

BIOETHICS NOTES

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"Justice is conscience, not a personal conscience but the conscience of the whole of humanity. Those who clearly recognize the voice of their own conscience usually recognize also the voice of justice."
Alexander Solzhenitsyn

Ye shall give but not receive.

By Robert Shabanowitz

"The U.S. health care system denies adequate care to many of the uninsured during life. Yet, in death, the uninsured often give strangers the ultimate gift."

The classic Principals of Biomedical Ethics by Tom L. Beauchamp and James F. Childress was first published in 1976, and is now in its 5th edition. Every health-care worker is probably familiar with the four principles that define moral dilemmas in the health-care setting...autonomy, beneficence, nonmaleficence and justice. These four principles serve as practical moral guidelines for assessing one's duty in a particular case. They provide continuity and uniformity in assessing policies in health care, as well as an approach to constructing or assessing one's moral duty in a particular case. Whereas the use of principles can assist us in ethical analysis by providing a common foundation, there are many criticisms of principlism as an action guide for decision-making. In part, this is because there is no hierarchy to the principles, no single principle can trump another; reasoned ethical analysis requires a careful balancing of the principles and there is no single formula for prioritizing. Principles alone do not provide an account for the "casuistic" nature of moral analysis.

Justice is one principle we tend to avoid. Its mere mention conjures pejorative images of rationing or not getting your fair share. Justice asks us to develop a set of guidelines according to which the

benefits and burdens of social cooperation are to be distributed. Justice addresses the issue of scarce resources. In a just society, how do we deal with distribution of limited resources? Here is a simple thought problem: Suppose you are in charge of cutting a piece of cake for everyone you invited to your birthday party? What is a fair method? Since it is your birthday, should you get the first and largest piece? How about first come, first served? Perhaps the hungriest should get a larger share. Perhaps the skinniest, or the loudest. Maybe you should let it be every man and woman for themselves, screaming "Let them eat cake!" One way to begin thinking about justice is to modify the problem: You are in charge of establishing a fair method of cake distribution, but you get the last piece.

The principle of justice is central to the debate on the fair distribution of organs for transplantation. A recent national study by Harvard University researchers, *"Insurance Status Of U.S. Organ Donors And Transplant Recipients: The Uninsured Give, But Rarely Receive,"* suggests that transplant centers are not catering to those with fewer resources. According to the study, published in the *International Journal of Health Sciences*, Americans without health insurance are twenty times more likely to donate an organ for transplant than to receive one. Almost 17 percent of organ donors lacked health insurance, while, in contrast, less than one percent of organ recipients were similarly uninsured. Except for age, the lack of insurance was a stronger predictor for donation than any other hospital characteristic or demographic factor.

In a news release issued by the journal's publisher, one of the co-authors stated, "The fact that many organ donors were uninsured dramatically highlights the lack of fairness in the U.S. health care system as a whole." In the same news release, the lead author claimed, "If you lack the financial resources to afford a transplant, either through insurance or otherwise, few centers will consider you as a candidate. The U.S. health care system denies adequate care to many of the uninsured during life. Yet, in death, the uninsured often give strangers the ultimate gift."

Transplant candidates rely on the public's trust in the fairness of the allocation system and support of a system through donation. The Organ Procurement and Transplantation (OPTN)/United Network for Organ Sharing (UNOS) is the current US organ donation allocation system. It is a single national system of sharing cadaveric organs and was created by the National Organ Transplant ACT (NOTA) of 1984. The national system for allocating organs from deceased donors for transplantation is founded on the principles of equity and medical benefit. Recognizing that organ donation and transplantation are founded on altruism and equity, all involved in the system work diligently in ways that contribute to fairness for all transplant candidates and uphold the national standards developed and approved after thorough review and consensus-building among all affected groups, including donor and patient representatives.

These groups have worked assiduously over the last 20 years to develop equitable policies for organ distribution. However, the task remains daunting, especially as the number of recipients in need of life-saving organs rapidly outstrips the seemingly ever-diminishing availability of donated organs. This is shockingly evident by the increase in illicit organ trafficking, including selling of organs for profit, the private solicitation for organs and the practice of healthy individuals selling their organs as a means of income for survival.

According to James Childress,

"Apart from special cases of directed donation to named recipients, donated organs belong to the community, the public, and not to procurement and transplant teams. Donated organs should be viewed as scarce public resources for use for the welfare of the community. Organ procurement

and transplant teams receive these donated organs as "trustees" and "stewards" on behalf of the whole community."

Our current system for the equitable distribution of organs has been highly successful. However, the study by Herring et. al. is a wake-up call. It is a poignant reminder that practices in healthcare require constant vigilance, surveillance and reevaluation. If our system of organ procurement and distribution does not serve equally, all members of our community, then it has failed the principle of justice.

Respectfully Submitted,
Robert B. Shabanowitz

References

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