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Toward a Deeper Understanding of Donor Intent

Abstract

Donor intent lies at the center of some of the most ethically complex and highly contested debates in philanthropy, yet the concept remains conceptually fuzzy and undertheorized. Recent trends make it even more essential that we know what we are talking about when we talk about donor intent. This article develops a new framework for understanding donor intent, addressing two key questions: how is donor intent expressed, and how do these expressions vary? Drawing from theoretical analysis of existing debates and a systematic scoping review of scholarly and practitioner literature, we present two typologies. The first identifies the comprehensive range of possible expressions of donor intent – the myriad aspects of giving that intent might affect – grouped into three broad categories: Focus and Principles, Governance and Operations, and Strategies and Practices. The second summarizes four core dimensions along which these expressions might vary: Specificity, Openness, Permanence, and Influence. This deeper and more precise understanding of donor intent is meant to help inform the debates and ethical dilemmas that arise around donor intent in philanthropic practice, and to help structure future theory and research by scholars studying this core philanthropic concept.

Keywords:
Donor Intent, Donor Control, Family Foundations, Philanthropic Ethics, Philanthropic Governance

Introduction

Some of our most passionate ethical debates in philanthropy arise around the idea of "donor intent." People fight to honor or preserve it, often as the primary guiding compass for all giving. Others decry it as disconnected from real needs in the world or the real work of achieving impact – or worse, as yet another source of undue power wielded by plutocrats, even if long dead. Talking about donor intent is often emotionally fraught, yet conceptually vague. It is a hot topic, but a fuzzy one. And it doesn't help that it comes to the forefront most often in moments of conflict and dispute over that intent. Engaging carefully with an ethically complex subject like this is hard to do during a contentious court case.

Both our practical and scholarly deliberations would benefit tremendously from greater clarity about what we are talking about when we talk about donor intent. What are the various meanings of this somewhat odd term? To what does it apply? How does it vary? What questions does it raise, not just for donors (or their descendants) but for everyone else around the philanthropic table? Unpacking and understanding the many facets of donor intent is even more crucial today as recent trends in the field are adding new layers of complexity to these perennial and often loaded questions.

This essay aims to move us toward a deeper, more practically useful, and more conceptually rigorous understanding of donor intent by identifying the range of ways it is expressed in philanthropic action, and by proposing a typology of the core dimensions of this complex yet undertheorized concept. Building this deeper understanding is meant to help inform the debates and ethical dilemmas that arise around donor intent in philanthropic practice, and to help structure future theory and research by scholars looking to understand this essential concept in philanthropic studies. The proposed conceptual framework here is not meant to be definitive, but rather to invite future work and applications to refine and expand it.

The Limits of Historical and Current Debates

An Omnipresent Concept, Often Disputed

Donor intent has been a philanthropic concern throughout the long history of giving. Historians tell us that many donors in ancient societies were like donors of today; they usually gave for specific purposes and often attached expectations for the use of their gifts, whether they were giving to a mendicant outside a temple, building a public bath, or giving to widows and orphans.[1] Donors have almost always had explicit purposes in mind, and very often have the power to enforce adherence to those purposes. Donor intent seems always there, beneath the surface of daily practice, even as our attention is trained on other challenges of the day.

It isn't surprising, then, that donor intent is part of the history of ethical teachings and arguments about philanthropy. From Aristotle's argument that virtue means giving for the right purpose, to the principle behind both Christian almsgiving and Islamic zakat that believers should focus on giving to the poor above all else, the intention behind giving has long been highlighted. There have also been ethical arguments against overly prioritizing the donor's intent and their role in enforcing it. In the Jewish tradition, the "Mishnah Torah" of Maimonides puts all forms of anonymous giving at a higher level on his "ladder" of tzedakah than any forms in which the donor is known.[2] The donor's wishes are considered very low in ethical importance.

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1 Jenny Harrow, "Donor Intent and Donor Control," in *International Encyclopedia of Civil Society,* ed. Helmut K. Anheier and Stefan Toepler (New York: Springer, 2009), 610–16; Paul Vallely, *Philanthropy: From Aristotle to Zuckerberg* (London: Bloomsbury Continuum, 2020).

2 Felicia Waldman, "Poverty and Charity in the Jewish Tradition," *Studia Hebraica* 7 (2007): 34–50.

Andrew Carnegie's[3] well-known guidelines for good giving – what others came to call his "gospel" even if he didn't use that term – included a fervent argument for why he intentionally gives to some causes and not others. His contemporary, John D. Rockefeller, set up his foundation with the vague mission of serving the "well-being of mankind",[4] but elsewhere Rockefeller too took a stand on better and worse donor intentions, explaining which approaches and purposes he felt constituted the "best philanthropy".[5]

In more modern ethical writings about philanthropy, donor intent remains at the center. Payton and Moody[6] describe philanthropy as "voluntary action for the public good," placing great emphasis on how a moral orientation toward the "good" intended by the action is necessary for that action to even be considered philanthropic.[7] Philanthropy is defined by the philanthropist's public good intent. The utilitarian "effective altruism" philosophy (and movement) at first glance seems opposed to any value being placed on a donor's own goals or personal passions, saying good philanthropy is "issue-agnostic".[8] But digging deeper we can see that Effective Altruists actually believe there is only one acceptable philanthropic purpose – to save as many lives as possible and thereby achieve "the greatest good for the greatest number." They also certainly support donors giving very explicit directions about how to achieve that purpose.[9] Donor intent matters in guiding the execution not selecting the issue.

Donor intent has been, and continues to be a concern for all types of donors, from various foundations – corporate, community, independent, etc. – to individual and collective givers alike. So-called "donor-advised funds" (DAFs) that have grown in popularity in recent years put front-and-center – in the name of funding vehicle – the primary and ethically proper role of donors to direct the use of gifts. More broadly, donor intent takes on special significance – and added challenges – in what we usually label, "family philanthropy".[10] Often the original donor(s), who defined the various elements of their intent, are still deeply and passionately involved with the giving. Often their descendants and other kin – those with an emotional tie to the original donor – are also involved. Honoring

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3 Andrew Carnegie, "Wealth," *North American Review* 148, no. 391 (1889): 653–65.

4 Raymond B. Fosdick, *The Story of the Rockefeller Foundation* (London: Routledge, 2017).

5 John D. Rockefeller, "Some Random Reminiscences of Men and Events," *The World's Work*, October 1908.

6 Robert L. Payton and Michael P. Moody, *Understanding Philanthropy: Its Meaning and Mission* (Bloomington: Indiana University Press, 2008).

7 See also Dwight F. Burlingame, "Altruism and Philanthropy: Definitional Issues," *Essays on Philanthropy,* no. 10 (Indianapolis, IN: Indiana University Center on Philanthropy, 1993).

8 Eric Friedman, *Reinventing Philanthropy: A Framework for More Effective Giving* (Washington, DC: Potomac Books, 2013).

9 Peter Singer, *The Most Good You Can Do: How Effective Altruism Is Changing Ideas about Living Ethically* (New Haven, CT: Yale University Press, 2015).

10 Philanthropy Roundtable, "Donor Intent and Family Foundations Can Be a Dangerous Mix," *Philanthropy Roundtable*, December 23, 2021; Michael P. Moody, Allison Lugo Knapp, and Marlene Corrado, "What Is a Family Foundation?" *The Foundation Review* 3, no. 4 (December 20, 2011): 47–61.

intent takes on added meaning in these situations. And enforcement of intent is often more passionate in family philanthropy as well. This is why we all nod and smile when hearing the old joke about the family foundation founder saying to the board, "All in favor of my plan, say 'Aye.' All opposed, say 'I resign.'" Also, over time in giving families, original donor intent begins to carry the weight of becoming "legacy," and the process of stewarding that intent-as-legacy raises additional challenges.

Despite this central and persistent presence of donor intent behind everyday philanthropic practices and in core teachings, we usually only think and talk deliberately and intensively about donor intent when controversy about it arises. In these cases, the debate over intent usually ends up occurring in court, or in other situations that can lead to dramatic consequences, such as intra-family rifts or the end of long-standing relationships between donors and recipients. This means we are often forced to try to understand donor intent, to parse its meaning and elements, in the heated environment of extreme cases.

Many readers might recall the blowup in 2008 after hotel magnate – and so-called "Queen of Mean" – Leona Helmsley left the bulk of her multibillion-dollar estate to a charitable trust that she directed should focus on "provision of care for dogs".[11] This limited directive was eventually overturned in the courts for being too restrictive under state charitable laws, allowing trustees to give to broader purposes. In the UK, trustees of the Diana, Princess of Wales Memorial Fund have been criticized for having "scant regard… for the issues she was concerned about".[12] Another famous example settled in the courts was the Robertson family's lawsuit against Princeton University alleging they had not honored the stated purpose of their predecessor's gift – made 40 years earlier – to fund the training of students for public service.[13] These cases are rarely simple and clear, so they tend to make the issue of donor intent even fuzzier.

In many instances, the legal doctrine of "*cy près*," meaning "as close as possible," is used to devise what a donor would want to happen when questions about that are raised. [14] Note, though, that this preserves the power of the original donor's wishes, treating those wishes as the primary decision criteria, even if they are vague or outdated. Clearly, we need a way of understanding donor intent that is more complex and nuanced than "as close as possible."

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11 Ray D. Madoff, "What Leona Helmsley Can Teach Us about the Charitable Deduction," *Chicago-Kent Law Review* (2010).

12 Tobias Jung and Kevin Orr, "What Lies beneath? Spectrality as a Focal Phenomenon and a Focal Theory for Strengthening Engagement with Philanthropic Foundations," *International Journal of Management Reviews* 23, no. 3 (May 11, 2021): 312–29; Anna Pukas and Lyle Somerset, "Was the £100m Diana Fund a Disaster?" *Daily Express*, July 21, 2011.

13 Douglas E. White, *Abusing Donor Intent: The Robertson Family's Epic Lawsuit against Princeton University* (St. Paul, MN: Paragon House, 2014).

14 Susan N. Gary, "The Problems with Donor Intent: Interpretation, Enforcement, and Doing the Right Thing," *Chicago-Kent Law Review* 85, no. 3 (2010); Allison Anna Tait, "The Secret Economy of Charitable Giving," *Boston University Law Review,* May 10, 2017; Olivier Zunz, *Philanthropy in America: A History* (Princeton: Princeton University Press, 2012).

Current Debates Beg Deeper Questions

As the headline-making controversies over donor intent suggest, the public debates about donor intent in philanthropy today often become two-sided, black vs. white affairs. This is certainly true for the field-wide ethical debate over whether donor intent should be prioritized in philanthropy in general, and over which choices and whose voices should be privileged.

On one side, critics of an over-emphasis on donor intent[15] argue that donors already have too much control, that giving them the power to make key decisions about such significant resources is dangerous and ethically suspect in a democratic society.[16] They argue that philanthropy too often privileges donors' subjective interests over objective assessments of what is really needed to make an actual social impact. They also say donors shouldn't shackle organizations with too many restrictions, earmarks, or requirements, but should instead seek input from grantees and beneficiaries, and determine their intent through careful assessment of what sort of giving will create real impact. In this view, the public, not just donors, should have a clear voice in directing philanthropic choices.

On the other side, advocates for the primacy of donor intent[17] make both moral and practical arguments in favor of what they often call "philanthropic freedom." Some say curtailing donor intent is what is undemocratic because it restricts individual freedom, and doing so restricts the innovation and entrepreneurship that is vital to a thriving civil society. A few echo Carnegie in arguing donors should have the right to decide how to distribute their own money, either because "it's their money" and/or because they have proven they are best equipped to administer our social largesse for the public good. And many claim that curtailing donor intent and freedom has a chilling effect on charitably-minded donors – and potential donors – disincentivizing giving and ultimately leading to a significant reduction in philanthropy. They say trust the donors to make individual choices that will lead to the public good, just as we – as Adam Smith instructed – should trust businesspeople to pursue their self-interest in a way that collectively advances the public interest.

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15 For example, *The Givers: Wealth, Power, and Philanthropy in a New Gilded Age*, by David Callahan (New York: Vintage Books, 2018); *No Such Thing as a Free Gift: The Gates Foundation and the Price of Philanthropy,* by Linsey McGoey (London: Verso, 2016); Susan A. Ostrander, "The Growth of Donor Control: Revisiting the Social Relations of Philanthropy," *Nonprofit and Voluntary Sector Quarterly* 36, no. 2 (June 2007): 356–72.

16 Megan E. Tompkins-Stange and Robert B. Schwartz, *Policy Patrons: Philanthropy, Education Reform, and the Politics of Influence* (La Vergne: Harvard Education Press, 2020); Rob Reich, *Just Giving: Why Philanthropy Is Failing Democracy and How It Can Do Better* (Princeton: Princeton University Press, 2018).

17 For example, *Why Philanthropy Matters: How the Wealthy Give, and What It Means for Our Economic Well-Being*, by Zoltán J. Ács (Princeton: Princeton University Press, 2013); Protecting Donor Intent: How to Define and Safeguard Your Philanthropic Principles, by Jeffrey J. Cain (Washington, DC: Philanthropy Roundtable, 2012); How Great Philanthropists Failed and You Can Succeed at Protecting Your Legacy, by Martin Morse Wooster (Washington, DC: Capital Research Center, 2018).

Examples of this either/or debate about donor intent abound in contemporary philanthropic discourse. The push for "strategic philanthropy"[18] called for more proactive donors pursuing their own carefully devised approaches to the causes of their choosing, while the now-popular initiatives for more "trust-based" or "participatory" philanthropy[19] – which arose in part as a counter against the strategic philanthropy trend – de-emphasize exclusive donor control. In mid-2023, an op-ed in the *Chronicle of Philanthropy* co-authored by leaders of prominent institutions,[20] argued that philanthropy is best when donors are free to pursue their own passions and missions in a sort of "marketplace of ideas" in the sector. This classic "charitable cause pluralism" argument[21] was met with loud backlash from critics, saying that we shouldn't just let "the intentions of rich mostly white people in power" decide where philanthropic money flows.[22] In the U.S., this two-sided, heated debate over donor intent is embodied in two organizations on either side: The Philanthropic Roundtable defending donor intent as sacrosanct, and the National Committee for Responsive Philanthropy arguing for more community voice and less donor dominance.

Implicit in the arguments made by these two sides are assumptions – usually unquestioned – about what donor intent actually is, what it applies to, and how it functions in everyday philanthropy. And if we begin to interrogate those assumptions, we see that thinking carefully about donor intent requires a more subtle understanding, one that is transcends either-or.

More Than Mission

Donor intent is not only more complicated than the usual contentious or black-or-white debates portray it, it is also expressed in more diverse ways than we often acknowledge. Donor intent is often seen as only about "mission," or more specifically about the choice of cause. At times, consideration is widened a bit to "mission, vision, and values," which are often core directives set by the original donor(s).

But as you think more carefully about what donors might have opinions about or might want to control, you realize that donors can be directive about

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18 Paul Brest and Hal Harvey, *Money Well Spent: A Strategic Plan for Smart Philanthropy*, 2nd ed. (Stanford: Stanford University Press, 2018).

19 Cynthia M. Gibson, Chris Cardona, Jasmine McGinnis Johnson, and David Suarez, eds., *Participatory Grantmaking in Philanthropy: How Democratizing Decision-Making Shifts Power to Communities* (Washington, DC: Georgetown University Press, 2024).

20 Heather Templeton Dill, Kathleen Enright, Sam Gill, Brian Hooks, Darren Walker, and Elise Westhoff, "We Disagree on Many Things, but We Speak with One Voice in Support of Philanthropic Pluralism," *Chronicle of Philanthropy*, April 13, 2023.

21 Benjamin Soskis, *Charitable Cause Pluralism and Prescription in Historical Perspective* (Washington, DC: Urban Institute, 2023).

22 Vu Le, "No, Not All Philanthropic Views Are Good, and Many Don't Deserve Our Respect," *Chronicle of Philanthropy*, April 20, 2023.

way more than just mission and cause area.[23] Donor intent can refer to specific funding strategies, to preferred (or restricted) geographies for giving, to ideal forms of engagement with grantees and beneficiaries, to a level of tolerance for risk or an interest in innovation, to the intended role for future family members, and to much more. In fact, with the rise of more strategic and donor-engaged philanthropy, it is not uncommon for donors or foundations to have an explicit "theory of change" that they want deployed in all aspects of their giving.[24] Indeed, having this comprehensive statement of intent in all aspects of your giving strategy is seen as a sign of an engaged, proactive, conscientious donor.

The work of implementing or following donor intent – like all ethical situations – is more complex than just deciding between "do it" or "don't do it." We already know that donor intent is often vague, like Rockefeller's original mission statement, but it can also be extremely specific – e.g., "these funds must be used to help 7th-grade girls in Alabama succeed in math." It can be fixed and unchangeable for perpetuity, or open to exceptions and adaptations, or reinterpretations over time, either by design or by necessity. And donors can put in place mechanisms to control how their intent is executed, or they can leave that to others. For instance, we know that the enactment of donor intent is a key and primary indicator of any family foundation leader's success.[25]

Consider, as an example, a donor who has had personal or familial experience with cancer and wants to direct their newly established family foundation to that cause. They can decide to focus on cancer research over treatment, or maybe to focus only on cancer in women or children. They can direct the foundation to only fund certain innovations in research, or only certain institutional partners, or they can leave such choices up to the staff or outside experts. They can allow for general operating grants for research labs, or they can rule out certain expenses like support staff salaries. They can declare all of these choices as directives that the foundation must always follow, or they can give their future descendants serving on the foundation board some measure of discretion to adapt the goals or strategies as the world – and cancer itself – changes. And on and on. In this example and others like it, donor intent covers more than just the choice of cancer as a cause.

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23 Virginia Esposito, ed., *Splendid Legacy 2: Creating and Re-Creating Your Family Foundation* (Washington, DC: National Center for Family Philanthropy, 2017); Curtis W. Meadows, "Philanthropic Choice and Donor Intent: Freedom, Responsibility, and Public Interest," *New Directions for Philanthropic Fundraising* 2004, no. 45 (September 2004): 95–102.

24 Michael Quinn Patton, Nathaniel Foote, and James Radner, "A Foundation's Theory of Philanthropy: What It Is, What It Provides, How to Do It," *The Foundation Review* 16, no. 1 (June 1, 2015).

25 Joseph Palus, "Role of the Foundation Leader in Defining Grantmaking Areas of Interest and Strategy," in *Leadership in Nonprofit Organizations: A Reference Handbook*, ed. Kathryn A. Agard (Thousand Oaks, CA: SAGE Publications, Inc., 2011), 719–26.

Goal and Method

We need a deeper understanding of donor intent to move beyond the simplified debates, to inform complicated and contentious disputes, and to advance our scholarship of such a central ethical concept in philanthropy. We need to disentangle its many possible expressions and identify its core dimensions and variations. This article develops that deeper understanding by drawing from existing uses of the term, as well as conceptual explorations of its range of potential meanings. It devises two typologies meant to capture, first, the full range of possible expressions of donor intent in philanthropic practices, and second, the core dimensions on which those diverse expressions can vary.

Our purpose here is the theoretical development of a concept that is central to many ethical dilemmas and debates in philanthropy, as well as to the emerging interdisciplinary field of philanthropic studies. We hope to advance thinking about donor intent, and to allow for more structured and subtle discussions of the ethical complexities of philanthropy. The goal here is not to propose an explanatory model meant to hypothesize when donor intent will arise or will matter in certain ways and when in others, nor to offer a normative theory of whether donor intent should or should not be prioritized in philanthropic work (as many of the proponents and critics discussed earlier have already done). Rather, we want to offer greater conceptual specificity, and a set of clear categories, that can then have potential benefits for both practice and scholarship.

We develop these typologies using both theoretical reasoning and a structured review of existing literature and current usage in public and professional philanthropic discourse. We started with our own initial identification of key expressions and categories derived from years of observation of debates and discussions about philanthropy, and then enlarged and refined this categorization through a scoping review[26] of uses of donor intent – and related terms – over the past two decades in key practitioner and scholarly forums.

The usage analysis and scoping review first identified a few keywords related to donor intent, including: "donor intent," "donor control," "funder intent," and "donor restriction(s)." These terms were then thoroughly searched in three academic databases - Scopus, Web of Science, and ScienceDirect – two key practitioner-focused platforms – stories in the Chronicle of Philanthropy, and writings collected by the organization, Philanthropy Roundtable – as well as several other practitioner publications.

Only writings published in English during a twenty-year period – January 2004 to April 2024 – were included in our analysis. Some uses of these search terms were excluded, including: if the term was used in relation to topics such as studies of blood or organ donations, of governmental support for international economic development and foreign aid, or of ecological studies of food sharing.

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26 Micah D. Peters et al., "Scoping Reviews: Reinforcing and Advancing the Methodology and Application," *Systematic Reviews* 10, no. 1 (2021): 1–21.

After excluding some publications using the above criteria, on the academic side we analyzed a total of 56 peer-reviewed journal articles and 18 books or book chapters, most of which contained multiple uses of the relevant concepts. The journals were in different disciplines, such as public management, law, management, business and economics, political sciences, and sociology. The two most common were *The Foundation Review and Nonprofit* and *Voluntary Sector Quarterly.* These uses were uploaded to the Covidence literature review platform for systematic summaries that clarified different meanings of donor intent-related terms.

For practitioner publications, we used the ATLAS.ti software for qualitative coding and analysis. A total of 451 uses of donor intent-related terms were analyzed this way. The most common sources were the Roundtable's "Donor Intent Hub" and "Donor Intent Resource Library" databases.

Expressions of Donor Intent

As noted, too often people assume donor intent is solely captured in a mission statement. The heart of a donor's intent can certainly be expressed in the core mission of some institution or fund they establish. But not all donors who have intentions for their giving create mission statements, let alone formal processes or organizations to implement those. And even mission statements usually have multiple dimensions that can be considered – or potentially changed – separately. For example, as missions get adapted over time, they might retain some original elements (like a cause focus) but revise others (like the geographic focus).

Thinking about how donor intent might be expressed beyond mission statements, the potential complexity of donor intent increases even further. In fact, observing philanthropic practice closely can show how the designs and plans of a donor can affect most every aspect of the giving process. Donors can express clear opinions about many aspects of their giving, from the how, to the what, to the where, and even the why.

A useful and accurate understanding of donor intent needs to allow for this diversity of potential areas of expression. In Table 1, we offer an attempt to list the range of potential areas of expressions of donor intent, which fall into three categories: 1) the focus and principles of a donor's giving, 2) a donor's choices about governance and operations, and 3) a donor's preferred strategies and specific giving practices. This list was developed initially based on a careful reflection on ways donors in observed practice have articulated their intent, and then refined to make sure the list captured the multiple expressions found in our usage review.

Table 1: Potential Expressions of Donor Intent

Category	Area of Expression	Description
Focus & Principles	Mission	Core purpose, intended impact, or public goal of giving
	Vision	Ideal world or outcomes giving can help create
	Values	Guiding principles and beliefs informing giving
	Causes/Issues	Areas of giving or programmatic foci
	Place	Geographic focus or restrictions on giving
	Legacy	Desired, enduring impact or reputation from giving
	Equity Orientation	Prioritization of equity, diversity, justice in giving
Governance & Operations	Vehicles	Choice of, rules for various giving vehicles
	Staffing	Leadership, management, advising structure
	Board	Structure and roles of board members
	Family Roles	Eligibility, roles, and engagement by family members
	Partners	Roles of other formal partners and other stakeholders
	Transparency	Degree and type of disclosure or access
	Investing	If endowed, policies and guidelines for investments
	Contingency Planning	Plans for possible future scenarios
Strategies & Practices	Style/Method	General strategies and preferences for how to give
	Rules/Guidelines	Specific instructions or restrictions for how to give
	Theory of Change	Model for how strategy leads to desired outcomes
	Innovation	Willingness to try new methods in giving
	Risk	Tolerance for risk in giving or in investments
	Recipient Engagement	Approach to partnerships and engagements
	Collaboration	Strategy for working with other stakeholders
	Learning	Processes for learning and improving as a donor
	Evaluation/Measurement	Processes for evaluating results of giving
	Time Horizon	Preference for limited-life or perpetual giving

It is important to recognize that this is a list of potential expressions, and any particular donor (or giving institution created by a donor) will likely only emphasize their intentions for some of these aspects of giving. The other aspects not dictated or encouraged explicitly can develop over time, remain more implicit, be determined by others involved, or solidify in other ways outside of donor control. In fact, in many cases, donors are fairly narrow about the elements of giving that they express clear intentions for. Also, not all of these areas of expression are relevant in every giving situation and for every donor. Not all

donors create endowed funds, for instance, so items related to those (e.g., staffing or investment preferences) are not part of their donor directions. And not all donors are open to explicit learning or evaluation, or other practices.

The diversity and size of this list show just how complicated donor intent is. Again, it potentially affects all aspects of the philanthropic process. It can involve both internal elements, such as how family should be engaged, and external elements, such as the ideal social impact from giving or relationships with outside stakeholders. Donor intent can influence very practical and short-term choices as well as general and long-term ones. In fact, this list is likely not exhaustive, and our purpose here is to offer it as a starting place for future refinement and application.

Some might protest that this list expands the notion of donor intent too far, arguing that the concept should be restricted to only general or high-level goals from donors, or only to the most essential choices or the most fervent directives of donors. But the fact is that, in the daily work of giving, donors might have clear and strong opinions about any of these areas, and those opinions usually carry weight and get implemented. Our understanding of donor intent needs to take account of all potential expressions like this – again, regardless of our normative position about whether there should be more or less weight given to such expressions. The following sections consider possible expressions in each broad category.

Focus and Principles

Of course, statements of mission and ultimate vision are often key expressions of a donor's intent. These can be very specific or very general. They might just outline a broad goal like providing health care to children, or they might detail much more explicit intended impacts from giving. Values are also one of the more common areas of donor intent expression, as donors often see their giving as a vital extension of their core personal values.[27] These values are usually meant to be infused across multiple parts of giving – to influence all elements of a donor's foundation, for example – so this expression of intent can have ripple effects.

Causes or issue areas are another very common element of giving that donors specify or seek to control. This makes sense as these are often tied to the donor's personal passions or experiences – e.g., the program areas of a family foundation are often connected closely to the causes that matter most to the original donor(s). The importance of this sort of choice to donors is one reason why workplace giving programs have increasingly allowed individuals to earmark which causes or organizations their contributions support.[28] Geography might be fully or partially designated and restricted based on donor wishes, such as when a donor gives in the community where they live or where they've earned their

27 Ibid., 23E.

28 Emily Barman, *Contesting Communities: The Transformation of Workplace Charity* (Stanford: Stanford University Press, 2006).

wealth. Also, the geographic designations can range from very local to explicitly global – e.g., some donors such as the Gates family are deliberately global in their intended geography.[29]

Legacy is a concept that is frequently tied to intent, as it is in a sense the living-on of intent, and is seen as closely tied to the original donor or the past history of the family. Legacy can arise unintentionally or by default, of course, and can be negative.[30] But for many donors, their enduring legacy is something they hope to control – or at least to set in motion on purpose. And in many philanthropic families, legacy is explicitly shaped by the successive generations. Finally, we added a category for "equity orientation" after finding in our systematic review that this was an area that donors increasingly have strong views and directives about. While a focus on equity, diversity, justice, or related goals is often counterposed to an emphasis on what powerful donors want, for some donors, it is at the heart of what they want to accomplish with their giving, and they want this orientation to affect all aspects of how they give.[31]

Governance and Operations

A decision about giving that donors usually have much control over, and views about, is the choice of philanthropic vehicle. This can at times be driven solely by legal considerations or situational factors, but donors usually are intentional in this choice. And in today's philanthropic landscape – with new vehicles being created, such as charitable LLCs, new types of collaboratives, and so on – there are an increasing number of options for donors to choose from and/or to combine.[32] Donors might explicitly decide to create, for instance, a main foundation for the whole family as well as separate DAFs for individual family members. Donor intent can be expressed here also in terms of specific rules or guidelines about the use of different vehicles for different purposes and by different family members or descendants.

The issue of staffing, per se, is not one that most donors will need to decide whether they want to control or not, as most donors do not establish staffed institutions – even the majority of foundations are unstaffed.[33] But if there is such an institution, donors will at times want to shape that organizational structure, including the role and selection of leadership. For most donors above

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29 Ibid., 15M.

30 Saphira Maude Baker, Kelly Chopus, Casey Cox, and Anita McGinty, "Unplanned Donor Legacies: How to Avoid Them, and How One Family Foundation Corrected Course with an Evaluation," *The Foundation Review* 10, no. 3 (September 1, 2018).

31 Cheryl Dorsey, Jeff Bradach, and Peter Kim, "The Problem with 'Color-Blind' Philanthropy," *Harvard Business Review*, June 5, 2020.

32 Nicholas Tedesco and Michael P. Moody, "The Future of Family Philanthropy," *Stanford Social Innovation Review*, September 12, 2022.

33 Susan P. Price and Alice Buhl, *Current Practices in Family Foundations: A Study in Support of the Pursuit of Excellence Assessment Process* (Washington, DC: National Center for Family Philanthropy, 2009).

a certain level of giving, also, their "staffing" choices might be focused on the intended role of philanthropic advisors. Issues of governance apply to an even broader range of philanthropic vehicles, and governance can be a clear area of donor preference. This might relate to the composition of a board of a family foundation, the roles and eligibility of family members to participate in DAF decisions, or the role of non-family members. It could also cover the decision rules for giving, for situations in which more than just an individual donor is involved – e.g., is unanimity of the board required, does anyone have veto power, etc. More broadly, donors can express their intent about the engagement of other stakeholders or partners, such as with institutions where they establish scholarships, or on-going relationships with community foundations.

With current trends and popular critiques calling for more transparency by donors, they are even more likely today to have an opinion about the level of disclosures and public access they grant to their decision-making, internal processes, or other information.[34] Another trend is the rise of "impact investing" – or what used to be called "mission-related investing" among foundations – and accordingly, this has become an even more common area of expression of donor intent among those donors who use endowments. Donors might be very explicit about how and to what extent they use environmental screens on their investments, for instance, or they might refuse on principle to put any restrictions on investments, arguing for a sole focus on maximizing returns to increase the giving budget. Both are expressions of donor intent. Finally, planning for possible scenarios, and for the future of a donor's giving or giving institution, is a facet of philanthropic work that donors can seek to control. They might insist on establishing clear plans in case of external threats or changes in the family, or they might want legal safeguards to ensure their intent is carried out, such as in the sort of cases mentioned earlier.[35]

Strategies and Practices

The "how" of giving is something about which donors very often express their intent. Donors frequently set the general strategy for their giving, either explicitly in planning or implicitly through the style and method they use – and that later generations usually try to follow.[36] This might include preferences like giving to the same trusted institutions or spreading gifts around to many organizations. Donors might give directions to conduct thorough due diligence before giving, or they might intentionally "go with my gut." A range of more specific strategic choices made consciously by donors include rules or intended guidelines such as only supporting programs, not operations, structuring gifts in careful ways to ensure continued donor control, making only matching

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34 National Committee for Responsive Philanthropy, *Criteria for Philanthropy at Its Best* (Washington, DC: Author, 2009).

35 Ibid., 14G.

36 Peter Frumkin, *Strategic Giving: The Art and Science of Philanthropy* (Chicago: University of Chicago Press, 2009).

grants, etc. These specific donor-prescribed rules and guidelines can be positive – e.g., "we will fund grassroots organizations with multi-year grants" – or negative – e.g., "we do not give endowment grants." Even ostensibly "no strings attached" giving often involves some measure of donor intention.[37] As suggested, translating original donor intent into on-going strategy can become a long-term family process.[38] The most explicit form of strategic plan for giving is a formal theory of change or logic model that lays out how certain intended outcomes or impacts will ideally result from particular interventions and activities – input to output to outcome to impact.[39] This intentional strategic model is usually developed either with deep donor involvement, or with following the original donor intent clearly in mind.

Donors vary in how willing they are to try new methods and to change their existing approach or method, and this openness to innovation is itself a potential expression of donor intent. Some donors insist on always giving in one tried-and-true way, while others are constantly looking for a new funding tool or a creative new idea. This willingness to innovate is also related to a donor's appetite for risk, an element of their intent which can apply to both risks in their giving and in their investments. The importance of this expression of donor intent is growing, as newer donors have been found to be more eager to take risks.[40]

Many donors, whether giving large amounts or not, make explicit choices about how they want to engage with the people and groups they support. Some desire a hands-on relationship with recipients, and some prefer to be hands-off – but to the extent that they specify their ideal engagement they are expressing donor intent. And this is one area in which donor intent – or donor control, as it is often seen from the recipient's perspective – can have tremendous consequences for the exercise of power in giving.[41] Foundations that institute methods like "trust-based philanthropy" or "participatory grantmaking" are making an explicit choice about their ideal relationship with grantees.[42] Intent around relationships also arises in donors' preferences for whether and how to collaborate (or not) with other stakeholders, such as other donors or foundations.

In recent years, learning and evaluation have become a more salient part of philanthropic practices, and are becoming more common areas of donor intent

37 Claire Dunning, "No Strings Attached: Philanthropy, Race, and Donor Control from Black Power to Black Lives Matter," *Nonprofit and Voluntary Sector Quarterly* 52, no. 1 (January 6, 2022): 29–49.

38 Kelly C. Medinger and Angela R. Logan, "Creating Choices before Making Choices: One Family Foundation's Journey to Finding a Strategic Focus," *The Foundation Review* 7, no. 4 (December 1, 2015).

39 Ibid., 24.

40 Sharna Goldseker and Michael P. Moody, *Generation Impact: How Next Gen Donors Are Revolutionizing Giving* (Hoboken, NJ: John Wiley and Sons, 2021).

41 Adam Meiksins, "10 Ways Donors Can Be Less Than Helpful," *Nonprofit Quarterly*, April 14, 2015.

42 Ibid., 19.

expression. Donors might have well-defined ideas for how they want their giving to adapt based on learning. They might set up their foundation as a "learning organization" with feedback loops of continuous learning and adaptation.[43] Other donors might be more informal or unintentional about learning, or have no intention of it at all. Similarly, the openness to, and approach for conducting evaluations and measuring results, determining success or failure, is an increasingly common area of donor direction in the giving process.[44] Finally, specifying the time horizon for their giving vehicle(s) is also a popular topic of donor control today. It is common now for donors to make very explicit choices about whether they want to establish a vehicle that gives on in perpetuity, or whether they want to set a limited lifespan and "spend down" or "sunset" at some point. Foundations often establish plans for what will happen if they have to, or choose to, close down. This, too, is an example of donor intent.

Core Dimensions of Donor Intent

As noted, the way that donors express their intent about any of those aspects listed above can vary from aspect to aspect. They can be stringent and unwavering about some things, and flexible about others. Some aspects of their wishes they want to live forever, and some they leave open to change.

To help get a better handle on these dynamics, and deepen our understanding of donor intent in general, we need to identify and categorize the core dimensions on which these variations in donor intent occur. Table 2 summarizes four such dimensions: specificity, openness, permanence, and influence. Each dimension is presented in terms of a continuum along which expressions of donor intent might vary, and examples of the poles of each continuum are provided.

This typology of dimensions was developed in a similar fashion to the list of areas of expression in Table 1. And like that previous table, it is meant to help improve our practice and actual ethical debates about donor intent, and to inform future scholarship, but it is not offered as a definitive list. We invite refinements and revisions based on attempts to apply this conceptual framework.

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43 Jennifer Chubinski, Kelley Adcock, and Susan Sprigg, "Challenges and Opportunities in Philanthropic Organizational Learning: Reflections from Fellow Grantmakers," *The Foundation Review* 11, no. 1 (2019); William M. Plater and Genevieve G. Shaker, "Artificial Intelligence and Philanthropy: The Cybernetics of Philanthropy from 1974 to 2024," *Philanthropia* 1, no. 1 (November 29, 2024).

44 Helmut K. Anheier and Diana Leat, *Performance Measurement in Philanthropic Foundations* (London: Routledge, 2019).

Table 2: Dimensions of Donor Intent Variation

Specificity	*Degree to which a donor is explicit about their intent (any aspect).*	***Vague*** ⟷ ***Explicit*** "Promote the well-being of humanity" ⟷ "Give books to orphan children in Honduras"
Openness	*Degree to which a donor's intent can be changed or deviated from.*	***Changeable*** ⟷ ***Restricted*** "Adapt strategy to fit nonprofit needs" ⟷ "Never fund general operations"
Permanence	*Degree to which a donor's intent is meant to endure.*	***Time-limited*** ⟷ ***Perpetual*** "My children can change our strategy" ⟷ "We will always give in Chicago"
Influence	*Degree to which a donor enforces the following of their intent.*	***Hands-off*** ⟷ ***Controlling*** "At the discretion of the grantee" ⟷ "Approval from Mrs. Jones required"

In theory, all of the various expressions of donor intent in Table 1 could vary across each of the four dimensions in Table 2. To take just one example, a donor's original choice of causes can be vague or explicit, can be restricted or open to change, can endure perpetually or be time-limited, and can be enforced in a domineering way by donors or left uncontrolled.

In any given case or for any particular donor (individual or institutional), some dimensions might be much more important and relevant than others, and the expression of donor intent might be on the very edge of one continuum but in the middle of others. These descriptions of the core dimensions of variations do not only have to be applied post facto. They can also have practical use to donors (or their descendants or institutions) as they decide how they want to establish their donor intent priorities in the first place.

The following sections explore each core dimension of variation in more depth.

Specificity

This dimension refers to how vague or how explicit the donor intent is on some aspect of giving. For example, John D. Rockefeller's original foundation goal to serve the "well-being of mankind" is a good example of a vague intent about mission. A specific intent about the rules of board governance might be when the founders insist that "the board will always make grant decisions by majority vote of all trustees present in the same room." Also, recall that any given donor's intent about some aspects of giving can be very explicit (e.g., "give books to orphan children in Honduras") while other aspects are left quite undefined (e.g., no indication of preferred strategies used to help those children or how much to engage with local Honduran stakeholders).

At times, when a donor is vague about their intent for some aspect of giving, it is deliberate. Insurance magnate John D. MacArthur, who co-founded the John D. and Catherine T. MacArthur Foundation, stated "I'll make [the money]. You people, after I'm dead, will have to learn how to spend it".[45] For many donors like this, the lack of specificity is, in a way, their intent. They want to give discretion to others to make good choices without constraint.

Other times, unspecific intent is more unstated intent – and this is all too common in the annals of family philanthropy. While this also provides a measure of freedom to those charged with carrying on the donor's legacy of giving, the vagueness can often be a source of frustration. For example, the David and Lucille Packard Foundation heirs actually wished for their parents to have been more specific in the practical aspects of their legacy.[46] Like other multi-generational giving families, they were left to divine many parts of donor intent by inferring it from the original donors' actions, from their own memories of conversations, etc. Some families are left without even those indicators – or they have some indication of specific intent in one area, like geographic or cause focus, but not in others.

In his seminal book on foundations, Joel Fleishman[47] suggests avoiding overly specific directives to prevent donor hubris, but then later acknowledges that some amount donor guidance can provide essential focus. And we know that there are plenty of examples of problems arising when donors are too vague and when they are too explicit.

As with other dimensions, we are not making any claims here about which end of the continuum is right or wrong. Many observers conclude the ethically best path is that donors be specific about those aspects of their giving that they want most to specify, those they feel strongest about, while inviting input and allowing wide latitude on other aspects.

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45 Adam Meyerson, "When Philanthropy Goes Wrong: Henry Ford Didn't Intend to Be 'Giving Folks Things,'" *Wall Street Journal*, March 9, 2012.

46 Susan Packard Orr, "Things We Wish Our Founders Had Told Us: Interpreting Donor Legacy," *National Center for Family Philanthropy,* November 29, 2016.

47 Joel L. Fleishman, *The Foundation: A Great American Secret; How Private Wealth Is Changing the World* (New York: PublicAffairs, 2009).

Openness

This dimension refers to how much any given aspect of donor intent is open to revision, deviation, or exception. It also covers how open the donor's intent is to input from, or even outright modification by other parties, whether internal (family members, staff, advisors) or external (grantees, beneficiaries, other partners, and stakeholders). Openness is often (though not always) what we mean when we use the word "discretion" in talking about donor intent. If a donor's intent is more open, it allows for more discretion, something that advocates for more discretion argue is important to adapt to changing times or to incorporate innovations.[48] Note, though, that a donor's intent can be changed by the donor as well, and many living philanthropists embrace this openness to adapt their giving and refine their intent.

It is common for philanthropic institutions to change over time, whether in some aspect like mission that affects the entire organization, or in something more specific like the approach to formal evaluation or impact investing that might emerge in response to field trends.[49] And most philanthropic practitioners would likely say that being too restrictive about too many elements of giving will eventually lead to trouble – e.g., an inability to adapt as social problems change or as new and better solutions are invented. But having too much openness can also cause problems such as a lack of real impact due to the lack of sustained focus, or greater disagreements among descendants or staff with different opinions about how to use their freedom to adapt.[50]

Note that "openness" and "specificity" are distinct dimensions. It is probably most common that if a donor is very specific about some aspect of their giving, they will not be very open about that as well – e.g., "Our family will always support the camping program of the Boy Scouts but no other parts of the organization… and this is my final decision!" But it is also possible that a donor can be specific yet still open – e.g., "We dedicate our entire giving budget to supporting whale conservation in the Pacific Ocean, but leave it to the discretion of a team of marine biologists how best to distribute that money." And it is possible, though rare, for a donor to be vague but also closed to any possible exception or outside input. Many nonprofits prefer, of course, that donors are both vague and open – e.g., when DAF creators tell the community foundation sponsoring the fund that they should "give generously for whatever the community residents say they need."

The openness dimension is often the focus of the contentious legal disputes that bring donor intent into the headlines. In these cases, donors or their family or representatives often claim that the nonprofit partner is "deviating from the original intent" of a gift, or "not following the spirit of the donor's wishes." However, except in cases of extreme openness or extreme restrictions,

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48 Kathy Annette, Wade Fauth, and Allison Ahcan, "The Blandin Foundation: The Journey to a Theory of Philanthropy," *The Foundation Review* 7, no. 4 (December 1, 2015).

49 Renée A. Irvin and Eren Kavvas, "Mission Change over Time in U.S. Family Foundations," *Nonprofit and Voluntary Sector Quarterly* 49, no. 1 (August 12, 2019): 5–28.

50 Ibid., 23M.

the practical question usually comes down to whether the changes being made by the recipient institution – often done for good reason, to adapt to new circumstances or meet emerging needs – are appropriate interpretations and adaptations of intent. The doctrine often used by courts to decide such cases, as we noted earlier, is "*cy près*" or "as close as possible." A related legal guideline is the "doctrine of deviation," which allows courts to change something specific about a donor's provisions for a gift, if circumstances make the original terms impractical or counterproductive to the original purpose.[51]

One of the most famous and contentious donor intent cases, the fight over the Barnes Foundation, illustrates the central importance and complexity of this openness dimension.[52] Albert C. Barnes was a visionary but eccentric collector of modern art, who amassed an unparalleled collection and displayed it in a quirky way in a small museum outside Philadelphia. Barnes stipulated a great many details about the future of the collection and the foundation that he created to manage it – including that it would never be loaned or moved out of the original building. In this way, using the typology here, we can label Mr. Barnes' donor intent as both very specific and not very open. However, financial troubles and other issues after Barnes' death led trustees to propose a move to a new location in central Philadelphia. This led to an extended legal (and ethical) fight over whether such a change should be allowed, even if necessary for the future of the institution, when the intent was so clearly restricted. In the end, and partly by invoking the doctrine of deviation mentioned above, the move was allowed, and the Barnes Foundation collection is now a major tourist attraction in the city.

Another case that is often presented as the opposite of the Barnes scenario is that of the Daniels Fund.[53] Started by Bill Daniels, a World War II veteran who made his millions in cable television, the Fund was called out in the years after his death for moving too far away from "what Bill would want." The Fund's leaders responded by engaging in a deliberate attempt to investigate and clarify their donor's intent, going back to primary source documents and details about Daniels' life to decide which changes he would have liked and which he wouldn't have. In this case, there seemed to be a large measure of openness to the intent originally, but those charged with implementing the intent were eventually forced to limit that openness in order to meet what they saw as their ethical obligations as stewards.

Permanence

This dimension refers to how long any given aspect of donor intent is meant to be implemented and enforced. The default with most expressions of donor intent is that they are meant to be permanent – though this is often assumed

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51 Ibid., 14T.

52 John Anderson, *Art Held Hostage: The Battle Over the Barnes Collection* (New York: W.W. Norton & Company, 2003).

53 Evan Sparks, "Back to Bill," *Philanthropy Magazine*, Fall 2011.

rather than stated outright. But donors can potentially put a very explicit time limit on any of their intentions – and this they usually do state clearly.

For formal giving vehicles like foundations or DAFs, this dimension is most notably expressed in the decision to exist in perpetuity or not – the "time horizon" expression of donor intent listed in Table 1. As noted, more and more donors are choosing to make their vehicles "limited life," emphasizing "giving while living".[54] And advocates for this can be found on both sides of the broader debate with the philanthropic sector about donor intent, with one side saying perpetuity increases the chance of straying from the donor's wishes, and the other side saying perpetuity preserves donor power and control for too long. However, there are still plenty of donors choosing perpetuity for their vehicle.

Again, though, the dimension of permanence applies to many other expressions of donor intent beyond just this ultimate time horizon choice. Aspects of governance, strategy, and even core principles can potentially be meant for only a limited time. Also, it is common for donors to intend some elements of their giving to be permanent and some temporary. A foundation might state that a certain principle must endure – e.g., "our foundation's commitment to diversity and inclusion will be an enduring value" – but then put an explicit end date on other parts of giving – e.g., "when the third generation of the family comes on the foundation board the requirement to give only in the greater Houston area will be lifted."

The loudest voices on this dimension of donor intent are those who see permanence as a problem. They argue that donors who insist their wishes need to be implemented in perpetuity take the necessary tool of flexibility out of the hands of those who must do this implementation. This means future needs might go unmet, potential opportunities for improvement or greater efficiency might be lost, and future generations might have little motivation to get involved if future adaptation is impossible. In fact, when a donor's intent is on the right side of each of the first three continua of dimensions – when it is explicit, restricted, and perpetual – this severely limits (or even halts) discretion of any sort.

The most dramatic examples of these challenges with permanence are cases in which a donor's permanent intentions simply cannot – or should not – be followed anymore. This is the famous "dead hand" problem often raised in legal cases around philanthropic institutions.[55] Think of donors who set up scholarships for children to attend "whites only" schools, or to support research into diseases that have been eradicated. Or consider the example offered by one of the most famous anti-perpetuity donors of all time, Julius Rosenwald,[56] who described an endowment created in 1851

54 Ray Madoff and Benjamin Soskis, eds., *Giving in Time: Temporal Considerations in Philanthropy* (Lanham, MD: Rowman & Littlefield Publishers, 2023); Heidi Waleson, Giving While Living (New York, NY: The Atlantic Philanthropies, 2017).

55 Evelyn Brody, "From the Dead Hand to the Living Dead: The Conundrum of Charitable Donor Standing (Symposium)," 41 *Georgia Law Review* 1183 (2007).

56 Julius Rosenwald, "Principles of Public Giving," *The Atlantic Monthly*, May 1929.

to assist travelers passing through St. Louis on the famous Oregon Trail. The mission of that endowment vanished a few years later. More broadly, Rosenwald and others consider perpetual giving institutions ethically suspect for many reasons, not least of which is that they preserve for the future money that could be spent on urgent problems today.

Still, there are also strong advocates in favor of permanence in at least some aspects of a donor's intent. Some say it helps families who wish to create an enduring philanthropic legacy. Others point to ways it can free those who must implement a donor's vision, not just handcuff them. Serazin,[57] for instance, insists that permanent giving plans and directives not only provide crucial guidance to staff or later generations, but can foster creativity and avoid the dangers of "short-term thinking."

As with other dimensions, there is a strong appeal to taking a middle ground position. Donors can designate the parts of giving that are most crucial to them as permanent, but allow others to end or to change over time – e.g., to address new social challenges, to incorporate new family interests, and to meet the evolving needs of recipients. And again, we can see how the different dimensions are distinct – being explicit and unchangeable does not necessarily mean being permanent, even if donors often choose those ends of the spectrums together.

Influence

This dimension refers to the extent to which donors exert control and influence over the implementation of their intent. On one end are the hands-off donors who – while they still might have very clear and directive donor intentions – do not feel they need to be involved in enforcing those plans or rules. They might have a DAF at a community foundation and occasionally give "advice" on where to distribute funds, but they are fine with those funds going out anonymously (giving them less chance to influence their use once given), and/or they give wide latitude to the foundation staff to pick causes or organizations based on what the community really needs.

On the other end are the deeply engaged – and at times domineering – donors who want to oversee every aspect of their giving to ensure their wishes are followed. To be clear, calling these donors "controlling" is not meant to portray them negatively in all cases. Sometimes this control is expressed more as a desire to be personally engaged and involved in a way that the donor feels can make giving more successful for everyone. However, many of the critiques of philanthropy do focus primarily on this dimension of donor influence, arguing that trying to actively enforce one's donor intent exacerbates already problematic power imbalances in the giving relationship, and discounts the expertise and autonomy of the other parties in that relationship.[58]

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57 Andrew Serazin, "Donor Intent is Critical to Strategic Philanthropy," *Stanford Social Innovation Review,* Summer 2021.

58 Ibid., 15O.

The influence that donors might exert is often direct, with living donors being hands-on in their oversight. But influence can also be indirect through how the donor establishes procedures or institutions to exert this control in their stead and/or in the long term. We can see this indirect form of influence in family foundations or multi-generational institutions such as DAFs or others. Once the founding donor(s) have passed, their level of desired influence over implementing their intentions lives on in how the descendants act and how the institution gives.[59]

Donor influence over the enforcement of their intentions can also be seen in cases of donors regulating recipients, even after the donor has become a "dead hand" in control. They might create so-called "donor governance" mechanisms that require nonprofits to check with the donor or their descendants before any major decisions or changes in the use of funds, or they may require continual transparent reporting by the funded organization of how funds are being used in line with the donor's original wishes.[60] We also see this enduring control by donors in cases where the donor or their descendants allege a breach of donor intent, and try to enforce adherence to it through the courts. This was the case with the Robertson family's lawsuit against Princeton mentioned earlier, where the university eventually returned millions to the family. A similar dispute has arisen between the Pearson family and the University of Chicago, where the family says they lost confidence that the university would follow intent and demanded the return of their gift.[61] That case has yet to be resolved. These cases raise yet another legal concept that is relevant for understanding donor intent: "donor standing," the legal right of donors to bring such suits over adherence to their intentions.[62]

Finally, we again see how donors tend to choose being on one end or the other of the different dimensions – but that the dimensions remain distinct and donors can make seemingly opposing choices on different dimensions. Being interested in more influence often coincides with a donor wanting to be more explicit, more restrictive, and more permanent in various aspects of giving. But a donor could potentially be very engaged in implementing their intentions even when those intentions are open to change and time-limited. This is why keeping the four dimensions separate is essential if we want this deeper conceptual understanding of donor intent to be accurate and useful.

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59 Ibid., 10M.

60 David Yermack, "Donor Governance and Financial Management in Prominent U.S. Art Museums," *Journal of Cultural Economics* 41, no. 3 (August 1, 2017): 215–35.

61 Dawn Rhodes, "Pearson Family Members Foundation Sues University of Chicago, Aiming to Revoke $100M Gift," *Chicago Tribune*, May 23, 2019.

62 Ibid., 55.

Conclusion

Donor intent is at the heart of many of the most contentious and complex ethical debates in philanthropy – and the crux of many of the court cases too. Yet our understanding of donor intent is not up to the task of helping us navigate these debates – let alone informing further scholarship on this central ethical concept in philanthropic studies.

This article sought to develop a deeper, more multi-faceted, and more useful understanding of donor intent. It looked to answer two basic yet complicated questions: how does donor intent get expressed? and how do these expressions vary? We develop here a conceptual framework that details the range of potential expressions of donor intent – that is, the myriad aspects of giving that intent might affect – and it outlines the four core dimensions along which any of those expressions of donor intent might vary.

Donor intent can affect most aspects of giving, so our list of potential expressions of donor intent is extensive and ideally comprehensive. But any given donor is unlikely to express their intent about more than a few of these elements of the giving process – in fact, many donors say little about their "intentions" when giving, and we can only infer those intentions from their actions. Nevertheless, a conceptual framework like this needs to account for all the possible expressions.

Each of the different areas of donor intent expression can also vary along the continuum of each of the four dimensions: Specificity, Openness, Permanence, and Influence. However, again, in any given case where some element of donor intent sits within the range of these dimensions, it is probably going to be unclear and unstated – or it might be obvious and well-defined on one dimension and uncertain on others. But the typology of four dimensions is meant to capture all possibilities in theory.

The four dimensions are distinct, and any given expression of donor intent will vary in independent ways on each dimension. However, in practice, we see patterns in where expressions of donor intent fit along the four continua. For example, foundations that are very explicit about their geographic focus or their approach to engaging with recipients seem more likely to be more restrictive about whether these preferences can be changed. They are probably more likely to insist that these intentions remain in place permanently, and to want to be actively involved in enforcing them. But there are many other possible combinations of the different dimensions. And it is an empirical question now how likely the scenario above is among donors – a question we hope our framework can now help future scholars answer.

This conceptual framework is based on careful research and thought, but we present it here as a proposed typology that invites refinement from others. First, we hope scholars are now able to use this framework to inform future research. This might include collecting data on the frequency of different areas of expressions of donor intent among different philanthropic actors – e.g., individuals vs. institutions, donors from different cultures, donors giving at

different levels, etc. Research could look at the patterns across the different dimensions, answering questions such as whether donors with vague expressions of intent are also more likely to be hands-off, and so on. Qualitative analysis could examine differences in the ways that donors describe their intent, and whether these change in certain real-life circumstances, such as major stages in a donor's journey or in moments of crisis or dispute. Ethics scholarship can consider the implications of how donor intent is expressed for various moral dilemmas and disputes in the field, from power dynamics between donors and recipients, to the trade-off of philanthropic freedom and public accountability, and more.

Additionally, we hope this framework can benefit philanthropic practitioners and practice, and can improve our often-unstructured public debates about this fuzzy concept of donor intent. Donors might find this framework useful as they think about their own intent. What aspects do they care most about? And how explicit, restrictive, or involved do they want to be? Those charged with implementing a donor's intent – from descendants to staff to advisors and others – can have better conversations about the nature of that intent, and better grasp the amount and type of the discretion they have (or don't have). The framework could perhaps even be useful in legal cases, defining the issues involved or offering ideas for which criteria to emphasize in order to resolve disputes.

This framework for understanding donor intent will be needed even more as recent trends in philanthropy continue to add both weight and complexity to donor intent issues. Debates over questions like "Do donors have too much control?" or "Are restrictions on giving bad?" or "Who should determine the best strategy to solve a social problem?" are more prominent and pressing than ever. Calls for transparency by donors are pushing for more detailed explanations from them about their intent. The rising generations of new donors seem to be prioritizing different aspects of intent than previous generations. And the increasing pushback against donor control, as well as the popularity of new approaches for bringing recipients' intentions into the conversation, make it even more essential that we know what we are talking about when we talk about donor intent.

Our goal in this paper was theoretical and conceptual, not normative. We do not take a position on which kinds of donor intent expressions are better, how much weight donor's voice should be given compared to the views of others, or where donors should stand on any of the four dimensions. However, we do take a stand in favor of donors providing greater clarity about their intent – even if they want to cede significant control – and we hope this framework helps them do that. We also hope this framework helps philanthropic families reflect more deeply, and perhaps find their own balance or sweet spot on some dimension of donor intent, in order to then create greater impact from their giving. That is our intent.

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