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Altruism in organ donation: an unnecessary requirement?

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ABSTRACT

Altruism has long been taken to be the guiding principle of ethical organ donation in the UK, and has been used as justification for rejecting or allowing certain types of donation. We argue that, despite this prominent role, altruism has been poorly defined in policy and position documents, and used confusingly and inconsistently. Looking at how the term has been used over recent years allows us to define 'organ donation altruism', and comparing this with accounts in the philosophical literature highlights its theoretical shortcomings. The recent report from the Nuffield Council on Bioethics reaffirmed the importance of altruism in organ donation, and offered a clearer definition. This definition is, however, more permissive than that of altruism previously seen in UK policy, and as a result allows some donations that previously have been considered unacceptable. We argue that while altruistic motivation may be desirable, it is not necessary.

BACKGROUND

That life-saving organ transplantation is a good thing is fairly uncontroversial, but it relies upon a supply of donated organs. Not all potential organ donations are considered ethically acceptable, however, and the reasons for donation have been regarded as significant in determining the overall acceptability of particular donations (p.129).¹ Suspect motivations in deceased organ donation include profit (financial or otherwise)² and seeking to prevent specific recipients from benefiting or, conversely, ensuring that they do.³ The apparent absence of 'altruistic' motivation has been considered sufficient to exclude donations that have conditions or directions attached or involve any kind of transaction,³ and for an otherwise potentially lifesaving/enhancing donation to be rejected. The Nuffield Council on Bioethics 2011 report (henceforth Nuffield Report) emphasises the central position of altruism in the UK:

Altruism, long promulgated as the only ethical basis for donation of bodily material, should continue to play a central role in ethical thinking in this field. While some of the claims made for altruism may be overblown, the notion of altruism as underpinning important communal values expresses something very significant about the kind of society in which we wish to live (p.5).⁴

Altruism is often referred to as one of the fundamental principles of transplantation (p.25^{3,5}, p.4⁶) but mostly without clear definition. Altruism can refer to both motivation and action/practice.⁴ The

distinction between the two is the difference between what motivates an action, behaviour or practice and the actual outcome of that action, behaviour or practice.

It is difficult to determine in advance whether a specific organ donation is an altruistic action because while most recipients will benefit from their transplantation, if an organ is rejected or fails the recipient may be worse off. Since altruistic action/practice is judged on the basis of outcome it is a poor guide to determining in advance of surgery whether any particular offer of donation is acceptable. Aside from this practical point, it is clearly motivational altruism that is currently considered important in organ donation. What are of concern to transplant authorities are the (altruistic) reasons that motivate a donation, rather than the contingent (altruistic) consequence (it is reasonable to suppose that transplant surgery would not be offered unless it was thought on balance to be of benefit to the recipient). It is therefore motivational altruism that is the focus of this paper. As we shall see, it may nonetheless be difficult to be certain of an individual's motives. This paper, however, explores the way in which altruistic motivation has been, and could be, used as a guiding principle when attempting to determine whether individual offers of donation are acceptable.

The Nuffield Report defines altruism as 'entailing a selfless gift to others without expectation of remuneration' (p.120⁴) and this definition is provided as though it were uncontroversial. There are, however, long-standing philosophical debates over whether altruism really exists, and if so, what it means and how it manifests itself. Despite some superficial similarities, the term 'altruism' as used in UK transplantation is quite different from the mainstream views in philosophy, and has given rise to a form of 'organ donation altruism' (ODA) that has specific purposes and more limited scope. ODA is used throughout this paper to refer to the account of altruism seemingly endorsed by organ donation policy and guidance in the UK. The Nuffield Report has repositioned altruism at the forefront of organ donation and transplantation ethics, so it is timely to reconsider what it means to say 'organ donation must be altruistic'.

Since the application of altruism results in the rejection of potentially life-saving (and life-enhancing) donations, a precise, rigorous and justifiable definition is required. It will be argued that the ODA account lacks the required precision and rigour. Although the Nuffield Report's discussion of altruism is arguably a step forward, it will be

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maintained that even it offers a severely restricted assessment against which to measure potential donors' motivations.

ALTRUISM AND THE GIFT OF LIFE

Organ donation has been described as the 'gift of life',⁷ and the gift relationship has long underpinned organ donation systems. Titmuss's analysis of the gift relationship focused on blood donation, and concluded that there were many advantages to having a voluntary system based upon altruistic giving. Titmuss acknowledges, however, that 'no donor type can... be characterised by complete, disinterested, spontaneous altruism' (p.89⁸). A problem with motivational altruism is that it is difficult (if not impossible) for transplant staff to establish the motivation of donors. It may be easier to establish that something is not altruistically motivated than to decisively conclude that it is; for instance, demanding reward for donating suggests a non-altruistic motivation, but the mere absence of this sort of demand does not mean that the donation is altruistically motivated. Given this, the suitability of altruistic motivation as a fundamental requirement for acceptable organ donation is immediately questionable.

ODA is sometimes taken to mean giving without expectation of reward (ordinarily financial reward).⁹ For example, regardless of the legal position, trading in organs (from living/deceased donors) has been rejected on the grounds that it is non-altruistic (p.74¹⁰). ODA is sometimes taken to mean simply the opposite of a commerce-based system (p.13¹¹). Although ODA may have started as a means of prohibiting organ trade, it has since been used to determine the acceptability of other practices relating to organ donation.

ALTRUISM AND THE DEPARTMENT OF HEALTH

Conditional and directed deceased donations are distinguished from one another by the Human Tissue Authority, according to which: 'a condition would serve to exclude certain recipients; a direction would identify one or more recipients'.¹² Both sorts of donation are generally prohibited. The incident that led to the ban occurred in 1998 when a white man's next of kin requested his organs were only given to white people (p.1³). A subsequent Department of Health (DH) report specifically criticised this donation for being non-altruistic (p.25³). This suggests that ODA entails more than just giving without anticipation of financial or other rewards, since there were no clear benefits to the donor or donor family that could not also apply to most, if not all, deceased organ donation (some comfort for the bereaved, sense of some good coming out of tragedy, etc). The relationship between conditions and altruism was further refined in guidance issued in March 2010 in relation to requests for directed allocation of organs.¹³ The DH report 2000 states that conditional donation offends against the 'fundamental principle that organs are donated altruistically and should go to patients in the greatest need' (p.25³), whereas the 2010 guidance states that conditional donation offends against the 'fundamental principle that organs are donated voluntarily and freely and should go to patients according to the agreed criteria' (p.4¹³). This suggests that for a deceased donation to be altruistic it must be donated without coercion or constraints on who receives the organ.

Regarding conditional donations as non-altruistic suggests that donation is only altruistic if it is without any constraints or conditions. This is problematic though, because organs are never donated absolutely freely and unconditionally; at the very least organs are donated after death on the understanding that they will be used for the purposes consented to (be it transplantation or research). It therefore cannot be correct that the organs

must be donated absolutely unconditionally. The fact that donors can choose whether their organs are used for transplantation or research suggests that some constraints are considered acceptable. In addition, the organ donor register permits potential donors to specify which organs they are willing to give, implying that these organs will be given on condition that others are not removed. All this suggests that constraints on donations are only considered contrary to altruism if they fall outside the parameters already deemed acceptable by reference to other principles.

The objection to conditional deceased donation must go deeper than the fact that conditional donations interfere with traditional allocation models based on medical need and clinical judgement, since the racial constraints in the 1998 case did not alter the allocation. The recipients who topped the waiting lists were all white and as such the conditions were met without disadvantaging any non-white recipients.¹⁴ Even so, the DH concluded the donation was non-altruistic.

The 'without constraint' element of altruism employed here appears to be linked to impartial allocation (where impartial means 'according to medical criteria'). This suggests that to be altruistic, a donation must be motivated by a desire to help other people in general, rather than a specific person or group of people. This definition of altruism as impartial and undirected runs into trouble when the 2010 guidance¹³ is explored further. The guidance was issued following the case of a Laura Ashworth.¹⁵ The ban on conditional and directed deceased donations prevented her organs being donated to her mother who needed a kidney transplant. Instead they were donated to the general pool and allocated accordingly. Following public and media reaction to this case, the March 2010 guidance was issued specifically to permit the kinds of requests for directed donation to family members in deceased donation that are common in living donation. If, however, a decision to donate is strongly motivated by a desire to help a specific family member, this cannot be considered impartial. As though to anticipate this objection, the guidance requires that deceased donation must not be contingent upon the request being followed (p.4¹³); so in effect the donation is unconstrained and can still be considered altruistic in this sense. This understanding of altruism is not consistently applied in living donation, where the vast majority of donations are contingent upon the donated organ being transplanted to a specific individual. It also contrasts with altruism as understood by Nagel,¹⁶ which depends much more heavily on rigorously applied impartiality.

PHILOSOPHICAL ACCOUNTS OF ALTRUISM

For Nagel altruism is 'not to be confused with a generalised affection for the human race', and is instead 'merely a willingness to act in consideration of the interests of other persons, without the need of ulterior motives' (p.1¹⁶). Nagel is interested in the fundamental reasons for action and the *possibility* that others' interests can give one reasons to act. He argues that we can have a *direct* reason to promote the interests of others (one that does not 'depend upon one's own interests or antecedent sentiments of sympathy and benevolence' (p.16¹⁶)). For Nagel, in order to act altruistically, the interests of others must provide the reason for action, and this requires that one must consider oneself to be just one person amongst many:

[i]n any situation in which there is reason for one person to promote some end, we must be able to discover an end which there is reason for anyone to promote, should he be in a position to do so." (p.90¹⁶)

For Nagel, then, we can have a rational interest in helping others regardless of things like sympathy or reward. Accordingly, altruism must be objective and impartial, which means that acting in the interests of a friend *because* he is a friend is not altruistic. The sort of directed but unconditional donation permitted in the 2010 guidance would not be altruistic according to Nagel, because it would express unacceptable partiality, as would directed living related donation.

Some partiality could, however, be accommodated in altruism according to Blum, for whom ‘sympathy, compassion, concern and care’ are ‘altruistic emotions’ (p.26¹⁷). These kinds of emotions are central to altruistic behaviour because it is ‘good to be sympathetic, compassionate, concerned, and caring for other human beings’ (p.7¹⁷). Often these sorts of emotions will be most strongly felt towards family or friends, and Blum’s account of altruism accommodates the partiality these relationships might entail. Importantly, Blum does not argue that favouring friends or family is always permissible and altruistic—merely that it is acceptable to give *some* additional weight to their interests. Accordingly, Blum’s account would allow directed donations to count as altruistic in circumstances like those outlined in the 2010 guidance.

Before we conclude that altruism in transplantation can be likened to that justified by Blum we must consider how living-related donation is differentiated from altruistic living donation. The latter, sometimes referred to as ‘non-directed altruistic living donation’,¹⁸ refers to cases where living individuals donate an organ—usually a kidney—or part of an organ, ordinarily to be allocated according to the usual criteria applied to deceased donation—that is, they are not donating to a specific known/loved individual. That altruism features in the name of non-directed living donation, but not living-related donation, suggests that organ donation is only considered altruistically motivated if the organs are available for allocation to recipients with whom the donor does not have a genetic or longstanding personal relationship, which is contrary to Blum’s account.

Living-related donation could be considered with reference to Miller’s account of altruism which distinguishes it from that which we have an interest in doing or which we are obliged for other reasons to do. For Miller, altruism is ‘behaviour that is intended to meet the needs of others, where there is no immediate self-interested reason to help, and where there is no institutional requirement that one should’ (p.108¹⁹). Just as feeding one’s children would not be altruistic (p.108¹⁹), nor presumably would giving them one’s kidney. Living-related donation would not, therefore, be considered altruistically motivated even though it is nonetheless acceptable.

Part of the problem for altruism in transplantation is that the link between altruism and the ethical acceptability of something is not always clear cut. Depending upon which account of altruism one uses, altruism may suffer from what De Wispelaere calls ‘moral myopia’ (p.17²⁰); altruism can tell us whether an act is altruistic or not, but not always whether it is right or wrong, especially when motives may be mixed. For instance, a person may be motivated to donate partly by a desire to help people and partly because her family *disapproves*. The relationship between altruism and rightness is not a problem for Nagel’s account which, owing to its strictly rational demands and Kantian grounding, aligns altruistically motivated acts with right acts. Blum’s account though, and the account apparently used in transplantation, are more vulnerable to this criticism.

For example, imagine a walker passing a pool and seeing children drowning. She jumps in and saves as many of the children as she can but some drown. On the face of it this seems

altruistic and praiseworthy. But suppose the rescuer, calculating that only three children could be saved in the time available, targeted her own children. This would not be altruism according to Nagel, since it expresses unacceptable partiality. It would also not be altruism according to Miller, as one could argue that parents have a responsibility to save their children. It could be altruism according to Blum, if it was motivated by altruistic emotions. It would also be altruism according to ODA, if the mother would still have attempted to rescue other children if she were unable to save her own. If, however, she had not been prepared to save other children, and only ever intended to save her own, she would not be altruistically motivated according to the 2010 guidance.

This shows us that even taking competing philosophical definitions into account, altruism as used to guide transplantation practice is confused. If one does not have a relative on a transplant waiting list, then one’s altruism must be impartial, much like Nagel’s. This prevents people from directing organs in cases like the racist donation in 1998, or from directing organs in response to media-facilitated appeal by individuals.²¹ Yet if one does have a relative on a transplant waiting list, then one’s altruism can be partial and directed, more like Blum’s. Unlike the 2010 guidance, however, Blum does not insist that we must be willing to follow through with an action even if our family member cannot after all benefit from it, but then neither does usual practice in relation to living-related donation. Neither Blum’s nor Nagel’s account is open to a ‘pick and mix’ approach: owing to their fundamentally different theoretical groundings, one cannot endorse one while also endorsing the other without contradiction.

If one were to adopt any of these philosophical accounts of altruism as the basis for ethical organ donation, significantly more potential donations would have to be rejected. Nagel’s altruism is particularly demanding, and would require the rejection of any organ not donated *completely* impartially. Seeking to give meaning to the death of one’s loved one, being comforted in one’s bereavement, wanting to help particular kinds of research efforts (like those trying to find effective treatments for the condition from which one’s loved one died), wanting to save the life of one’s child/friend/partner, being moved by the story of a particular patient and even fulfilling the wishes of the deceased person would all be incompatible with Nagel’s altruism and the organs would have to be rejected.

Blum’s altruism is still demanding, but in a different way from Nagel’s. Where Nagel’s altruism is strictly rational, Blum allows altruistic emotions to play a significant role and would potentially be compatible with donations directed towards family and friends. It seems more likely that altruistic emotions would exist towards family members than strangers, since one is most likely to feel sympathy and compassion for those who one cares most about. Moreover, although Blum’s altruism focuses on altruistic emotions, it does not overly concern itself with their origins; if a racist person felt altruistic emotions for another person of his own race purely by virtue of their skin colour, this could be compatible with Blum’s altruism. This means that Blum’s altruism features the moral myopia described De Wispelaere, as although a racist donation may be altruistic, this does not make it ethical.

ALTRUISM AND THE NUFFIELD REPORT

The Nuffield Report discusses altruism in detail, and presents a distinctive account that has elements in common with ODA and accounts found in philosophical literature. It defines altruism as behaviour ‘that is motivated by concern for the welfare of the

Current controversy

recipient of some beneficent behaviour, rather than by concern for the welfare of the person carrying out the action' (p.139⁴). In a departure from ODA, however, the recipient of the beneficent behaviour need not necessarily be the eventual organ recipient.

Much media attention was given to the Nuffield Report's proposal to pay a donor's funeral expenses and the claim that this is compatible with altruism⁴ (Ch. 5²²). It argues that some forms of reward may be compatible with altruistic intent, since a single person may have a variety of motivations to donate organs, one or more of which could be altruistic. Presumably the authors would not endorse the claim that the presence of an altruistic motivation amongst a number of distinctly non-altruistic motivations (such as to deliberately spite family/friends) would render the donation altruistically motivated. Although there may be an altruistic element to a donation decision in this instance, it would seem incorrect to deduce from this that the donation is altruistically motivated. Although they acknowledge that real-life may present situations where motivations are mixed, the altruistic nature of a donation is secured only when 'concern for the welfare of others is a genuine motivator' (p.139⁴). The difficulty here is that establishing motivation is, as we have already discussed, notoriously difficult and it was perhaps beyond the scope of the Nuffield Report to provide a solution to this point.

Although the donor may be partly motivated to donate by his funeral expenses being paid, he could do so with others' interests in mind—he would receive no benefit himself from his funeral expenses being paid (he would be dead) but might be trying to lift this financial burden from his relatives. This, according to the Nuffield Report, is altruistic even though it displays a level of partiality (towards next-of-kin and relatives) that is not ordinarily acceptable under ODA (p.175⁴).

By suggesting that altruism in organ donation might be directed beyond the organ recipients, Nuffield altruism could permit more direct payments in exchange for donation—for instance, money given to next-of-kin to spend as they wish. This would still be altruistic insofar as the donor would be motivated to donate organs in order to benefit other people; it just happens that the intended beneficiaries would be his family. The only difference between the two cases is how the money provided is to be spent.

A further complexity is the role of the next-of-kin in decisions about deceased donation. The Nuffield Report concedes that if the next-of-kin agree to the donation only because they will benefit from the funeral expenses being paid, the payment of funeral expenses in this case would be a 'non-altruist focused intervention' (p.139⁴).

WHAT IS LEFT?

Table 1 illustrates how ODA compares with other accounts. ODA acts as a guiding principle for determining and promoting ethical donations, but features inconsistencies that result in

arbitrariness which, at the very least, border on unfairness to those who are deprived of the benefits of receiving an organ as a result. Applying a philosophical definition of altruism would be a remedy for this inconsistency but would result in many fewer acceptable donations (Nagel), or additional principles might be needed to identify donations that were undesirable for reasons unrelated to altruism (Blum). Nuffield altruism falls between the two; it is consistent, and promotes organ donation, but fails to provide a single guiding principle for determining the acceptability of a donation. The Nuffield Report accepts however, that altruism cannot be the only guiding principle (Ch 5⁴). This is a sensible way forward for transplantation ethics, since it allows unethical practice to be robustly and roundly rejected without distorting a single principle (to the extent that it becomes inconsistent) like altruism to suit a wide range of specifics.

Nuffield altruism is controversial, however, insofar as it seems to permit practices that ODA was deliberately trying to prevent, principally financial incentives. Moreover, accepting that a decision to donate is unlikely to result from a *single* motivation, and by widening the recipient pool for the other-regarding beneficial motivation that characterises altruism, the concept is virtually redundant as a measure of whether a donation is acceptable. For example, it would permit racial direction as a condition of donation, as a person could still be motivated to donate by a concern for the welfare of others, although that concern could be conditional upon the recipients being of a certain race. Racist conditions would only be discounted if it could be demonstrated that the donor's primary motivation was to deprive a particular racial group of some benefit (rather than to benefit a different group) and the definition of altruism was tightened so that only primary motivations were assessed. The outstanding issue would then remain whether it is ever possible to be certain what a person's motives are, let alone what their primary motives might be.

IS DONOR ALTRUISM REALLY NECESSARY?

The Nuffield Report provides us with one reason why we should continue to associate organ donation with altruism: it maintains the communal virtue of 'a general disposition to be moved to self-sacrifice by the health needs of others' (p.144⁴). In this sense, altruism in donation is more like a form of generalised reciprocity (p.109¹⁹). People are urged to donate partly to fulfil their desire to help others, but also because this will promote the kind of community where others would do the same for them. While it may be important that people are moved to 'self-sacrifice' (p.144⁴) in order to help others, it is not clear that the health needs of others ought to be the only motivating factor. Also, the degree of self-sacrifice in deceased organ donation is open to debate, and some people may not view it as being a sacrifice at all. It is unlikely that under the

Table 1 Comparing accounts of altruism

Requirement	ODA	Nagel	Blum	Nuffield altruism
Impartiality	Yes (unless one has a relative on a transplant waiting list)	Yes	No	No
Unconditionality	Yes	No (a condition placed for objective reasons could be permitted)	No	No
Prohibits financial elements	Yes	No	No	No
Prohibits any self-interest or reward for donor	No	Yes	No	No

ODA, organ donation altruism.

current system people are 'moved to self-sacrifice' purely by the health needs of others; as the Nuffield Report itself notes, people donate organs for a number of reasons, some of which may be selfless and other regarding, and others of which may be more self-interested (ie, non-altruistic). The current NHS Blood and Transplant 'Prove it' campaign seems designed to promote reciprocity or fairness rather than altruism,²³ which suggests something of a retreat from altruism as the only acceptable motivator. The 2011 NICE guidelines for organ donation do not even mention altruism, and state that, similarly to other documents,^{24 25} 'organ donation should be considered as a usual part of 'end of life care' planning' (p.6²⁶). Making organ donation 'usual' may make it 'part and parcel' (p.109¹⁹) of the social role of dying people, and if this were the case, according to Miller's altruism, organ donation could not be altruistic—yet NICE's aim does not appear undesirable as a result.

We agree with the Nuffield Report that a society where there is a general disposition to altruism seems, on the face of it at least, to be preferable to one where we are each only concerned with our own interests. This does not, however, seem to justify insisting that that altruism is a *necessary* as opposed to *desirable* component of ethical donation. And, as we have shown, problems of arbitrary injustice seem to have arisen from an insistence that it should be. The charade that donation must be altruistic to be acceptable is revealed by the distinction between 'altruistic living donation' and 'living-related donation'. The latter has continued apace despite general recognition that there are usually self-interested reasons for wanting to save the life of a loved one. Perhaps it is time to accept that whilst altruism might be a sign of an acceptable donation it is not the *only* sign. These other signs may be used to preclude donations that (all but Nagel's definition of) altruism may accommodate, but coherent, robust and consistent justifications are required every time an offer of donation is declined because of the cost to the recipients of rejecting offers of organs.

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