Public interest and the concept of solidarity

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Regulating in the public interest

- Central challenge: our regulatory principles, institutions and instruments are focussed on the individual
- That makes it difficult, both conceptually and in practice, to regulate in the public interest
- Thesis of this talk: Solidarity can help us conceptualise, organise and implement public interest in biomedicine and beyond
What is solidarity?

• “acts carried out to support others”, “standing up beside” (K. Bayertz 1996; Jennings & Dawson 2015)
• “non-calculating cooperation” (M. Häyry 2005)
• “a way of organising social institutions” (D. Gunson 2009)
• “the sort of intersubjective relations required to keep the fabric of modern society intact” (R. Houtepen & R. Ter Meulen 2000)
Solidarity signifies practices reflecting a commitment to carry “costs” (financial, social, emotional, or otherwise) to assist others with whom we recognise similarity in a relevant respect.

Tier 1 (interpersonal level): manifestations of willingness to carry costs to assist others; similarity in relevant respect

Tier 2 (group practices): manifestations of collective commitment to carry costs to assist others; communities of risk

Tier 3 (contractual level): legal provisions and contractual norms

Reciprocity
Example: organ donation

Two frameworks: altruism/selflessness vs. self-interest/reciprocity

Central regulatory categories

- Individual consent
- Individual risk
Organ donation: solidarity practices?

3 potential examples

Tier 1 (inter-personal level): unrelated live donation
- yes

Tier 2 (group level): regional LifeSharers programs (US), priority donation program Israel
- no

Tier 3 (contractual level): switch from opt-in to opt-out state regulation
- yes
Solidarity and organ donation: concepts

- Solidarity as a regulatory principle to frame organ donation regulation
- Collective aspects of organ donation foregrounded; ‘what people share in common’
  - Pro-social motivations
  - Mixed motivations
  - Collective implications
Solidarity and organ donation: scope

- Solidarity as a 'corrective' of regulatory individualism
- Easiest to do first in 'soft' regulation
- Rebalancing of existing legal frameworks to include solidarity prominently, alongside protection of individual rights and interests
Solidarity and organ donation: implementation

- Allowing unrelated live organ donation and framing it specifically as a solidarity practice (mixed motives, similarity)
- Transparent switch to opt-out systems of organ donation regulation, again framed specifically as a solidarity practice (shared need/vulnerability)
- Robust, transparent governance and oversight by trustworthy institutions
Solidarity and public interest: conclusions

• Solidarity and public interest perspectives overlap significantly
  – Solidarity practice of unrelated live donation: more organs, no 'loss' of willing donors, encouraging example ➔ public interest
  – Solidarity-based opt-out: far more organs, no loss of willing donors ➔ public interest

• But not always
  – LifeSharers/priority program: possibly more donors? ➔ public interest, but not solidarity
Solidarity and public interest: conclusions

• Not all solidaristic practices will be in the public interest, and not all public interest initiatives will be solidaristic practices

• But, if you want to regulate in the public interest – solidarity gets you quite far

• Solidarity can provide a conceptual and practical starting point to translate the notion of public interest into policy and governance
Thank you very much for your attention!

Forthcoming:
Prainsack B, Buyx A. Solidarity in biomedicine and beyond. Cambridge, UK: Cambridge University Press
Thank you also to

Barbara Prainsack
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Comments are very welcome: a.buyx@iem.uni-kiel.de
Solidarity signifies practices reflecting a commitment to carry “costs” (financial, social, emotional, or otherwise) to assist others with whom we recognise similarity in a relevant respect.

- **Practice:** 1. not merely an inner sentiment; 2. similarity in a relevant respect (“community of fate”; “fellowship among equals”)
- **Self- and other-directedness**
- **Persons are inseparable from their social relations**
- **Fellowship:** symmetrical relationship in the context of a particular practice (typically not symmetry in all respects)
- The relationship between **reciprocity** and solidarity is not linear