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The Moral Context of Fund Raising

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The moral context of fund raising provides the foundation for establishing what fund raisers ought to do and what they ought not do.[1] That foundation is based on the universal agreement that it is wrong to cause other people to suffer harms, to deceive, or to break a promise unless one has sufficient reason. In addition, fund raisers have special responsibilities based on the nature of their job and on the nature of the institution that employs them. The moral foundation provides criteria for determining which actions are morally prohibited, which are morally required, which are morally permitted, and which are morally ideal for fund raisers in institutions of higher education.[2]

It is as important to be clear about the moral context of fund raising as it is to be clear about the social and legal contexts. Although moral and legal dictates often coincide, there are two relevant differences between them. The first is a difference in accountability. No matter how ill-conceived one might judge a federal or state law relating to the solicitation, acceptance, or recording of donations, the fear of accountability in terms of fines or other penalties keeps all but the most recalcitrant institution or fund raiser in line.

Accountability for moral infractions is of a different and more diffuse sort. The institution that treats prospects or donors in ways that are immoral but not illegal will suffer a loss of trust, credibility, and ultimately donations. But unless the immoral act is also illegal, no one will go to jail. The law proscribes a very narrow scope of activities that are almost always morally as well as legally prohibited. That is why it is almost always morally required that people obey the law. But the scope of moral prohibitions is far larger than the scope of law. It is generally wrong to act deceptively, but the law holds people accountable for only certain acts of deception, for example, deceiving the IRS.

Another important difference between law and ethics is the way they define compliance. Laws are straightforward. Institutions, fund raisers, and donors may sometimes search for loopholes in the law, but the laws are written, and precedents are established, in an attempt to make the minimal legal requirements increasingly more clear. The law holds in a very exacting way regardless of context.

Moral imperatives, while clear on the surface—"Don't cheat," "Don't deceive," "Keep your promises"—require interpretation and application for individual situations. Behavior that is morally permitted or even encouraged in a poker game, for example, is morally prohibited in most occupational relationships, including the relationship that exists between fund raisers and potential or actual donors. Even though the moral rules prohibiting deception, cheating, and breaking a promise are universal, whether a specific act counts as deception, cheating, or breaking a promise is determined by context. Moral problems in fund raising cannot be treated as isolated, as though their solutions will not have implications for all other moral problems. The moral imperatives of fund raising exist within a system of morality that extends to all other questions of applied and professional ethics.

Morality is a public system that applies to all moral agents. By *moral agents* we mean persons who are held morally responsible for their actions. Such persons must know at least some of the rules that everyone is morally prohibited from violating and be able to control their actions with respect to those rules; this includes almost all adults of near normal intelligence and above, as well as most children above the age of ten and even many below that age. They all know certain general facts, for example, that all people have only limited knowledge; that they do not want to suffer any harm or evil, namely, death, pain, disability, or loss of freedom or pleasure, unless they believe that someone, either they themselves or someone else, will avoid at least a comparable harm or gain some comparable benefits, namely, abilities, freedom, or pleasure. Further, such persons themselves want to avoid acting in a way that will cause them to suffer any harm unless they have such beliefs about someone benefiting. Acting in such a way is to act irrationally. Although all of us probably act irrationally at one time or another, for example, when we get very angry, most people would like this never to be the case.

All the persons to whom a public system applies—those whose behavior is to be guided and judged by it—understand it; that is, they know what behavior the system prohibits, requires, and encourages. And it is not irrational for any of them to accept being guided or judged by it. The clearest example of a public system is a game. The rules of the game are part of a system that is understood by all of the players, they all know what kinds of behavior are prohibited, required, and encouraged by the rules of the game, and it is not irrational for players to use the rules to guide their own behavior and to judge the behavior of other players by those rules. Morality is a public system that applies to all moral agents; people are subject to morality simply by virtue of being rational persons with sufficient knowledge to be held responsible for their actions. None of this is surprising. The high degree of consensus as to what counts as a moral question or an ethical violation goes unnoticed because we make so many moral judgments based on commonly understood and shared rules.

Is it morally acceptable for fund raisers to steer prospects to nonprofits rather than to the educational institution that employs them? Should fund raisers use sex or power to obtain gifts? Should educational institutions seek gifts under false pretenses? The answers to these questions are obvious, and obviously not what we are addressing in this book. There is not always a unique correct solution to every moral problem, but it does not follow that all solutions are morally acceptable. It may be that people cannot agree on a single correct solution but will agree that a number of solutions would be simply immoral.

Although most people use the same moral system when they think seriously about making a moral judgment or deciding how to act when confronting a moral problem, they probably are not conscious of doing so. Grammar provides a useful analogy. Most speakers cannot explicitly describe the grammatical system; they all know it in the sense that they use it when speaking themselves and in interpreting the speech of others. Although there are some variations in the grammatical system, no one should accept a description of the grammatical system that rules out speaking in a way that they regard as acceptable or permits speaking in a way that they regard as unacceptable to those who are competent speakers of the language.

Similarly, a moral system that promotes acting in a way that conflicts with one's considered moral judgments should not be accepted. However, recognition of the systematic character of morality may demonstrate some inconsistencies in one's moral judgments in much the same way that careful grammatical analysis can uncover a speaker's error in sentence construction. Making the moral system explicit, including making clear which facts are morally relevant and which are not, may reveal that some moral judgments are inconsistent with the vast majority of other moral judgments. Thus, one may come to see that what one accepted as a correct moral judgment is mistaken.

In this book we point out the morally relevant facts and use a systematic approach to analyze specific cases and actions. For example, how gifts and donors are recognized by educational institutions is a morally relevant fact in determining the ethics of gift exchange. In chapter 7 Holly Smith and Marilyn Dunn provide criteria for deciding what kind of recognition is morally permitted and what makes some types of recognition morally prohibited.

Most of the moral judgments fund raisers make will be noncontroversial. Their understanding of what it means to act in morally permitted ways, combined with their special role-related responsibilities, provides the scope for determining they ought and ought not to do. Some of what appears as guidelines for ethical fund raising throughout this book should appear obvious to practitioners in the field.

We can think of the role of the university fund raiser in a nested way. The primary job responsibility for fund raisers is to raise money. The moral responsibility that surrounds them stems from their role as part of the institutional advancement team. Therefore, along with other advancement officers, they share the duty of promoting the university's interests. Still more broadly, fund raisers are administrators in their institutions of higher education. Thus, they also share the responsibility of actualizing the mission and operating philosophy of the institution.[3] In chapter 4 James Donahue provides a detailed analysis of the aspects of the fund-raising role that create moral responsibilities.

What counts as a role-related responsibility for fund raisers is important because fund raisers, like everyone else, are morally required to do their jobs. Specifically, fund raisers are morally required to bring in money in a way that reflects an understanding of the institution's mission and promotes the institution's interests. It is immoral to neglect one's duty, to fail to meet one's role-related responsibilities, but except in unusual cases it is also immoral to fulfill this duty through a process that involves causing harm, deception, cheating, or breaking one's promise. Fund raisers are morally required to raise money, but not at any cost. Their meritorious goal of bringing in money cannot justify deceiving prospective donors, violating a prospect's privacy to get information, or violating tax laws to help a donor.

Reasonable Expectations and Moral Permissibility

An explanation of the relationship between the fund raiser and the donor can clarify some of what is morally permissible for fund raisers. The nature of the relationship between the fund raiser and potential or actual donor provides the basis for determining what the prospect or donor can reasonably expect from the fund raiser. Knowing what to expect from a business or professional relationship protects people from being too vulnerable. For example, it is reasonable to expect salespeople to withhold information about the positive qualities of competitors' products and the negative qualities of their own. This is a convention of the sales business that most of us have come to expect. Consider what happens to customers who do not understand this convention and think that salespeople will give them all the pertinent information. Those customers perceive themselves to be less vulnerable than they really are. Because of their mistaken expectations, they are depending on the salesperson as their sole source of information.

It is more difficult to clarify the conventional expectations for fund raisers than it is to describe the conventional expectations for salespeople. Like sales personnel, fund raisers have a primary responsibility to their employer; however, unlike sales personnel, they are expected to develop trust relationships with actual and prospective donors. "Buyer beware" is the conventional standard for sales; there is no parallel "giver beware" in charitable solicitations.

It is important that fund raisers define and be able to describe the reasonable expectations that donors have of them. This sets the rules of the game. Then if fund raisers violate expected standards of behavior, they are acting in an unfair way; we may even regard it as cheating. What is it reasonable for actual or prospective donors to expect in their relationships with higher education fund raisers? The following understanding emerges from the literature and practice of conscientious fund raising:

> Philanthropy is a social relation between the donor and the recipient organization in which giving is a voluntary act. Fund raising is in service to that relationship and act.[4]

The relationship between a fund raiser and a prospective or actual donor differs in important ways from that between a salesperson and a customer. The fund-raising relationship begins with the assumption that the potential donor wants to provide a gift specifically to the recipient organization. A sales relationship begins with the assumption that the customer needs or wants to buy some product or service that can be found in various stores. Givers do not often approach a charitable organization with the view that they have a certain number of dollars to give away and that maybe they will give it to that charitable organization, and maybe they will not. The reasons that lead a donor to give to a specific charitable organization are far more complex than those that lead a buyer to purchase goods from a particular store.

Philanthropic giving is an expression of the donor's values and world-view. It is also an expression of ideal rather than required behavior. While one may want to encourage all people to give of themselves in some beneficent way, the giving of a particular gift to a particular institution is not a moral requirement for any donor. By bestowing gifts, donors act in a way that is morally ideal rather than morally required. It is morally permissible for donors to do any number of other things with their money or to give it to any number of worthy causes. The fund raisers exist to facilitate gift giving to the educational institutions that employ them.

Philanthropy scholar Robert Payton and colleagues state the facilitative role of the fund raiser succinctly: "We believe that fund raising for social purposes engages fund raisers in the lives of other people for their benefit or for some larger public benefit as well as for the benefit of the fund raisers themselves. Intervening in the lives of others for their benefit is a moral action."[5] These are laudable goals, but the fund raiser's intervention is a moral action only if the process of fund raising is as exemplary as its goal. Since giving is a voluntary act, any morally permissible methods of fund raising will be accompanied by the assumption of explicit or implicit consent on the part of the potential donor.

One can think of any number of beneficial actions that, if done without consent, would be immoral rather than moral actions. Rational adults are allowed to make incorrect decisions, to act in ways that are not necessarily in their benefit or in the public's benefit. No matter how strongly a fund raiser believes that alumni owe something to the college, taking their money in a way that circumvents their will is not permissible.

Except in rare, justifiable cases, it is immoral to deprive anyone of the opportunity to make choices. Being so deprived is a harm that any rational person normally wants to avoid. One might be justified in depriving an adult of the freedom to make choices through involuntary commitment when it is clear that the choices that person is making are likely to cause him serious harm; or one might be justified in imprisoning someone who has harmed others. But when we are speaking of an action such as giving money to one's alma mater, there is no justification for depriving the donor, by deception or other immoral means, of the freedom to give or not to give. Donating one's extra money to a worthwhile cause is itself a morally exceptional act, rather than one that is morally required, and the freedom to decide whether and how to give is critical to the ethical nature of the relationship.

The relationship between the donor and fund raiser is based on trust, with the fund raiser working as a conduit between the donor and institution. The following reasonable expectations extend from that trust relationship:

1. Donors reasonably expect fund raisers to protect their gifts by understanding and safeguarding the donative intent.
2. Donors reasonably expect fund raisers to give them pertinent information to assist them in making decisions about whether and how to give.
3. Donors reasonably expect fund raisers not to deceive them as they make determinations relative to their donations.

Thus, it is reasonable for donors to expect their beliefs, concerns, and desires to be important features of their relationship with fund raisers. This is not to say that every belief, concern, or desire of every donor must be condoned. If the prospective donor's offer or conditions for the gift's use are inconsistent with the institutional mission or interest, the gift ought not to be accepted. The acceptance of a gift assumes that the donor's gift and conditions and the institution's acceptance reflect a shared understanding of institutional mission and interest. Consider how these reasonable donor expectations unfold.

Protection of the Gift

It is morally unjustifiable for an institution to fail to respect the donor's intent, just as it is morally unjustifiable for the fund raiser and the institution to fail to protect that intent. As time passes and the understanding of a donor's intent fades, preserving that intent may not be an easy task. It is unfair for fund raisers to fail to solicit, comprehend, and carry out the donor's wishes to the best of the institution's ability. The willingness of development staffs to regard such stewardship seriously long after the actual donation will be favorably noticed by other alumni who are concerned about the future of their gifts in perpetuity.

The Requirement to Tell

The disclosure requirement of fund raisers requires that they share all information that donors would consider relevant in the decision process. This clarifies the limits of deception in higher education fund raising: a lie is always morally unacceptable, that is, unless it is otherwise justified,[6] but omitting or withholding information is only sometimes morally unacceptable.

While it is not deceptive for fund raisers to fail to reveal details of their personal lives to prospective donors, there is some information that fund raisers have a moral obligation to reveal, namely, information that donors would reasonably consider relevant to their determination of whether to give. The fund raiser, as facilitator, has a good-faith obligation to find out what the prospective donor considers relevant and to provide that information even if the prospect might withhold the gift in light of the information.

In chapter 6 Judith Gooch provides an example of a donor who proposes to fund an endowed chair in a department that will soon announce the hiring of a new faculty member with views antithetical to the funder's. Gooch clarifies why not telling the donor that information should count as deception.

Respect for Donors

Telling prospective donors information that they would consider relevant to the making of their gifts is one important way that fund raisers show respect for donors. Another way is through the collection and retention of information concerning the prospective donor. One of the standard tenets of the profession is that information that the prospective or actual donor might consider embarrassing or damaging should not be intentionally collected or retained by the institution.[7] As discussed in detail in chapter 5, this rule shows respect for donors by allowing them and their sensibilities to control the information that is known about them. It acknowledges the freedom that the donor has in choosing to maintain a relationship with fund raisers and with the institution.

Morally Unacceptable Actions in Fund Raising

Causing pain, depriving freedom or opportunity, deceiving, cheating, or breaking the law are the kinds of action that require justification. The moral rules that prohibit such actions are not absolute, and all of them have justified exceptions. Most people would agree that even killing is justified in self-defense, for example. Further, one finds almost complete agreement on the features of justified exceptions. The first of these is *impartiality.* When all of the relevant features are the same, if a violation of a moral rule is justified for any person, it is justified for every person.

Simple slogans like the Golden Rule, "Do unto others as you would have them do unto you," and Kant's categorical imperative, "Act only on that maxim that you could will to be a universal law," serve as heuristic devices for people who are contemplating the violation of a moral rule: "Consider whether you would be prepared to impartially favor that kind of violation no matter who is doing the violating and to whom."

It is also generally agreed that there is some kind of *publicity* requirement, that is, that everyone know that this kind of violation is allowed. The publicity requirement guarantees genuine impartiality. It is not sufficient to justify allowing everyone to violate the rule in the same circumstances. One must also be willing to advocate the violation publicly. Consider a fund raiser who deceives a prospective donor in a situation in which failure to receive the donation would result in the loss of great benefits to the institution but the donor would suffer no harm other than being deceived and no one would become aware of the deception. This would be a justified violation of the rule "Do not deceive" only if everyone, including all fund raisers and all donors, knew that it was a justifiable exception. But logically, no one would favor everyone's knowing that this kind of deception was allowed. If everyone knew it, the kind of trust that is essential in the relationship between fund raiser and donor would be destroyed. And if no one favored publicly allowing this kind of deception, then practicing it would involve arrogance; that is, one would be making special exceptions for oneself, which is clearly immoral.

We do not claim that everyone agrees *which* violations satisfy these conditions, but no violation is justified unless it has satisfied these conditions. The proper attitude toward moral rules, therefore, is as follows: *Everyone is always to obey the rule unless an impartial rational person can advocate that violating it be publicly allowed.*

There are justifiable exceptions to the rules. For example, most people would consider it justifiable to cheat or deceive a hostage-taker if such behavior were likely to lead to the release of his hostages, especially if everyone, including potential hostage-takers, understood that that was how law enforcement officers were likely to react toward hostage-taking. If hostage-takers knew that they could not trust law enforcement officers to do what they said in a hostage-taking situation, the hostage-takers' power would be gone. Part of what makes this exception to the rule "Do not deceive" justifiable is that the law enforcement officers are deceiving those who have acted immorally by depriving innocent people of their freedom. It is far easier to justify deceiving those who are acting immorally than it is to justify those who are not. Many would favor deceiving hostage-takers even when everyone, including the hostage-takers, knew that such deception was allowed. Indeed, one point of having everyone know that deception is allowed in these cases is to establish future uncertainty on the part of would-be hostage-takers that law enforcement officers would meet their demands. But publicly allowing deception in fund raising would create an uncertainty that no one in the field of fund raising wants.

In order to avoid the kind of uncertainty that can arise if it is not clear what counts as deception, the rules of the fund-raising game must be made public. Throughout this book, authors refer to the need for institutions to set public policy. Many activities that give rise to charges of unfairness or unethical behavior can be avoided by making policies public. In chapter 10, for example, Richard Seaman and Eric Wentworth argue that before the beginning of a major fund raising campaign, institutions should adopt written rules for how to count various types of gifts. Publicly adopting such rules and sticking with the rules throughout the campaign allows all the players—donors as well as volunteers and development officers—to set reasonable expectations for the conduct of the campaign.

It is very difficult, if not impossible, for fund raisers to justify actions that are usually morally unacceptable, because the act that forms the basis of the relationship between fund raiser and prospect or donor is an act of philanthropy. Donors act on moral ideals when they give. Giving is not morally required. It is morally permissible for donors to refuse to give, to give elsewhere, or to give less. There is no basis from which to argue that it is ever morally acceptable for fund raisers to deceive, cheat, deprive prospects or donors of their freedom of choice, or otherwise cause them harm in the process of raising funds.

Two faulty justifications that are sometimes offered for morally unacceptable actions on the part of fund raisers are (1) that the donor is not acting out of meritorious donative intent and (2) that the institution has a desperate need for the money. Neither justification holds. It is very difficult to fully know the donor's intent. Motivations for giving vary from the psychological to the economic to the social.[8] The so-called charitable impulse is present as a theme in all the various conscious and unconscious motivations to give. Even if it were possible to determine with absolute certainty that a donor was providing the donation for some purely nonphilanthropic reason, fund raisers would not be justified in treating that donor in a morally unacceptable way. Whatever the purpose, intent, or motivation, the donor's act is still a morally good one.

Fund raisers' guesses that a prospective donor's motivation is nonphilanthropic are irrelevant unless the donor's motivation or gift conditions conflict with the institutional mission or interests. The sleazy donor is neither a problem for the fund raiser seeking to act in morally permissible ways nor a justification for morally prohibited behavior on the part of the fund raisers. If the donor's goals are inconsistent with the institution's mission or interests, then no gift ought to be accepted. On the other hand, if the donor's goals for the gift are consistent with the institution's mission, then fund raisers are morally required to do their job without engaging in actions that might cause the donor to suffer harm.

Nor is the desperation of the institution a justification for acting in morally unacceptable ways toward prospective or actual donors. Several years ago, at a seminar for Ivy League prospect research officers, a participant justified an unacceptable technique for obtaining information in the following words: "Don't you understand? This is about survival!" The school's multimillion-dollar endowment made the claim especially ironic, but this justification is morally lacking even in times when the institutional doors might really have to close.

The rule suggested in allowing the desperate situation of an institution to justify morally unacceptable behavior is that it is morally permissible to engage in actions that might cause individuals to suffer harm if those actions will bring about a good result for one's institution. This rule describes a world in which Robin Hood is the model fund raiser. The rule also would not stand up under the public scrutiny that is required for behavior that is generally morally unacceptable. That is, the fund raisers in this example would need to let everyone know that they are willing to deceive donors when the institution is in desperate need of funds. This obviously is not a practice that could be made known to donors, because then donors would never know whether or not to believe fund raisers. If fund raisers take Kant's categorical imperative—"Act only on that maxim that you could will to be a universal law"—as their guide, their proper moral behavior is to act only in those ways that they would be willing to be publicly allowed. This means never causing harm, deceiving, cheating, or breaking promises unless one would be willing for everyone to know that violating a moral rule in these kind of circumstances was allowed for everyone.