Look after wife first – ensure she has the house and a decent income. Look after the kids and the grandkids – it very rarely goes beyond that (Adviser I)

While this particular adviser adopts a perspective that wealth and transmission decision are the domain of men, the fundamental message remains that the family comes first. The advisers agreed that the process of estate planning is in essence one of transmitting accumulated wealth to immediate family members. Estate distribution rarely goes beyond family members to whom one’s obligations to bequeath come “ahead of any charity” (Adviser I). By corollary, it is in the absence of immediate family members that a material *post mortem* charitable gift becomes more of an option.

Over the years working in (named) Trustee company ... all the larger charitable trusts and even the larger straight bequests, all were no children. No that’s not quite true. There was one exception (Adviser III)

While this comment is specific in nature, it is an example of a more broadly shared perspective of the interviewed advisers. The majority of high value
*post mortem* charitable gifts to trusts or bequests tend to be made by individuals with no surviving immediate family members. The fact that in the example above the adviser could remember the one exception over the years, reinforces this adviser’s recalled experience. This predominance of high value charitable bequests from estates without surviving children was one area where it was apparent on reviewing the transcripts that while the views of the advisers were consistent with analysis of the probate data for this study, they were in large part unsubstantiated. The view that large bequests are mostly sourced from individuals without direct heirs appeared to be based on a combination of experience and a broadly shared view in the sector. It was however particularly clear that the advisers also share an understanding of the normative strength, in Australia, of the obligation to leave an estate to immediate family members. A comment which exemplifies these views and which indicates a perception shared by adviser interviewees is provided by the adviser to ultra high net worth individuals and families:

I think you’d find the larger donations are a substantial proportion of that person’s estate, and my guess is they didn’t have heirs. These people are often targeted, not that I am saying institutions play on them, but they establish relationships and make sure people are aware of the opportunities, because what else are they going to do with it? (Adviser II)

This quote appears to provide a perspective on the behaviour of individuals who would not be clients of this adviser, that is he is expressing a view on the behaviour of individuals who are not ultra wealthy. As this adviser expressed elsewhere in the interview, ultra wealthy individuals who have a charitable propensity are most likely to give to their own charitable trust and as such they are unlikely make a *post mortem* gift to charitable institutions or to be “targeted” by them. The adviser’s conjecture is that “larger [bequest] donations” to charitable institutions are likely to come from those estates without children, and are likely under those circumstances to be a substantial proportion of the estate. The addition of the hypothetical question “what else
are they going to do with it” provides a different perspective on the hegemony of family. The implication of this hypothetical question is that family comes first to such an extent that where there is an absence of immediate family, some lesser option needs to be identified.

A related theme which emerged from adviser perspectives on the link between no family and post mortem charitable giving is the shared view on who and what constitutes “family” when it comes to estate distribution considerations. While this issue was generally addressed indirectly, family was clearly framed by the advisers in terms of the most immediate and direct of family members. Those most likely to give post mortem are quite simply “those without family, without children in particular” (Adviser IV). Estate distribution expectations are experienced and expressed as immediate family members, such that even blood relatives one step removed are consistently perceived of as being outside the realms of estate obligations as will-makers with no children “do not want to see their estate simply dissipated to brothers, sisters, nieces and nephews” (Adviser V).

Specific reference was also made to providing clients with advice on strategies aimed at limiting the potential for legal challenge by extended family members, inclusive of daughters-in-law and sons-in-law, to the specifications of a client’s will (testamentary challenge). This is of significance given that Australian courts are increasingly upholding challenges by extended family members (McGregor-Lowndes & Hannah 2008). The perspective of the advisers is that individuals considering estate transmission tend to think of family much more tightly than do the courts. The standard conception of people preparing their will is that family is spouse and children, with grandchildren sometimes included. The intention of clients when seeking estate planning advice was represented as having a standard format as “in most cases they come in with the idea in their head that if something happens to me, then I’ll leave it to my partner. If something happens to both of us, then it will go to our children” (Adviser II). The perceived norm is that estate
assets are to go to the family, and the family is explicitly defined for estate transmission purposes in narrow kinship terms: my partner and my children.

Discussions of a defence of a will-maker's intention also highlighted the extent to which the underlying reasons for familial primacy were not often directly addressed by the advisers. Familial primacy was quite simply taken as a given. One of the few times when some form of rationale was explored, the focus was on the practical and emotional aspects often experienced by siblings at the time of the death of their remaining parent. Estate transmission can provide a ready avenue for latent (and/or apparent) interfamilial conflicts to be aired. In this context a primary reason for the direct transmission of an estate to immediate family members is to avoid family disputation.

There is a sense that squabbling over the carcass is the worst possible outcome for the family. If there is one child who requires more financial support because of their financial circumstances than others, then the kids sort that out – as opposed to through the will. Though often if there is a child with say a handicap, then often they will be the beneficiary of a trust – the capital will still go equally to the children, but after [the segregation of trust funds for the benefit of the handicapped child] (Adviser III)

The practice of equal post mortem distribution of an individual’s estate is significant for this thesis as it represents another manifestation of the habituated norm of distributing an estate to children. The notion of equal distribution amongst children tends to imply that it is exclusionary in nature and does not include provision for any other beneficiaries. As shown in the example above, the expectation of the estate going to children in equal share is perceived as so strong, that even in circumstances where there is a demonstrable basis for compensatory transfers, it is better that it be left to the beneficiary children themselves to “sort that out”. Where for example there have been differential levels of financial support to the children concerned and where differences in the financial well being of the children is significant, it is
better that equal estate distributions be made to avoid “squabbling over the carcass”.

The reference in the above example to the way in which exceptional circumstances may be addressed also emphasises the importance of the estate at the time of the will-maker’s death. In the case of a handicapped child, a trust can be established to provide for the needs of that child as a separate process. While scope remains for disputation, the principle underlying this approach is consistent with the perspective that it is the residual estate which demands equal distribution. Just as differentiated inter vivos transfers to children are acceptable, so too is the separation out of trust funds for the maintenance of a child unable to fully provide for him or herself. To avoid “squabbling over the carcass”, it is important that the residual assets of the estate can “still go equally to the children” (Adviser III - emphasis added).

The issue of equal distribution is one that I realised after the interviews had rarely been explicitly talked about by the advisers. A close review of the transcripts revealed that amongst the frequent references to the estate going to the children, there were no examples of associated qualifiers such as: “to each according to their need” or “with a view to evening up any differential inter vivos payments which may have occurred”. Examples used by the advisers to illustrate distribution to the children invariably used equal distribution, however this tended to be raised in context as a given, rather than isolated as a matter of interest in its own right. While I formed the view that the advisers interviewed take equal distribution as the community standard, whether or not equal distribution is prevalent in high net worth families and the extent to which this may vary given whether the will-maker’s wealth is primarily earned or inherited, might itself be a base for further research.
**Wealth and charitable giving**

The views of the interviewed advisers on the propensity of the wealthy to leave a *post mortem* charitable gift were largely consistent. As with the fundraisers, in the interview process I sought to avoid the potential for the discussion around this issue to become focused on definitions. In all cases the interviewees accepted the notion of working to a generalised concept of “wealthy” and spoke with relative comfort to this group without the need for any particular definition.

To the extent that there are shared views on the wealthy amongst the advisers, those views can be summarised as follows: i) in general, people with wealth have no greater propensity to charitable giving than do others; ii) at the top end of the capacity spectrum, the ultra wealthy do have a greater charitable propensity than most; iii) advisers to people of capacity and charitable propensity articulate the benefits in Australia of *inter vivos* charitable giving as being more advantageous than *post mortem* giving; iv) people with wealth tend to concern themselves with control of their charitable giving and the benefits that giving can generate.

**Wealth, Choices and Control**

The commonly expressed adviser perspective is that people with wealth tend to think and act differently in relation to *post mortem* charitable giving, relative to people who are not wealthy. One of the clear differences identified by the advisers is that access to income and capital provides the wealthy with more options:

> When it comes to economic wealth, there is a difference because the wealthier have more choices. People with less wealth are therefore much less likely to put in place formal structures, pay for services, and do so in perpetuity. You get more formal structures as you get more money, and you can afford to pay for the costs. There is no less desire for people to see their money less well managed or well used (Adviser I)
Advisers agreed that the very notion of estate planning and/or wealth management implies and involves the identification and exercise of options. The starting point is not charitable giving but orderly asset management and the transmission of those assets in line with the desires (the will) of the wealth holders. Advisers’ views on why wealth holders tend not to hold all of their assets in their own name tended to be different but more in emphasis than in principle. One view placed the emphasis on risk mitigation and wealth protection as the primary reasons not to hold assets personally in an individual’s own name:

Asset protection. That’s the major reason why any clients that I deal with have a family trust. That is why I have a family trust. It is to protect assets. It is not about avoiding tax, but with a business you do not want to put at risk everything you have ever worked for. So that would be the primary reason, along with the ability sometimes to spread income amongst family members and achieve some taxation advantage (Adviser V)

While the view as exemplified here is explicit about “not avoiding tax”, in this case the adviser still went on to reference a secondary reason may “sometimes” be to achieve “some taxation advantage”. In this way the asset protection principle is not in practical opposition to the second view that holding wealth in legal structures is primarily about tax management.

The reason why people use entities these days is often for normal tax planning – which is to make sure that the dividends and other income that comes from passive investments is appropriately taxed and it is not all just taxed to the individual. So you can get tax planning working for you. And also entities make the transmission of wealth somewhat easier, because you can start to give away the entity during life, or you can give away control of the entity later on, rather than just give the asset away as part of an estate (Adviser II)
The emphasis differs, but the central theme is common: entities such as trusts are used to optimise control: control over accumulated wealth; control over its utilisation; and control over its distribution in line with the wealth holder’s wishes. Whether those wishes are entirely about wealth maximisation and retention within the family, or whether they relate to thinking about the eventual division of family wealth both to heirs and to charity, the use of a legal entity enhances the ability of the wealth holder to make choices and to enhance the prospect that their choices will not be usurped.

Let’s say mum and dad have a combined estate of $3m and they have 3 adult children. They have choices to make. If they wish simply to provide for the children equally, they can do so simply and effectively by leaving $1m to each child. The growing concern in today’s litigious society is that the $1m left to a child is open slather, particularly creditors or anyone else who may wish to sue that child. Or the child may have a partner whose profession or business could see them sued, and the $1m could be up for grabs. This goes back to a lot of people not holding assets in their own names but in trusts to protect their assets from loss of this kind (Adviser II)

For the purposes of illustrating the issue of asset protection and control, the comment above uses full transmission of the family estate to the three children in equal share. Transmission of the estate to the children is a given. Transmission of the estate in equal share is equally taken as a given. The choices are about how to best protect the distributions. Where a wealthy individual also has charitable propensity, the same logic applies. Assets left in an individual’s personal estate and transmitted post mortem to a charitable organisation are at greater risk of challenge by way of litigation. Because inter vivos transfers to a separate entity reduce the risk, the recommendation of charitable gifts inter vivos is consistent with the fiduciary responsibilities of the adviser. A Prescribed Private Fund (PPF) is one such vehicle:
We usually recommend a PPF as the preferred philanthropic vehicle but not always. As you know, the advantage of a PPF is that you get a current tax deduction, you also maintain control of the entity, you and your family … you have only got to deal with a responsible person, and that is usually someone who you know well – they don’t get in your way. It allows a family to work together on their philanthropic ideals, so it is part of what we call the glue that sticks a family together. … What this effectively means is that you have still got the capital under control, not for your own benefit, and you can give away the income or the capital if you want to. They are, in my view, the perfect answer (Adviser II - emphasis added)

Advisers agreed that inter vivos charitable giving structures are in the interests of those clients with the propensity to give as such structures best meet client needs. As the example above shows, the interviewed advisers perceive that control is a desirable client objective in its own right. A giving structure such as a PPF delivers tax advantages, allows the initiator to maintain control of the entity, control of the capital and control of the income generated. The choice of a required “responsible person” for involvement in the PPF can be managed to ensure that person does not “get in your way” and dilute control. The gifted money is no longer a direct financial benefit for the individual given that a PPF can make distributions only to charitable organisations. Nevertheless, retaining funds in a PPF provides the donor with far more control than if they were donated directly to a charitable organisation. The very process of retaining control over funds is a benefit per se to those who desire it. There is also significant potential for mutual benefit of the wealth holder and the adviser. A wealthy individual who is interested in maintaining control of charitable funds will be prepared to pay a fee for that service, a service that can be and is readily supplied by estate planning and wealth management firms.

Nevertheless, there is a clear understanding on the part of the advisers that propensity to make charitable gifts of part of their wealth either inter vivos or
post mortem is relatively rare amongst the wealthy, as it is amongst the rest of the community. Advisers were very clear that their clients understand that irrespective of the taxation advantages of giving, the end result of any charitable gift involves a cost to the giver. The advisers shared the perspective that tax is not a sufficient incentive in itself to lead a wealthy individual to charitable giving:

My mantra is that tax is a trigger, but it is not the reason. It is simply a matter of the mathematics, the economics. If you want to reduce your assessable income by giving away money to a DGR\(^9\) then you can do that, but of course what you give away will cost you more than what you save on tax. So there has to be something else there beyond tax, be it altruism or spite or whatever the motivation may be! (Adviser I)

The advisers agreed that there has to be an inclination and a motivation beyond tax for an individual to give charitably. While the example comment on motivations below is specific to a particular adviser, it provides a good example of adviser perspectives on a range of motivations from the perspective of utility maximisation:

We don’t talk to clients about it in this way but for me it is a matter of weighing things up. It is a pretty simple equation: I give away that and I save that, but I give away more than I save. So the bad side is I lose dollars, on the good side I get a foundation, I get a sense of community, I get to involve my family, or whatever it happens to be. There are a number of benefits that justify the cost: I feel better about myself; I feel I’ve paid my debt; I get to be involved; I have something new and exciting to take on after my career is over. That’s the deal - I’m prepared to put the extra

\(^9\) A Deductible Gift Recipient (DGR) is an organisation endorsed by the Australian Taxation Office or listed by name in Australian Tax law as entitled to receive income tax deductible gifts. In general, charitable organisations, charitable trusts and Prescribed Private Funds are endorsed as a DGR.
dollars in over and above the tax savings, to get that benefit (Adviser I)

While this exploration goes primarily to the kinds of reasons a wealth holder may give effect to charitable intent, it does touch on issues of obligation and reciprocity in referencing feelings of self-worth and paying “debt”. Another influence raised by several of the interviewed advisers is that the very wealthy may also need to protect their children from the potentially debilitating impact of inheriting substantial wealth. Two advisers quoted a statement that had been made by Warren Buffett to the effect that he did not want to leave his children “too much”, but wanted to leave them enough money that they would feel they could do anything, but not so much that they would feel like doing nothing. “So they can do anything but nothing” is how Buffet summarised this approach in a television interview (Rose 2006) shortly after gifting the majority of his wealth *inter vivos* to the Bill and Melinda Gates Foundation.

Consideration of the interests of children in not receiving the entirety of a considerable estate indicates a more nuanced approach to obligation to family than applies for the majority of the population who do not have to contend with very high levels of wealth. This view encompasses a notion that transfer of significant wealth to one’s children may not be in their best interests (Beckert 2008b) and as such could be perceived to be a dereliction of familial obligation. While this sentiment was touched on by several advisers, it was generally as an aside, such as: “You could argue that Paris Hilton’s father didn’t quite get it right” (Adviser III). The advisers shared the view that the potential for individuals to give consideration to protecting children from threats of inheritance is confined to the ultra wealthy:

I don’t think people necessarily want to destroy their children with extreme wealth. To leave someone as a billionaire for example, only to find they destroy themselves ... You actually haven’t done anything good for your kids. Isn’t it better to leave them twenty five
million dollars so they can get on and make a life of their own, and then do some good with the rest? Many are very conscious of that ... I think that most families don’t want to leave their children super wealthy. They want to leave them adequately provided for, and well educated. Motivated to make their way in the world. Often a substantial proportion of their wealth will then go to charitable causes (Adviser II)

The level of wealth required to bring about this kind of protective consideration was addressed in the interviews. The general reference to Warren Buffett (at the time the world’s richest man) is an indication that the bar is set very high. The specific reference above to Australian experience is similar in that the adviser’s example suggests it may be better to leave the kids “twenty five million dollars” each as an alternative to potentially destroying them with “extreme wealth”. For the vast majority of the population familial primacy in estate transmission is taken for granted as the prevailing norm. It is essentially only in circumstances of extreme wealth that the practice of distribution of most if not all of an estate going to the children might be called into question.

While the particular perspective offered above suggests that much of the remainder of a very wealthy estate will often go to charitable causes when such a decision is made, this observation was itself made by an adviser who throughout the interview consistently characterised very wealthy clients as being very generous in their giving. It is difficult to imagine very wealthy individuals who have not demonstrated a propensity to charitable giving during their lifetimes determining to leave much of their estate to charitable causes rather than to their children. The proportion of ultra wealthy families and individuals who give substantially during their lifetimes is an area for potential further research as is the frequency with which ultra high net worth estates are distributed overwhelmingly to the family.
In this study the advisers interviewed consistently expressed the view that for those with a propensity to give, the incidence of charitable giving tends to have less to do with actual wealth holdings than it does with the relative sense of financial security that the wealth holder feels:

It does of course come back to the issue of financial security and where one person may feel financially secure with $3m another might feel insecure with $30m. And that is all a question of education and the advisers need to be doing it (Adviser V)

This example demonstrates a widely held adviser perspective that a sense of financial security is an important precondition to charitable giving. It also exemplifies a perspective expressed by several of the interviewees that financial and wealth management advisers are in a position to actively address their clients’ sense of financial security. These advisers agreed that they may be in a position to assist clients with significant wealth to have confidence that the distribution of their estate is not necessarily consumed in its entirety by the obligation to “look after the family first”.

**The Influence of Professional Advisers**

The advisers shared a view that for those clients who do have a clear charitable propensity and practice, the adviser has considerable potential to influence the nature and extent of charitable giving by those clients. The advisers generally expressed the view that influencing requires confidence on the part of the adviser in his or her own skills in the area of giving, and the exercise of judgement about the individual clients themselves. One of the best examples was given in relation to the conduct of a standard initial meeting with client couples, who having accumulated wealth, are turning their minds to transition issues:

When I have worked through what the children do, who the children are married to, the grandchildren ... then I might throw in some suggestions that might influence their decision making ... [It] is a bit
of a judgment call on my part, but where it is clear that there is a lot of money there and there may be six, seven, eight million dollars and their children are very well provided for, they have been providing for their grandchildren ... sometimes when we start to draw it all up we can see that there is a hell of a lot of money that we are talking about. At that point, I may throw in the idea of thinking about some form of family foundation (Adviser V)

In such reflections on professional practice the primacy of the family is consistently the given. The judgement call that the adviser makes is not in relation to any kind of trade-off between family and charity, it is a judgement of whether or not the clients may be amenable to considering a charitable gift, on the clear understanding that there is (subjectively) more available for distribution than is required to meet the needs of the family. The suggestion that consideration be given to “thinking about some form of family foundation” is indicative of the second aspect of adviser influence: technical recommendations on the form (mechanism) of charitable giving most appropriate to the clients’ particular needs and circumstances. The recommendations given to clients are not merely in a generic form that consideration be given to allocating a portion of the available wealth to charitable purposes. Because the recommendations are informed by the relative tax advantage of *inter vivos* charitable giving, advisor recommendations extend to specifying “how” the gift should be made to maximise financial advantage to the client.

The advisers also shared a view that the ability to influence clients comes at various points in the client relationship and is enhanced by the adviser’s understanding of what is important to the client. The emphasis was frequently placed on the thoroughness of the planning process and on how questions are asked:

> In doing your job properly, you address estate planning issues. Just saying, “What are your plans for your money when you die? You’ve
got three kids, is it all going to them, or do you have a view to be giving some money to charitable causes and that sort of thing?” Generally, when put on the spot with a question like that, they’ll probably get the guilts up and say “Oh, yeah, yeah, we are certainly planning to do something along that line” (Adviser IV)

As in this example the influencing process as described by the advisers consistently involved acknowledging the need for family to be provided for, without explicitly framing family needs as all consuming. The advisers described judgement of the giving propensity of the client as one of their most fundamental skills in influencing charitable giving. Such judgement is perceived as important to the ongoing relationship with a client, as in the absence of charitable propensity it may be counter-productive to raise the question. Where an adviser assesses that a client may have an interest in charitable giving, raising the issue with the client enables an adviser to make an assessment of whether or not to offer advice. As portrayed in the comment below, in the event of clients indicating that they are or may be interested in including consideration of charitable giving in their estate planning, then the adviser can move into a more directly influencing mode:

That’s the classic introduction, to say things like “We’ve been looking at getting some of your money across into superannuation and there’ll be capital gains implications from this. If you are looking to maybe giving away some money, why don’t we do it now and get the tax benefits now while you are alive and there’ll be just as much to leave the kids anyway” (Adviser IV)

This short statement exemplifies both the process of influence and the importance of context in the way in which advice is given and influence exercised. In line with their professional accountabilities, advisers give their advice in the financial interests of their clients and therefore in light of the operative taxation rules and regulations: “get the tax benefits now”. Advisers also frame their advice in the broader social context, for example taking
familial primacy as a given. As shown in the example above, built into giving advice is recognition of the ability of the client to make a charitable contribution while not in any way jeopardising his or her obligations to family wealth transmission as "there’ll be just as much to leave the kids anyway".

The advisers shared a view that, for wealth holders in Australia, knowledge of charitable giving by those they consider their peer reference groups has the potential for significant impact on their own charitable giving. In the process of commenting on the potential for large, public charitable gifts made by the Americans Bill Gates and Warren Buffett to influence other wealthy individuals, the advisers tended nevertheless to argue that the local context was likely to be of greatest significance:

I think if people in Australia start to do it, it will have a bigger influence. So, first I think it is very much limited to High Net Worths. I don’t think anyone without a lot of wealth is thinking “Hey Warren Buffett is giving away a lot of his fortune, so it’s about time I did.” Secondly, the way I talk about it is as a cascading effect. In any country it starts with Super High Net Worth Individuals, then cascades down to the High Net Worth Individuals, the affluent, the mass affluent, the man on the street. ... I speculate that it works on the basis that there are a lot of people who are aspirational.

They are mixing at events, functions, and barbecues with the next tier up and if they are doing it, then to look like them, they do it. Then the people from the tier below who are mixing with them see these people doing it, so they do it to look like them. So rather than cascade down, it is more like people climbing up. It becomes the done thing. So if you want to mix with the people of Toorak then you can say “Well I’ve got my own foundation. Of course I have!” (Adviser I - emphasis added)
This adviser commences this passage with “if people in Australia start to do it” and clearly states that the view he is putting forward is speculation. His speculation is that philanthropic giving becomes normalised and an expectation within a particular social milieu: “It becomes the done thing”. This is consistent with US findings that wealthy donors tend to be generally focused on their peers as the audience for their philanthropy (Ostrower 1987). From this perspective, one of the advantages of a tiered approach to wealth advisory services (more than x million dollars to invest) is that an adviser is in a position to provide clients with charitable giving comparisons, without breaching confidentiality, relative to the client’s wealth-based peers. For the individual with the capacity to give and a propensity to give, advice on the giving practices and vehicles used by others may provide a valuable guide. The views expressed by the interviewed advisers indicate that the adviser who is well informed on philanthropic matters is well placed to provide this advice and in doing so to potentially influence clients’ charitable giving.

An additional finding from the interviews relates to the views of those advisers who provide services exclusively to very high and ultra high net wealth clients. These professionals share an orientation in which the active support of the values and interests of the families they service is fundamental to providing a quality service and to retaining client support. This point was elucidated most effectively in a story told by one of the advisers. The story was related as representative of this adviser’s approach to client relationships. In the case presented, the adviser liked the client as a person. His meetings with the client would include discussions of what was important to him (the client), including his family and the causes he was passionate about. The adviser knew the client’s family and their circumstances.

In the course of estate transition discussions it was this client who raised his intention to divide his estate into six equal shares with one share going to each of his five immediate family members (son, daughter-in-law and three grandchildren) and the other to charitable purposes. The adviser had made the recommendation that the client secure the tax advantages of setting up an
inter vivos charitable trust for the share he intended to give away. The charitable trust was established. The remainder of this story as told by the adviser is reproduced below in its entirety because of its illustrative strength:

Then one Sunday night I got a phone call at home from the son, saying “Dad died yesterday and I just wanted to give you a call and let you know.” I thanked him and asked when the funeral was going to be held. He said “Oh, it’s on Tuesday.” I said “OK, I’ll arrange things so I can be there.” (The funeral was being held a couple of hundred kilometres away.) He then said “Look, I was really hoping you would say that.” He said “There are two grandsons and myself and I don’t think Dad would want anyone else but you to be the fourth coffin bearer.” [Interviewee laughs]. It just shows how close … when you start talking about those sorts of things with a person. You know, a real lump in the throat!

So you go to the funeral, and the rest of the family who you didn’t know, all of a sudden you are enveloped in as if you are one of the family. Back to their place, and there was no way my wife and I could leave. We were amongst the last to go. So the five million dollars went five ways and on talking to the son and the daughter in law sometime later, I talked to them about their approach to their estate. They said they wanted to have the same philosophy as their Dad. “Our $2m … when we go, split it four ways, a quarter to each of the three kids and the other quarter to charitable causes.” Then it is easy to talk to them about their options – you know, “Don’t wait till you die, do what your Dad did. Here’s a way of doing it now.” It all just falls into place.

So, that’s the thing, when you start talking to people about things that are so personal, you can end up with a client for life. In our industry, you get a dud year in the market or the client gets peeved about something, but when you are that close to a client it is never
an issue. To me that experience with that client, and that family, it has been a great experience. The son and daughter-in-law now have one [a charitable trust] and they are very happy with how they are structured. It has just been a great experience. And you know, there are quite a few stories among my client base, along very similar lines (Adviser IV)

The story as told indicates a close and caring relationship. It provides an example of what Marcus and Hall (1992) describe as the “inside outsider” status of the trusted adviser. Significantly, this is also a story that is important to the teller and is important to the adviser’s sense of self. The closeness with the client and the way in which the adviser had supported the client in realising things that were important to him, had created a bond of such an intimate and intense nature that the adviser had been embraced by the client’s family. The adviser himself characterised this as being treated as “one of the family”. This metaphor holds to the degree that during this important occasion the adviser is considered and designated an “insider”. This is affirming for the adviser. The inclusion is nevertheless time and purpose specific and does not extend to the adviser as an “outsider” receiving a direct share of the estate. Nevertheless, a key point that is being elucidated by the adviser in telling this story is that one of the consequences of forging such a close and trusting relationship with the client, is that this person became a “client for life”. More than that, the relationship actually extended beyond the life of the individual client as the client’s child and his wife then themselves became clients of the adviser on the strength of the wealth they inherited.

The examples provided to demonstrate the importance of working very closely with client families were both vivid and strong. The advisers placed great emphasis on ensuring that their advice is provided from what Ostrower (1987: 261) describes as a “framework of familiarity”. An anecdote in which an adviser was particularly expansive on the matter of using giving for family bonding illustrates this issue. In this story an adviser directly articulated a clearly developed view that philanthropy can sometimes be “the glue that
holds the family together”. In response to my request for clarification, the adviser provided a thorough explanation of the way in which this can be given effect, detailing how advisers can assist their clients purposively in the maintenance and transfer of family values and in the training of young family members in coming to terms with comparative wealth:

What we talk to clients about with the concept of philanthropy and PPFs specifically ... say someone is worth, let me just pick a number, fifty million dollars. They have got kids in their teenage years and early twenties, and even if they have studied commerce and law and you would think they might have a better understanding, it is not necessarily the case. If you say to your kids “Listen kids the family is worth $50m and I want you to get involved in the investing of this and looking after it, because one day it will be yours” it is kind of scary. It is a large amount of money. The kids know the family is relatively wealthy but they don’t have any idea of how wealthy. What we say to clients is that can be very off putting. The child is intimidated. The child is embarrassed, and sometimes has psychological problems dealing with the fact that they have been born to wealthy parents. They definitely feel the pressure wondering how they can ever measure up to their parents, having either built it [the family fortune] or inherited and looked after it.

So what we say to them is: "Here’s an idea. Create a PPF. Put let’s say one million dollars in. Still a large amount of money. Put the children on the Board, or the Trustee company that runs the PPF, with the responsible person. So you structure it so you’ve got Mum, Dad, the kids and the responsible person running the foundation. That way, firstly, it is to benefit other people. So the kids are not intimidated. ... So then you say “Righto kids there’s a million dollars here. It stays in the PPF and it is the income that we give away. So how do you invest a million dollars? Oh, we’d better learn about shares, fixed interest, property, all these types of things. Let’s start
learning. The PPF doesn’t pay capital gains but it does get franking credits. What’s a franking credit? Why are they giving it back to you?”

So, they can learn as they go along. They learn about yield. ... They see – no wrong answers, learning and gaining in confidence, not for their own benefit but the benefit of others. ... They can talk about money, and doing good, they can talk about doing things together, visiting and all kinds of activities.

Then, once they have mastered that, and are feeling comfortable, you can say to them: “Well that’s that bit, over here is another forty-nine million (or two hundred million or whatever the case may be). Now, let’s talk about this.” What a tremendous introduction to the whole process of responsibility of wealth. And the understanding investments as well. Plus, doing good. So what we are saying is the whole concept of the PPF and giving money away during your lifetime, through a PPF, can help you work with your family on achieving other objectives, while still meeting your charitable objectives. That’s pretty powerful when you talk to clients about that, and we have seen it work (Adviser II)

The adviser in these circumstances is providing a service that goes far beyond the effective management of wealth and its transition. The advice is in relation to how a wealthy family can inculcate the value of philanthropic giving to children (“the responsibility of wealth ... [and] all those things that come with it”) and provide a structured approach to managing the potential for younger children to be ”embarrassed” and ”intimidated” by family wealth and a means for minimising the potential for psychological struggle as a result of that wealth. The advice includes a structure that can help focus the family as a unit on “doing good” for others and in so doing provide “the glue that holds the family together”.

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In the advisory process the guidance and advice is not in this instance targeted primarily at giving structures or securing taxation advantage, but in circumstances where the client’s trust in the technical skills of an adviser are established, the focus is on the family foundation as a mechanism for “doing good” and for securing family unity. The “inside outsider” (Marcus & Hall 1992) status of the adviser, informed by a “framework of familiarity” (Ostrower 1987: 261) enables the adviser to use language which is attuned to the interests and sensitivities of the client. The view shared by the advisers to the more wealthy clients is that it is important to tend to the psychological needs of clients in the advisory relationship as part of the process of establishing a rapport on terms acceptable to the client, building trust and strengthening the client/adviser bond. Where the client does have a propensity for giving, the family foundation (such as a Prescribed Private Fund) is one avenue for delivering psychological reinforcement. The intimacy involved in the provision of advice and support of this nature has the potential to extend the advisory relationship beyond a single generation.

The examples provided are simultaneously aligned with and at odds with the observations of Marcus and Hall (1992) in relation to advisers employed directly by ultra wealthy, dynastic American families. Marcus and Hall contend that it is the advisers who tend to be the most unequivocal supporters of philanthropic foundations as an element of family infrastructure. The advisers in my study are not employed exclusively by large clients, unlike those addressed by Marcus and Hall. The high end advisers in my study do provide active and direct support to the functioning of family foundations, but they are not exclusive. While my research does not enable a comparison with the views of family members, the examples provided support the contention that in those circumstances where advisers are working with wealthy clients who have the propensity for charitable giving, the advisers are unequivocal in their support for family foundations. On the other hand, the reported practice of the advisers I interviewed is at odds with the observation of Marcus and Hall that the family infrastructure of trusts including philanthropic foundations provides a means by which advisers can gain and legitimate the confidence of the family
by “transcending entirely the arena of family interests and emotions” (Marcus & Hall 1992: 70). Far from indicating that their practice might in some way relegate family interests and emotions to a secondary level, the interviewees for this study indicate that actively supporting family interests and emotions are central to their service provision.

**Discussion**

In this chapter I have provided an overview of the experience and perspectives of a group of professional wealth management and estate planning advisers with knowledge of and expertise in relation to charitable giving in Australia. Their charitable giving expertise differentiates these advisers from the majority of their colleagues in Australia (Madden 2004, 2009; Madden & Newton 2006; Madden & Scaife 2008c), in the same way that expertise in charitable giving is relatively rare amongst advisers in the United States (The Philanthropic Initiative 2000) and in the United Kingdom (Scorpio Partnership 2008; The Giving Campaign 2001).

Advisers charge a fee for the services they provide. In the majority of cases that fee is based on a percentage of the Funds Under Management (FUM) on behalf of the client. The importance of bequests to advisers is fundamentally different from the importance of bequests to fundraisers. For the fundraisers the primary purpose of a relationship with a donor or potential donor is to secure gifts to support the (charitable) organisation they represent. For advisers the primary purpose of the relationship is to secure income for service. Charitable giving is a part of the service that the interviewed advisers provide to some clients. Even for these individuals with expertise in relation to charitable giving, this is part of a wider asset management and estate planning service provision process. The potential distribution of charitable funds is an aspect for consideration in meeting the needs of the client and consequently the client’s comfort with paying for that advice. The advisers’ experience is that relatively few individuals have a propensity to gift a component of their wealth to charitable purposes, either *inter vivos* or *post mortem*.
The expressed practices of the advisers interviewed for this study directly support findings on giving by the wealthy in the United States (Odendahl 1990) that the elements which interact to determine where a wealthy individual falls on the philanthropic spectrum are a combination of the charitable propensity of the potential donor and the persuasiveness of the adviser. The persuasiveness of the adviser is itself composed of the ability of the adviser to understand and incorporate prevailing social norms (such as familial primacy) and the ability to assess the philanthropic propensity of the client. In addition to this, the adviser needs to assess the responsiveness of the client to social expectations and peer norms in relation to their giving, and to meet the needs of the client in providing the client with attractive vehicles for implementing their giving. This assessment process is consistent with the fiduciary role of the adviser to understand and respond to the needs of the client in line with the service expectations of the role and within applicable professional and legal constraints.

The expressed practice of the interviewed advisers is also aligned to serving what Jens Beckert (2008b) describes as the family principle, involving the alignment of the transfer of property within the family to the transmission of identity. Integral to this approach is that the advisers, through building an intimate relationship in this way, strengthen the bond between client and adviser. By relating to the values of the client and what is important to their sense of self, in addition to providing effective wealth management and transition advice, the adviser comes closer to the clients and their families, and in doing so enhances the degree of trust between them. As Marcus and Hall (1992) have identified, this “inside outsider” role played by advisers yields them unique and powerful influence in this field. The reciprocal benefits for the adviser include maintaining an ongoing professional relationship and the associated patronage and fees from the client, as “a client for life”. Where the bond is particularly sound, the potential is that the professional relationship crosses generations and becomes a family referral system such that the children of the original client(s) become clients in their turn in their own right.
The advisers in this study view themselves as exercising influence over the charitable giving of their clients. This influence is firstly over the extent to which individuals consider and act upon charitable contributions, and secondly over the ways in which those contributions are given effect. In relation to propensity, the views of the advisers lend support to the observations of many on the centrality of the client/adviser relationship (Madden & Scaife 2008c; Marcus & Hall 1992; Odendahl 1990; Ostrower 1987). The stories told by the interviewed advisers in this study align closely with the conclusion drawn by Odendahl from her interviews with wealthy American philanthropists that "the charitable propensity of the potential donor and the persuasiveness of the adviser interact to determine where they finally fall on the philanthropic continuum" (Odendahl 1990: 222).

This finding is also consistent with findings in Australia where Madden and Scaife (2008c) identify from their interviews of wealthy individuals that the ability of the adviser to provide service and/or advice over and above what financially literate clients can do for themselves is identified by the wealthy as fundamental to their relationship with their advisers. The advisers in this survey demonstrated a strong conviction that trust is a prerequisite for a successful relationship with their clients.

The advisers in this study emphasised the importance to them of understanding a client’s wider need and to be able to assess the potential for an individual with charitable propensity to be influenced by the expectations and practices of others. This is consistent with the findings of Jen Shang and Rachel Croson that social influence has impact in the arena of charitable giving (2005, 2006) and that individuals are likely to give more when they are told that the peer group important to them has given more (Shang, Reed & Croson 2008). It is also consistent with Ostrower’s findings in her 1987 interviews of advisers to wealthy Americans that those who provide professional advice “may be influential participants in the charitable activities of wealthy donors, but the extent and precise nature of their role develops in the context of the donor's own wishes and predisposition” (Ostrower 1987: 247).
The need for estate planning increases with wealth (James 2009) given the increased complexity and economic significance of the estate and the increased attractiveness of tax optimisation strategies. Individuals with wealth are likely to take professional wealth management and estate planning advice. The clients of these advisers are therefore those with comparative wealth. With regards to the relationship between *inter vivos* and *post mortem* charitable giving the advisers expressed the view that those individuals who give during their lifetimes, from their income, are more likely to also give from their residual wealth. Those who do not give during their lifetimes are believed to be highly unlikely to give from their estates.

The advisers made clear that clients with a propensity to make charitable gifts will most likely receive advice on the taxation advantages of establishing a charitable trust *inter vivos*. A charitable trust offers additional benefits should the individual choose to make further charitable gifts from their final estate. Via this process, the combination of capacity and propensity to give increases the probability of such wealthy individuals establishing their own charitable trusts *inter vivos* and making any *post mortem* gift to that (their own) charitable trust. This is consistent with analysis of estate tax data in the United States which indicates that charitable giving by the very wealthy from their estates is more likely to be directed to private foundations than to existing public charitable organisations (Eller 2001; Joulfaian 2000). There are significant practical implications for charitable organisations if those individuals with their own charitable trust are most likely to direct *post mortem* charitable gifts to their own charitable trusts as an alternative to giving directly to charitable organisations.

The recent growth in charitable trusts in Australia, especially by way of Prescribed Private Funds (CPNS 2008), could potentially result in a reduction in capital lump-sums being bequeathed directly to charitable organisations. There are two dimensions to the potential impact of the growth in private charitable trusts on the flow of *post mortem* funds to charitable organisations. First, where a wealthy individual determines in advance the proportion of their
wealth to be gifted to charitable purposes and then makes that gift *inter vivos* to their own charitable trust, then the amount available in the residual estate for *post mortem* charitable giving will be less. Second, while I found no evidence in the sample probate files of wealthy estates making *post mortem* gifts to private charitable trusts, if the perspective of the advisers is correct, that lesser amount that remains in the estate of a will-maker who has established their own charitable trust is most likely to also be directed to their own trust.

Underpinning the perspectives expressed by the interviewed advisers on beneficiary options is the shared assumption that even for those with both a propensity towards charitable giving and considerable capacity to do so, the primary consideration is that of immediate family members. This study indicates that the interplay in Australia of “total social phenomena” (Mauss, 1990) includes a shared perspective of advisers that the standard considerations of estate planning include that on the death of the final parent the estate is to go to the children, in equal share. A key rationale for equity in *post mortem* distribution is to minimise the potential for family disputation over the will. Even in those circumstances where families have considerable wealth, to the extent that the capacity to afford a charitable gift is beyond question, the perceived needs of the family come first. In some circumstances the perceived needs of the family can include that it is not in the interests of individual children to inherit vast wealth. In such circumstances *inter vivos* charitable giving is a means of limiting the potential for testamentary litigation. The advisers share the perspective that the largest *post mortem* charitable gifts come from those who have no children.

Significantly, the indications from my adviser interviews are that as a whole the advisory process contributes to the forces that mitigate against *post mortem* charitable giving in Australia. As financial advisers tend to be remunerated based on the value of the funds under their management, many advisers have an inherent antipathy to the notion of their clients giving funds away. The long term, intergenerational perspective of advisers means that
this antipathy applies equally to *inter vivos* and to *post mortem* giving, unless charitable funds can be directed into a facility where the funds under management are preserved and the advantage to the adviser is not lost. For the relatively few clients who do have a charitable propensity, the personal and professional interests of advisers combine in favour of recommending the establishment of private charitable trusts, *inter vivos*.

Taxation in Australia provides financial advantages to giving during life that do not extend to charitable gifts made from an estate, and assets gifted *inter vivos* are removed from the risk of testamentary challenge. Accordingly, it is consistent with the professional fiduciary duties of advisers to inform clients of the relative advantage of *inter vivos* charitable giving. In addition, as maximising FUM is in the personal financial interests of the adviser, the establishment of a private charitable trust allows for gifted charitable funds to continue to be managed by the adviser.
Chapter Eight: Discussion and Conclusion

Overview

In this thesis I set out to contribute to knowledge about charitable giving, particularly in the context of the transfer of wealth through personal estates. Specifically, I have addressed three main research questions: What are the contemporary patterns of *post mortem* charitable giving in Australia? How do key intermediaries (fundraisers and advisers) understand *post mortem* charitable giving patterns? What is the relationship between *inter vivos* and *post mortem* charitable giving?

A number of broad conclusions emerge from this study. While the majority of Australians participate in charitable giving during their lifetime, very few make a charitable contribution from their estate. My findings indicate that these materially different participation rates in *inter vivos* and *post mortem* charitable giving are influenced by the social context in which they take place. The quantitative data supports my argument that in contemporary Australian culture, the dictates of expectation are such that in general, the equal distribution of residual assets to surviving children assumes an overriding valence in estate distribution decisions. The residual estates in my sample are overwhelmingly transmitted to direct family members. Fewer than five per cent of estates with the capacity to do so made any form of charitable distribution. For most of those who did give, the *post mortem* charitable gift was an insubstantial proportion of the estate. The insights provided by the interviewees in this study indicate that the obligation to "look after the family first" contributes to estates being earmarked with special social meaning (Zelizer 1997) and to an expectation that an individual’s residual estate goes to immediate family members. Where there is no surviving spouse the estate goes to the individual’s children in full and in equal share. The resultant community practices are so deeply embedded into the normative frameworks
of Australian society, and so habituated (Fukuyama 1995) that they are taken for granted.

This is not the result of simple or singular influences. It is an example of the phrase coined by Mauss (1990), “‘total’ social phenomena”, to describe the interconnected and interdependent nature of multiple, complex social influences which he explained as simultaneously legal, economic, religious, aesthetic, and morphological (1990: 76). The “‘total’ social phenomena” at play in contemporary Australia amounts to a hegemonic social norm, which dominates estate transmission practices and curtails post mortem charitable giving. Both the principle of familial primacy and the associated practice of equal distribution to surviving children appear to be universally and prescriptively embedded into prevailing estate transmission norms. Correspondingly, the key variable associated with post mortem charitable giving is the absence of surviving children. While the language used by intermediaries provides for deviation from these conventions, the instances of actual variance are the exception. In a similar manner, contrary to the largely shared view amongst advisers, the probate data examined in this study indicates there is no correlation between charitable generosity and the wealth of an estate.

In the introduction to this thesis I identified the paucity of research in relation to the matters addressed by this study. The German sociologist Jens Beckert (2008b) has observed that despite the economic and social significance of estate transfer practices and the extent to which they underpin social cohesion, the intergenerational transfer of private wealth has largely been ignored in recent sociological scholarship. The scant estate transmission literature is largely silent on considerations of charitable giving. The literature on charitable giving tends to focus primarily on inter vivos giving. There has been comparatively little research undertaken in relation to charitable giving by way of bequests from individual estates. There has been some economic research but very little sociological investigation into the practice of equal distribution of estates. The same is true for enquiry into the extent of, and
reasons for, any differences between inter vivos and post mortem charitable giving. In this study I contribute to filling some of the gaps in knowledge about estate transmission and post mortem charitable giving.

While this study utilises data drawn exclusively from within Australia, and some of the findings and arguments are specific to Australia, the theoretical contentions are more generalisable, at least with regard to Anglo-Saxon countries. A characteristic of these countries is the principle of testamentary freedom. While never absolute, the legal entitlement of a will-maker to distribute the assets of his or her estate in accordance with personal choices is a general expectation, even though in Australia it can be challenged by court decisions (McGregor-Lowndes & Hannah 2008). Notwithstanding the perception of testamentary freedom, a concurrent general norm in the United Kingdom (Finch et al. 1996), the United States (Coleman & Ganong 1998) and Australia (Preece 2000) is that individuals leave their residual assets directly to family members. Sometimes, individuals choose to gift their estate (or a portion of it) to charitable organisations and purposes.

The impending demise of the demographic wave constituted by the baby boomer generation will result in massive intergenerational wealth transfers. Within charitable circles and the nonprofit sector more broadly, the sectoral expectation is that these wealth transfers will result in a substantial boost to charitable bequest income and contribute to “a golden age of philanthropy” (Havens & Schervish 1999: 18). My study of post mortem gifting patterns in Australia offers no substantive support for this optimistic expectation.

In this study I have drawn on the many disciplines which contribute to philanthropy studies, but I have adopted a primarily sociological framework to inform my exploration. I have investigated the ways in which social context informs estate transfer and post mortem charitable giving practices which prevail in a community. In the conduct of the study I have made use of social cohesion theory beginning with the classic sociological concept of solidarity (Durkheim 1964; Weber 1978). I have drawn in particular upon the
subsequent theoretical work of Marcel Mauss (1990) who highlighted the importance of gift exchange to the creation and maintenance of solidarity through the establishment of the interrelated obligations of giving, receiving and reciprocity. From this platform I analysed and utilised aspects of more contemporary economic (Andreoni 1990; Clotfelter 2002) and social science theories relating to giving (Komter 1996a; Zelizer 1997) and to social cohesion and trust (including Coleman 1988; 1990; Fukuyama 1995, 1999; Putnam 2000; Sztompka 1999).

From Mauss’s observation that gifts and their exchange are obligatory and self-interested rather than spontaneous and disinterested (Mauss 1990: 1), I have argued that estate transmission and post mortem charitable giving are subject to particular interconnections of interpersonal and institutional influences. I have shown that giving associated with the passing-on of an estate is subject to a differentiated dynamic within the multiplicity of interrelated influences which are at once individual, collective, cultural, legal, financial, historical and institutional. I have also demonstrated that the complex interplay of what Mauss described as “‘total’ social phenomena” is by necessity subject to the specific social context in which it takes place. In concluding my dissertation I reflect on the limits to my study and I identify a number of areas for potential further research not addressed in the context of this dissertation.

**Familial Primacy**

My findings include empirical data on the actual transmissions, including charitable gifts, made from contemporary estates in the Australian state of Victoria. This quantitative data is therefore different from the majority of studies into post mortem charitable giving which have tended to be confined to the expressed intentions of individuals for their estate giving (Richardson & Chapman 2005). Of the probated estates in the sample analysed, 5 per cent included a charitable gift. My findings show that in the sample population the prevailing pattern is for estates to be distributed to immediate family members. My analysis demonstrated that where a spouse survives the will-maker, the likelihood of an estate including a charitable gift is negligible.
Fewer than 1 per cent of estates with a surviving spouse make a charitable gift. This finding supports the argument of Schervish, Havens and Whitaker (2006) for focusing the analysis of *post mortem* charitable giving on willed estates where there is no surviving spouse: “final estates”. I found in the overwhelming majority of final estates, that all or most of the value of the estate is distributed directly to the surviving children, in equal share. This finding supports that of researchers in the United States (Chang 2007; Dunn & Phillips 1997; Menchik 1980; 1983; Wilhelm 1996) and the United Kingdom (Finch et al. 1996; Finch & Mason 2000) of the predominance of the undifferentiated division of estates amongst children.

To the best of my knowledge there is no other study which has drawn attention to the practice in Australia of the equal division of estates amongst surviving children. This study confirms the universality of the practice of equal distribution from Australian estates. In doing so this study also challenges the argument supported by Finch and Mason (2000) that in the absence of strong, shared social norms with regards to obligations to kin, inheritance has become an active and negotiated process rather than one that is determined by convention. Rather, the probate data examined for this study suggests that whatever the notional choices available to will-makers in negotiating estate distribution outcomes, the overwhelming majority give effect to estate transitions which abide by the prevailing convention: equal distribution to surviving children.

The predominance of this practice additionally provides a significant point of departure for consideration of findings in relation to changing attitudes to inheritance. The reported views of older people in the United Kingdom (Rowlingson 2006) and in Australia (Olsberg & Winters 2005) include that as they come to better understand the financial demands of longevity, the older members of these nations feel a decreasing obligation to ensure that they leave an inheritance. There is a corresponding widespread normative agreement across all generations that older people should be free to make use of their assets as they see fit (Finch & Mason 2000). While in these attitudinal
studies older people indicated that they no longer hold a view that children have “an inalienable right” to parental assets (Rowlingson 2006: 182), the probate data in this study suggests the opposite. Probate data in itself sheds no light on how much, if at all, a will-maker has acted to “spend the kids’ inheritance” and consume available assets. However, the data set examined does clearly show that whatever parental assets do remain, they go to the children in equal share. In contrast to the reported views of the demise of the sense that it is “the right thing to do” for parents to leave their estate to the children (Olsberg & Winters 2005: 90), the practice across the Australian estates examined is that overwhelmingly children do inherit the residual family assets.

The shared experience and insights of the 21 intermediaries I interviewed (16 professional fundraisers and 5 professional advisers) supplemented my analysis of the probate data. This qualitative input supported my argument that in contemporary Australian culture the bonds of expectation, reciprocity and trust within the family are such that in general the distribution of residual assets to family members assumes an overriding valence in post mortem estate distribution. Australian estate transmission decisions are dominated by the phenomenon which the interviewed intermediaries articulate as an obligation to “look after the family first”.

While the norm of estate transmission directly to family members is somewhat universal in Anglo-Saxon nations, through my analysis of charitable giving in this study I have argued that this principle of familial primacy is an especially pervasive norm across Australian society. Specifically, available data indicates that the participation rate in inter vivos charitable giving is substantive in both absolute and comparative terms. Conversely, participation in post mortem charitable giving from Australian estates is low in absolute terms (5% of all probated estates and 7% of final estates) and it is also low when compared to the United Kingdom (15% of wills) and the United States (8% of households), recognising that in both of these nations the operation of inheritance taxes...
provide incentives, which do not apply in Australia, for charitable giving from wealthy estates.

Drawing on the experience and understandings as related by interviewed intermediaries I have further shown that while the principle of estate transmission to the family is understood in terms of primacy, by way of looking after the family “first”, in practice it is both understood and implemented in terms of exclusivity. In practice the moderating term “first” has no real application and the familial primacy principle translates to a singular, exclusive obligation to look after the family. I have found that the principle of familial primacy is so deeply embedded in the culture, so habituated (Fukuyama 1995), that it is simply taken for granted. The paucity of analysis of this phenomenon in sociological literature supports my argument that the principle of familial primacy in estate transmission is so deeply embedded that it has also been taken for granted in academe without it actually being explored or validated and without consideration for its implications. In this study I have confirmed the operative strength of the principle and I have explored its implications especially for charitable giving.

A major implication of the dominance of familial primacy in estate transmission practice is the effective exclusion of charitable giving from estate distributions. Individuals who may have been generous givers throughout their lives set aside their *inter vivos* giving behaviours. Consideration of the needs of any organisation or cause they may have supported for many years are consistently displaced. The probate data analysed in this study indicates that will-makers relinquish charitable giving for giving to the family. While the probate data provides no indication as to whether or not most will-makers give consideration to giving a portion (small or otherwise) of their estates to charitable purposes, the data shows that only five per cent actually make such a decision, irrespective of the needs of family members.

In the face of overwhelming normative agreement in relation to familial primacy, there is no operative system of disapproval or sanction for those who
direct the entirety of their estate to immediate family members. With the principle so habituated and so taken for granted, there is a corresponding absence of community discourse on the relative merits of keeping all of an estate within the family, as opposed to including a contribution to the community good. The extent to which Australians believe it is the role of the Government to fund all things social and communal may be influencing post mortem charitable giving presents another avenue for future research. Nevertheless, independent of the capacity to give, there is negligible community expectation and no sense of obligation that a portion of estates with the capacity to do so will be directed to charitable purposes. Consequently, in the Australian community even those with “extreme wealth” can arrange for their entire estate to be kept in the family without concern for disapproval in the society at large or amongst their financial peers.

I have also argued that there is a high degree of emotional charge associated with estates. The attribution of special, emotional status to estates makes a major contribution to the hegemonic expectation of familial primacy. In support of this argument I have drawn on qualitative data provided by interviewed intermediaries and on sociological theory. References by intermediaries to avoiding “squabbling over the carcass” and descriptions of a charitable bequest as “the ultimate gift” illustrated my argument for the very special and emotional status accorded to estates and their transmission. The theoretical work used to give context to this argument ranged from the emphasis placed by Sahlins (1972) and Gouldner (1973b) on the importance of feelings and emotions to gift exchange especially within families; the attribution of “moral meaning” to gifts by Komter (2007); and arguments by Singh (1997) and by Zelizer (1997) in support of the social meaning of money (and other assets of monetary value) as exemplified by the way in which particular portions of funds are “earmarked” and imbued with special significance. I have maintained that the insights provided by the interviewed intermediaries in this study indicate that the obligation to “look after the family first” contributes to estates being earmarked with special social meaning (Zelizer 1997) which translates into the practice of individuals giving their
residual estate, their “accumulated wealth over a lifetime”, to immediate family members.

My analysis of the sample probate data demonstrated that while the majority of estates with no surviving children also distribute their estates to (extended) family, estates with no surviving children are ten times more likely to make a post mortem charitable gift than those with children. This data supports the qualitative findings in Australia by Madden and Scaife (2008b) that pledgers of post mortem gifts are more likely to have a sense of reciprocal obligation and more likely to have no family. This data is also in line with fundraiser and adviser experience and expectations that individuals without children are more likely to make a charitable gift from their estate. These findings support my thesis that the principal of familial primacy is so pervasive and so powerful in relation to estate transmission decisions that it is primarily those will-makers who are unencumbered with the obligations of immediate family who make post mortem charitable gifts.

I have also shown that the prevalence of the familial primacy principle in community norms is such that it effectively makes fundraisers complicit in its valence. As fundraisers are obliged to act (and to be seen to act) in line with community norms, to argue at odds with the deeply embedded norm of looking after the family first, could be seen to be self-serving and untrustworthy. The result would be counter-productive. I have maintained that the predisposition of the interviewed fundraisers to incorporate the mantra of "look after the family first" into their operations is founded on their need to protect potential donor perceptions of their trustworthiness. I have further made a case that an unintended consequence of this practice is that fundraisers effectively function to perpetuate the prevailing interpretation of the obligations of familial primacy in estate transmission.

From the expressed experience of the interviewed intermediaries I have highlighted that for the majority of will-makers who make a charitable gift from their estate, that gift is likely to be the largest charitable gift the
individual will ever have made. It is in this context in particular that my study highlights the importance of trust to post mortem charitable giving and points to the fundamental role of the obligations borne of relationships. I have put forward that the few who do make a charitable gift from their estate can be located in one of two broad categories.

The first category is those individuals who have a belief in the “good works” of, and a trust in, the beneficiary charitable organisation(s) concerned. These donors are often “unknown” to the beneficiary and the relationship is consistent with a more generalised engagement in the dynamics of reciprocity. It is therefore important for charitable organisations seeking to secure charitable bequests to establish and maintain a public profile and a reputation for trustworthiness and good stewardship of gifted funds in order to maximise the potential for unknown bequests. The second category is those individuals who are actively engaged in the dynamic interplay of giving, receiving and reciprocity via a specific relationship with the charitable organisation(s) or cause(s) concerned. The implication for fundraisers is that it remains important to sustain and to nurture relationships with known and potential bequest donors, to build social capital and trust in order to maximise the potential for post mortem gifts to be made, and not rescinded (Baker 2008).

To the extent that an existing reciprocal relationship is readily identified by regular donations to an organisation, my findings support others in the United States that people who leave a charitable bequest in their will are more likely to have been steady donors during their lifetimes (Hodgkinson & Weitzman 1990; Krauser 2007). The importance of a public perception of the trustworthiness of a beneficiary organisation and of a trusting relationship between donor and fundraiser supports findings of qualitative research in the United Kingdom and the United States (Sargeant, Ford & Hudson 2008; Sargeant, Ford & West 2006; Sargeant, Hilton & Wymer 2006).
Specific Social Phenomena

In this thesis I have presented data and analysis in support of my argument that the combination and interaction of the particular “total’ social phenomena” (Mauss 1990) at play in contemporary Australia gives rise to contextual differences. I have pointed to giving data which indicates that the propensity of the principle of familial primacy in estate transmission to crowd out charitable giving is common to Australia, the United Kingdom and the United States. I have demonstrated that the displacement of post mortem charitable giving in Australia is significant in absolute terms and relative to the comparator countries. One of the specific manifestations of difference is the absence from Australia of the community norm in the United States that the wealthy will give charitably from their estates and that they will give more generously than those with lesser capacity.

I have shown that local differences are sufficient to challenge the convenience of assuming that charitable giving research conducted in one country is automatically applicable to others. I have used the word convenience deliberately. The notion that the social phenomena at play in one country will be different to those in another is consistent with sociological theory in general. Nevertheless, in the face of limited research into post mortem charitable giving outside of the United States, both practitioners and scholars alike are inclined to make use of the material which is available. I have maintained that it is a mistake to assume that the principles and findings delivered by research in the United States can be applied uncritically elsewhere, relying only on universal implications without reflection on the specific phenomena which may be different.

The need for critical consideration of the relevance of research in another context is exemplified by my findings in relation to post mortem charitable giving and wealth. My analysis of the sample Australian probate data indicated participation rates in post mortem charitable giving are higher for those with the greatest capacity than it is for those with less capacity. However, in contrast to findings in the United States (Havens & Schervish 1999; Schervish
2003a), the data in this Australian study revealed that on average the proportion of the value gifted by higher capacity estates is no greater than that gifted by those with the lesser capacity. I have also demonstrated that contrary to expectations in both the United States (Schervish 2003a) and Australia (Giving Australia 2005) in relation to all charitable giving (inter vivos and post mortem), those with the greatest capacity do not give more post mortem charitable dollars than those with the least capacity.

The insights provided by advisers to high net worth Australians have supported my argument that two of the three major characteristics of private giving by the wealthy in the United States as identified by Theresa Lloyd (2004) are not present in Australia. Firstly, the probate data from my study and the view of the advisers support the argument that, unlike in the United States, charitable giving cannot be described as part of elite culture in Australia or the community’s expectations of the wealthy. Secondly, in Australia there are no taxation benefits to making charitable gifts post mortem. (The third characteristic of giving by the wealthy in the United States is an antipathy to the state having a primary role in the provision of welfare. My study did not address whether or not this is characteristic of Australia’s wealthy.)

On the basis of my findings I have shown that in Australia there is no clear relationship between capacity and propensity to give charitably. The advisers’ experience is that relatively few wealthy individuals have a propensity to gift a component of their wealth to charitable purposes; either inter vivos or post mortem. The same patterns and the same community norms apply across the wealth spectrum. With regard to the relationship between inter vivos and post mortem charitable giving the advisers expressed the view that those individuals who give during their lifetimes, are more likely to also give from their residual wealth. Those who do not give during their lifetimes are believed to be highly unlikely to give from their estates. They also are highly unlikely to receive guidance from their advisers on considering how they might do so.
Based on my findings I have argued that for those wealthy individuals and households who do have a propensity to give, the absence in Australia of inheritance tax on high value estates has a considerable impact on the estate transmission and charitable giving decisions. High net worth individuals are likely to seek estate planning and financial advice in order to manage and protect their wealth. The more informed the adviser on matters philanthropic, the more likely it is that those who have the capacity and the propensity to charitably gift a portion of their wealth will receive advice on the relative advantages of establishing a charitable trust *inter vivos*. Money gifted *inter vivos* receives favourable taxation treatments, is protected from testamentary challenges and provides the individual with the opportunity to enjoy their giving while alive.

I have maintained that one of the consequences of the relative advantages of *inter vivos* charitable giving is that high capacity individuals with a charitable propensity are more likely to establish a charitable trust *inter vivos*. I have made a case that should such individuals determine to also make a charitable gift from their estate, they are likely to make that gift to their own charitable trust, rather than to gift capital directly to a charitable organisation. While the influences are different, this outcome supports analysis of estate tax data in the United States that charitable giving by the wealthy from their estates is much less likely to be directed to existing public charitable organisations (Eller 2001; Joulfaian 2000). One difference which applies to my study is that I have found wealthy individuals who have established their own charitable trust to be likely to prefer that trust over public charities, *in the event that* they choose to make such a supplementary gift from their estate. While advisers were able to speak to individual examples where clients have made additional gifts from their estate to their own charitable trust, there were no instances found in the probate data for this study in which a *post mortem* gift was made to a private charitable trust.

My findings from the expressed practices of the advisers interviewed for this study directly support those of Odendahl (1990) and Ostrower (1987) that the
elements which interact to determine where a wealthy individual falls on the philanthropic spectrum are a combination of the charitable propensity of the potential donor and the persuasiveness of the adviser. I have indicated that the persuasiveness of the adviser is itself composed on the ability of the adviser to understand and incorporate prevailing social norms (such as family primacy), and to assess the responsiveness of the client to social expectations and peer norms in relation to their giving.

The intermediaries I interviewed were sensitive to the nuances of the specific cultural differences that operate within the particular client groups they service, as well as being attuned to the underpinning social norms that provide the context within which particular peer groups operate. I have found that while Australian advisory processes involve in this way some specific differences, the importance of what Marcus and Hall (1992) have described as the “inside outsider” role played by advisers has applicability in the Australian context. By relating to the values of the client and what is important to their sense of self, in addition to providing effective wealth management and transition advice, advisers become very close to (high net worth) clients and their families, and in doing so enhance the degree of trust between them. The strength of the consequent bond combined with value-add in the advice helps establish and strengthen the obligations between client and adviser.

In this dissertation I have contended that estate transmission practices and the materially different participation rates in inter vivos and post mortem charitable giving are influenced by the social context in which they take place. The quantitative data supports my thesis that in contemporary Australian culture the obligations of family are such that in general, the equal distribution of residual assets to surviving children assumes an overriding valence in estate distribution decisions. The residual estates in my sample were overwhelmingly transmitted to direct family members, irrespective of the scale of the estate. The insights provided by the interviewees in this study support the patterns revealed by the probate data indicating that in Australia the principle of familial
primacy is pervasive and universally applied. Residual estates are bequeathed to immediate family members.

**Limitations and Future Research**

In this study I have used a combination of quantitative and qualitative data gathering methods, both of which have limitations. The limitations of these methods include those inherent in probated data and those invariably associated with sampling and with researcher influence in the conduct, analysis and interpretation of interview data.

The probate data for this study was collected from only one state in Australia. It would have been ideal to include a robust sample from each state. This practical restriction limits the extent to which the probate data and related analysis can be considered to be representative of Australia as a whole. The nature of probate means that the collected data provides insight into the actions taken by a particular age cohort within the wider community. In the case of Victorian probate applications processed in 2006, the majority of the individuals concerned were born before 1930. The probate data gathered therefore provides clear insight into how this particular segment of the population is currently acting in relation to estate transfers and post mortem charitable giving. Probate data does not provide any information on or insights into gifts made by individuals to children or to charitable causes during their lifetimes. The probability that assets of wealthy Australians will not all be held in an individual’s name but held by a separate legal entity also result in probate data being under-representative of true wealth of affluent individuals (Rubinstein 1979).

Semi-structured interviews were used to gather data from intermediaries. While a structure was developed to enhance the representative nature of the fundraisers interviewed, they remain a small sample from within an emerging profession likely to be subject to particularly strong homogenising forces (DiMaggio & Powell 1983; 1991), mitigating against material diversity in their perspectives (Carbone 1986). In the case of the advisers I interviewed, the
sample I chose were deliberately those with an interest and expertise in charitable giving. Their views cannot be generalised. A limitation of the face to face interviews conducted is that the nature of the contributions by interviewees is influenced by their perceptions of and response to the interviewer (Silverman 1985). The information shared, the perspectives conveyed and the stories told would inevitably be different at another time or in response to a different interviewer. In the processes of transcript analysis, the themes selected and the emphasis placed are also subject to the individual researcher. My own personal and professional experiences have undoubtedly been brought to bear in the processes of data analysis and interpretation.

In the conduct of this study one interviewee made a reference to a belief that individuals “should” contribute a portion of their estates to charitable purposes. I had not anticipated this issue or explored it in the interview process. In hindsight, it raised for me a number of questions. Do fundraisers involved directly in seeking to secure post mortem charitable gifts hold no view on whether or not individuals with a capacity to do so have some degree of moral obligation to make such a gift? Do advisers with empathy for charitable giving and who include advice on giving matters in their offerings to relatively wealthy clients hold no view on whether or not wealthy clients have a moral obligation to give? I cannot determine answers to these questions from the work carried out in my current study and further research would be warranted on this issue.

The probated data examined in this study provides a snapshot. The society however is dynamic. The shape of families is changing. The impact of changes such as divorce and remarriage is potentially a significant input to the mix of total social phenomena. Research into how such changes impact on interpretations of the obligation to “look after the family first” would provide insight into potential impacts on estate transmission practices inclusive of charitable gifts. A longitudinal study of Australian probate data would provide valuable and missing data on the nature of changes, if any, to estate transmission and post mortem charitable giving patterns over time.
In this dissertation I have focused my investigation on actual estate transmission behaviour rather than on the expressed views of will-makers on their intended future actions. Nevertheless, the motivations of individual will-makers and the insights they may provide into the rationales employed in estate transmission decisions are largely missing from this study. An avenue for future research would be to investigate how Australians, both in the population at large and amongst wealthy elites, understand and articulate the basis for their decision making in relation to estate transmission and charitable giving.

A related avenue for future research is the extent to which Australians believe it is the role of the Government to fund all things social. Given that an antipathy to Government involvement has been identified as a significant influence over giving by the wealthy in the United States, it may be that different cultural and ideological perspectives in Australia actively inhibit large scale post mortem charitable giving in particular. A broader study of this nature would involve use of the framework developed by Beckert (2007, 2008b) to investigate the national and historical context of estate transmission practices. Using the Beckert framework, research into the culturally specific value principles and the institutional architecture at play in Australia, inclusive of inheritance law, would provide a sound basis for international comparison.

In the conduct of this current study I formed the view that the advisers interviewed take equal distribution as the community standard. Whether or not equal distribution is prevalent in high net worth families is itself a base for further research, as is the extent to which this practice may vary according to whether the will-maker’s wealth is primarily earned or inherited. Similarly, while several intermediaries discussed the relevance of ultra high net worth individuals protecting their children from the potential damage of great wealth, actual stories or anecdotes were not forthcoming. Research into the frequency with which ultra high net worth estates are not distributed overwhelmingly to the family would be required to substantiate this perception.
In this thesis I have shown that for wealthy Australians with a propensity to give charitably, the taxation system favours *inter vivos* giving. I have also argued that one of the consequences of this taxation differential is that those with a combination of both capacity and charitable propensity are likely to be advised to establish their own giving vehicle *inter vivos* and to make any *post mortem* gift to that vehicle. Research is required to identify the potential consequences for Australian charitable organisations if large scale one-off capital bequests are displaced in this way and superseded by the income streams delivered from corpus funds not under their control.

**Conclusion**

One of the contributions of my research is that it adds considerably to both the depth and complexity of understanding of the pervasiveness of the principle of familial primacy in estate transmission and its consequences for *post mortem* charitable giving. My argument for the originality of my research is that this dissertation addresses issues of both sociological and philanthropic significance which have been largely overlooked. I have used empirical data (probate files) not previously accessed and analysed in Australia. I have supplemented this with insights from intermediaries, not previously drawn upon for the analysis of estate transmission and related charitable giving behaviour. Using this combination of quantitative and qualitative data sources I have brought a unique focus on and insight into the extent to which there is wide spread normative agreement in Australia that estate assets are deemed to be for distribution to direct family members.

I have found that this takes the form of distribution first to a surviving spouse and subsequently to the children in equal share. I have identified the extent to which these norms are so deeply and widely held in Australian society, and the extent to which they are obligatory in their construction and internalised. I have also revealed how the obligations of familial primacy in estate distribution function to override charitable giving propensity, to displace *inter vivos* giving practices and consequently to impact negatively on charitable giving from estates.
In addition, the principle of familial primacy is so strong, that Australian fundraising practice in large part concedes that the family will prevail in estate transmission. Fundraisers therefore tend to try and work around the principle and focus in particular on individuals without children, or seek out the exceptional individual who may not direct their entire estate to their family. In these practices, the fundraising profession acquiesces to, and in effect is complicit in perpetuating familial primacy as an inhibitor of charitable giving from estates.

I have also found that the forces mitigating against post mortem charitable giving are further compounded by advisers, who work actively to encourage the rare clients who have a charitable propensity to do their giving inter vivos rather than from their estates. The contextual reasons which support this advice include the financial incentives of the tax system in favour of inter vivos giving and the relative protection from legal challenge that inter vivos gifts enjoy. Additionally, as financial advisers tend to be remunerated based on the value of the funds under their management, it is in the interests of the advisers for charitable funds to be directed into a facility where the funds under management are preserved and the advantage to the adviser is not lost. Given the structure of the taxation system in Australia, those advisers who support charitable giving by their clients actively advocate giving during the client’s lifetime rather than from their estate.

My research contributes to an understanding of how the norms and expectations of a particular society are influential in the interplay of total social phenomena. A related contribution of my research is that it highlights the importance of specifically situating research into charitable giving in context and distinguishing between what is generalisable and what is specific. I have demonstrated that while it is convenient, it is not universally sound to uncritically adopt outputs from the primary source of literature and research in the field, the United States, where traditions, expectations, culture and economic incentives are individually and collectively different.
To conclude on a personal note, it is my contention that the majority of Australians would be surprised, negatively, at the levels of charitable giving from individual estates. This study suggests however that currently in Australia there is simply no expectation and no normative agreement that estates which have the capacity to do so should include a post mortem charitable gift. Australians adhere collectively to the principle of “look after the family first”. In practice however this is interpreted as giving all that remains to the family. This may often be entirely appropriate. However as the “first” implies, the need of the family to receive the entirety of an estate need not necessarily be taken for granted.

It will be some twenty years before the demographic wave of baby-boomers begins dying in significant numbers and transmitting their estates. There is sufficient time for targeted policy and cultural initiatives to influence how individuals and families address their estate distribution decisions inclusive of charitable giving. It is my aspiration that the provision of information on current patterns in Australia will contribute to more informed reflection and action in this country.
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Appendices

Appendix A: Fields of probate data collected

Probate File Number

Nature of Grant

Gender

Residential Suburb

Occupation

Year of Birth

Date of Death

Country of Birth

Net Value of Real Estate

Net Value of Other Estate

Net Value of Total Estate

Number of surviving children

Age and gender of surviving children

Year of will

Primary beneficiaries

Dollar value of charitable gift

Percentage of charitable gift, against net total estate value

Recipient charitable organisation/s
Appendix B: Project Information Statements

I: Participants from a Charitable Organisation

Thank you for your interest in this study. The aim of this research is to investigate contemporary practice in relation to charitable bequests in Australia.

The study involves one on one interview with individuals working in areas that have direct involvement with charitable giving, including bequests from deceased estates. Information will be discussed in terms of aggregates and trends only; specifically no information will be sought on individual donors.

The interviews will be recorded and converted to transcript. Both recorded interviews and associated transcripts will be password protected and retained under lock and key at the University.

The interviews will be semi-structured with mostly open questions designed to draw out the experience and observations of the practitioners in relation to current practice and trends in charitable bequests.

For participants working in charitable organisations, in addition to the qualitative component outlined above, the interviews will include a number of quantitative questions designed to capture a standard set of information to enable analysis of comparable data.

It is understood by the researcher that some of the data being gathered is of a confidential and market sensitive nature. Accordingly, data for this study will be analysed and reported in group form only. Results and published articles will not contain any personal or identifiable information about participating individuals or organisations, except where prior consent is provided.

Participation in this study is voluntary. A Consent Form agreeing to participation will be signed by each interviewee prior to participation.

This research conforms to the “Ethical Guidelines for Research” of the Australian Sociological Association and has been approved by the Human Research Ethics Committee, Swinburne University of Technology. Should you have any queries about this study or would like to know the results, please contact my supervisor, Prof. Michael Gilding on (03) 9214 8102.

If you have any concerns or complaints about the conduct of this project, please contact: Research Ethics Officer, Office of Research & Graduate Studies (H68), Swinburne University of Technology, P O Box 218, Tel (03) 9214 5218 or resethics@swin.edu.au.
II: Participants not from a Charitable Organisation

Thank you for your interest in this study. The aim of this research is to investigate contemporary practice in relation to charitable bequests in Australia.

The study involves one on one interview with individuals working in areas that have direct involvement with charitable giving, including bequests from deceased estates. Information will be discussed in terms of aggregates and trends only; specifically no information will be sought on individual donors.

The interviews will be recorded and converted to transcript. Both recorded interviews and associated transcripts will be password protected and retained under lock and key at the University.

The interviews will be qualitative in nature. They will be semi-structured with mostly open questions designed to draw out the experience and observations of practitioners in relation to current practice and trends in charitable bequests.

In order to ensure confidentiality and protect any information that may be of a market sensitive nature, data for this study will be analysed and reported in group form only. Results and published articles will not contain any personal or identifiable information about participating individuals or organisations, except where prior consent is provided.

Participation in this study is voluntary. A Consent Form agreeing to participation will be signed by each interviewee prior to participation.

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Appendix C: Individual Consent Forms

I: Participants from a Charitable Organisation

Swinburne University of Technology

Individual Consent Form

Project Title: Charitable bequests

Researcher: Christopher Baker, PhD Candidate

Supervisor: Professor Michael Gilding

(Principal Investigator) Deputy Dean (Research), Faculty of Life and Social Sciences

I agree to participate in the project named above, the particulars of which have been explained to me.

I understand the project is for the purpose of research and not for profit and I have been provided a copy of the project information statement and this consent form. Any questions I have asked have been answered to my satisfaction.

I understand the interview will be recorded and that information gathered in the course of and as the result of my participating in this project will be collected, retained and analysed by the researcher(s) for the purpose of conducting this project.

I also understand that:

- The charitable organisation I work for or represent will not be identified nor will any data provided about this charitable organisation be identified in publications or otherwise without express written consent by an appropriately authorised officer of the organisation.
- I personally will not be identified in publications or otherwise without my express written consent.

Name of Participant: ...........................................................................................................

Signature & Date: ........................................................................................................

Name of Researcher: Christopher Baker

Signature & Date: ........................................................................................................
II: Participants not from a Charitable Organisation

Swinburne University of Technology

*Individual Consent Form*

**Project Title:** Charitable bequests

**Researcher:** Christopher Baker, PhD Candidate

**Supervisor:** Professor Michael Gilding

(Principal Investigator) Deputy Dean (Research), Faculty of Life and Social Sciences

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I understand the interview will be recorded and that information gathered in the course of and as the result of my participating in this project will be collected, retained and analysed by the researcher(s) for the purpose of conducting this project.

I also understand that I will not be identified in publications or otherwise without my express written consent.

**Name of Participant:** .................................................................

**Signature & Date:** .................................................................

**Name of Researcher:** Christopher Baker

**Signature & Date:** .................................................................

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Appendix D: Interview Protocols

I: Participants from a Charitable Organisation

- What is the role, the importance of charitable bequests to your organisation?

1 How much did your organisation receive in the last financial year from charitable donations, inclusive of charitable bequests? ___

<table>
<thead>
<tr>
<th>1. &lt;$1m</th>
<th>2. $1m - $5m</th>
<th>3. $5m - $10m</th>
<th>4. $10m-$20m</th>
<th>5. =or&gt; $20m</th>
</tr>
</thead>
</table>

2 What proportion of your organisation’s gifted income is received annually by way of charitable bequests (legacies)?

<table>
<thead>
<tr>
<th>1. &lt;20%</th>
<th>2. 20% - 39%</th>
<th>3. 40% - 59%</th>
<th>4. 60% - 79%</th>
<th>5. = or &gt; 80%</th>
</tr>
</thead>
</table>

- What level of commitment does this organisation make to promoting and securing charitable bequests?
- Is there a relationship between those who make donations to your organisation while they are alive, and those who make bequests from their estate?

3 What proportion of your organisation’s gifted income is received annually by way of regular (inter vivos) donations?

<table>
<thead>
<tr>
<th>1. &lt;20%</th>
<th>2. 20% - 39%</th>
<th>3. 40% - 59%</th>
<th>4. 60% - 79%</th>
<th>5. = or &gt; 80%</th>
</tr>
</thead>
</table>

- Has the relationship between regular (inter vivos) donors and bequests/legacies changed over time? Yes No
  If yes
  o Why has this changed?
  o How has it changed?
- Do you have any other comments or observations about the relationship between regular donors and bequests?
- Has the relative focus on securing regular donations and securing bequests/legacies changed over time? Yes No
  If yes
  o Why has this changed?
  o How has it changed?
  o How has the relative spend (on securing regular donations versus securing bequests) changed over time?
4 What proportion of your charitable bequests are you aware of in advance?

<table>
<thead>
<tr>
<th></th>
<th>1. &lt;20%</th>
<th>2. 20% - 39%</th>
<th>3. 40% - 59%</th>
<th>4. 60% - 79%</th>
<th>5. = or &gt; 80%</th>
</tr>
</thead>
</table>

5 What proportion of your regular donors tend to make a charitable bequest?

<table>
<thead>
<tr>
<th></th>
<th>1. &lt;20%</th>
<th>2. 20% - 39%</th>
<th>3. 40% - 59%</th>
<th>4. 60% - 79%</th>
<th>5. = or &gt; 80%</th>
</tr>
</thead>
</table>

6 What proportion of the value of your charitable bequests comes from your regular donors?

<table>
<thead>
<tr>
<th></th>
<th>1. &lt;20%</th>
<th>2. 20% - 39%</th>
<th>3. 40% - 59%</th>
<th>4. 60% - 79%</th>
<th>5. = or &gt; 80%</th>
</tr>
</thead>
</table>

7 What proportion of the value of your charitable bequest income does your organisation spend on securing charitable bequests?

<table>
<thead>
<tr>
<th></th>
<th>1. &lt;2%</th>
<th>2. 2% - 3.9%</th>
<th>3. 4% - 5.9%</th>
<th>4. 6% - 7.9%</th>
<th>5. = or &gt; 8%</th>
</tr>
</thead>
</table>

8 What proportion of the value of general (inter vivos) donation income does your organisation spend on securing those donations?

<table>
<thead>
<tr>
<th></th>
<th>1. &lt;2%</th>
<th>2. 2% - 3.9%</th>
<th>3. 4% - 5.9%</th>
<th>4. 6% - 7.9%</th>
<th>5. = or &gt; 8%</th>
</tr>
</thead>
</table>

- What comment can you make on the relative contribution / the relative importance of large charitable bequests?

9 In an average year, what share of the total value of bequests received by your organisation would come from the top 10% of bequestors?

<table>
<thead>
<tr>
<th></th>
<th>1. &lt;50%</th>
<th>2. 50% - 59%</th>
<th>3. 60% - 69%</th>
<th>4. 70% - 79%</th>
<th>5. = or &gt; 80%</th>
</tr>
</thead>
</table>

- Who gives?
  - What if any differences do you / your organisation experience in the approach to charitable bequests between
    - wealthy and non-wealthy?
    - religious and non-religious?
    - with spouse and without spouse?
    - with children and without surviving children?
    - near life’s end and not near the end?
    - born in Australia and born outside of Australia?
• What proportion of your donors will have had some kind of personal (direct or family related) experience with the services your organisation provides or the issues it champions?
• Are there other distinguishing characteristics of those who make charitable bequests?
• Do you focus your attention on more wealthy prospects?
  o Why or why not?
  o Do you have a working definition of wealthy?
• What do you / your organisation see as the key opportunities and challenges for the future, in relation to charitable bequests?
• What are your most successful techniques?
II: Participants not from a Charitable Organisation

- What role do charitable bequests play in your organisation?
- What proportion of clients make a charitable bequest from their estate?
- On providing wealth transfer or estate planning assistance:
  - what proportion of clients initiate discussion about charitable bequests?
  - do you raise the issue if the client does not? If so, how?
  - where you raise the issue of a charitable bequest, what proportion of clients proceed to make such a bequest?
- Of those clients you assist make charitable distributions, what proportion set up *inter vivos* charitable trusts, relative to those who make a bequest from their estate?
- What proportion of clients who establish *inter vivos* charitable trusts ALSO make a charitable distribution from their estate?
- From your work here, are you able to make an assessment of any relationship between those who make donations to charitable organisations while they are alive, and those who make bequests from their estate?
- Has the relationship between life time (*inter vivos*) giving and charitable bequests changed over time? Yes No
  - Why has this changed?
  - How has it changed?
- Do you have any other comments or observations about the relationship between life time giving and bequests?
- How important are tax considerations to individuals considering charitable bequests?
  - Does this change by level of wealth?
- Of those clients who make charitable bequests from their estate, what proportion:
  - specify the charitable organisation/s
  - give to the “house” foundation
- Of those who give to the “house” foundation, what proportion direct their bequest to particular causes?
- Are there particular organisations or issues which tend to be favoured:
  - By those who specify the beneficiary organisation?
  - By those who specify within the “house” foundation?
- Of those who make charitable distributions:
  - what’s the average proportion of the estate gifted?
  - how many charitable beneficiaries on average share the total bequest?
- Who gives?
• What proportion of clients making charitable bequests have had some kind of personal (direct or family related) experience with the services of the beneficiary charity?
• Are there other distinguishing characteristics of those who make charitable bequests?
• What if any differences do you / your organisation observe in the approach to charitable bequests between
  o wealthy and non-wealthy?
  o religious and non-religious?
  o with spouse and without spouse?
  o with children and without surviving children?
  o near life’s end and not near the end?
  o born in Australia and born outside of Australia?
• What do you / your organisation see as the key opportunities and challenges for the future, in relation to charitable bequests?
Appendix E: Project Ethics Clearance

EMAIL
>>> Keith Wilkins 5/06/2007 5:14 pm >>>
To: Prof Michael Gilding/Mr Christopher Baker, FLSS

Dear Michael and Christopher

SUHREC Project 0607/204 The intergenerational wealth transfer and charitable bequests
Prof M Gilding FLSS Mr Christopher Baker
Approved duration: 11/06/2007 To 01/06/2008

I refer to the ethical review of the above project protocols conducted on behalf of Swinburne's Human Research Ethics Committee (SUHREC) by a Subcommittee (SHESC4) on 1 June 2007.

Your response to the review (emailed today with attached revised consent instruments) was put to a delegate of the Subcommittee and, I am pleased to advise, approved. However, please remember to add the required complaints clause to or at the end of each of the revised consent information statements to be issued to each participant which can simply read: "If you have any concerns or complaints about the conduct of this project, please contact: Research Ethics Officer, Office of Research & Graduate Studies (H68), Swinburne University of Technology, P O Box 218, Tel (03) 9214 5218 or resethics@swin.edu.au ".

The standard on-going ethics clearance conditions are as follows.

- All human research activity undertaken under Swinburne auspices must conform to Swinburne and external regulatory standards, including the current National Statement on Ethical Conduct in Research Involving Humans and with respect to secure data use, retention and disposal.

- The named Swinburne Chief Investigator/Supervisor remains responsible for any personnel appointed to or associated with the project being made aware of ethics clearance conditions, including research and consent procedures or instruments approved. Any change in chief investigator-supervisor requires timely notification and SUHREC endorsement.

- The above project has been approved as submitted for ethical review by or on behalf of SUHREC. Amendments to approved procedures or instruments ordinarily require prior ethical appraisal/clearance. SUHREC must be notified immediately or as soon as possible thereafter of (a) any serious or unexpected adverse effects on participants and any redress measures; (b) proposed changes in protocols; and (c) unforeseen events which might affect continued ethical acceptability of the project.

- At a minimum, an annual report on the progress of the project is required as well as at the conclusion (or abandonment) of the project.

- A duly authorised external or internal audit of the project may be undertaken at any time.

Please contact me if you have any queries about on-going ethics clearance. The SUHREC project number should be quoted in communication.

Best wishes for the project.

Yours sincerely

Keith Wilkins
Secretary, SHESC4
### Table AF.1: Deductible Gift Recipients (DGRs) in Australia

<table>
<thead>
<tr>
<th>General Category</th>
<th>Total Number of DGRs</th>
<th>Per cent of total DGRs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Welfare and Rights</td>
<td>11,279</td>
<td>51.5%</td>
</tr>
<tr>
<td>Education</td>
<td>4,491</td>
<td>20.5%</td>
</tr>
<tr>
<td>Cultural Organisations</td>
<td>3,019</td>
<td>13.7%</td>
</tr>
<tr>
<td>Specific Listed Organisation</td>
<td>1,191</td>
<td>5.4%</td>
</tr>
<tr>
<td>Health</td>
<td>997</td>
<td>4.5%</td>
</tr>
<tr>
<td>Environment</td>
<td>319</td>
<td>1.5%</td>
</tr>
<tr>
<td>Research</td>
<td>151</td>
<td>0.7%</td>
</tr>
<tr>
<td>International Affairs</td>
<td>132</td>
<td>0.6%</td>
</tr>
<tr>
<td>Defence</td>
<td>80</td>
<td>0.4%</td>
</tr>
<tr>
<td>Ancillary Funds</td>
<td>45</td>
<td>0.2%</td>
</tr>
<tr>
<td>Family</td>
<td>16</td>
<td>0.1%</td>
</tr>
<tr>
<td>Sport and Recreation</td>
<td>16</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

Source: Centre of Philanthropy and Nonprofit Studies 2006: 2

Note: Shaded area shows General Categories with more than one per cent of DGRs by number
Table AF.2: Charitable Gifts by Recipient Sector

<table>
<thead>
<tr>
<th>Recipient Sector</th>
<th>% Giving</th>
<th>Average Gift per Giver ($)</th>
<th>% Total Gifts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arts or Cultural Associations</td>
<td>4.8</td>
<td>220</td>
<td>2.3</td>
</tr>
<tr>
<td>Aust. Emergency Relief Services</td>
<td>36.6</td>
<td>52</td>
<td>4.2</td>
</tr>
<tr>
<td>Community or Welfare Services</td>
<td>69.5</td>
<td>81</td>
<td>12.8</td>
</tr>
<tr>
<td>Education</td>
<td>18.6</td>
<td>156</td>
<td>6.6</td>
</tr>
<tr>
<td>Environmental or Animal Welfare Groups</td>
<td>24.7</td>
<td>87</td>
<td>4.8</td>
</tr>
<tr>
<td>International Aid &amp; Development Organisations</td>
<td>25.6</td>
<td>234</td>
<td>13.3</td>
</tr>
<tr>
<td>Medical Research</td>
<td>57.9</td>
<td>77</td>
<td>10.2</td>
</tr>
<tr>
<td>Health Services</td>
<td>20.5</td>
<td>88</td>
<td>4.0</td>
</tr>
<tr>
<td>Interest Groups (professional &amp; business assns, unions, political parties, other advocacy groups)</td>
<td>6.1</td>
<td>125</td>
<td>1.6</td>
</tr>
<tr>
<td>Recreational or Hobby Groups</td>
<td>3.9</td>
<td>75</td>
<td>0.7</td>
</tr>
<tr>
<td>Religious or Spiritual Groups</td>
<td>30.2</td>
<td>529</td>
<td>36.1</td>
</tr>
<tr>
<td>Sporting Clubs</td>
<td>15.2</td>
<td>86</td>
<td>3.0</td>
</tr>
<tr>
<td>Other</td>
<td>0.5</td>
<td>355</td>
<td>0.4</td>
</tr>
</tbody>
</table>

Source: Giving Australia 2005: 24
List of publications arising from this study

