

### **Descriptive title for case:**

**Discuss: Is it ever justifiable to not apply the duty of care to all individuals?**

### **STUDENT NOTES**

#### **Outline of case**

(This case is based on a scenario from the data collected from this study<sup>1</sup>)

You are a doctor working for an NGO in an African country that has a long history of hostility and violence between its two largest ethnic groups. Recently there has been a significant escalation in hostilities, which has culminated in mass genocide of the smaller ethnic group. This was carried out by government forces, militia and a high proportion of the larger ethnic group. There are huge numbers of dead, and many seriously injured people. Many individuals of the ethnic group that perpetrated the genocide have fled to neighbouring countries as refugees, in fear of reprisals. International and national organizations have arrived and have begun repatriating refugees back to their native country. However this has been made difficult as many refugees are being attacked in retaliation.

You are leading a small team of healthcare workers who have been allocated limited amount of resources. Your team has been tasked with assisting the staff at the local hospital treating the surviving victims of the genocide. The hospital staff are extremely grateful for your help and resources, as they are overrun with injured civilians who often travel long distances to obtain healthcare. One day, trucks arrive at the hospital and leave clearly injured patients on stretchers outside the hospital, but none of the hospital staff go out to assist. You are puzzled by this, and ask a local nurse why they are not attending to these patients. She tells you to leave them, as this is beyond your control and you are to do nothing for them.

You then realize that the patients outside are members of the ethnic group who perpetrated the genocide, and the hospital staff refuse to treat them. This horrifies you as many of these patients are acutely ill and will die if not provided with treatment. The nurse warns you that if you treat these patients the hospital will not want further medical assistance from you and your team. However, you are unsure whether or not they will actually do this. Your team is divided, with half wishing to go against the wishes of the hospital staff and provide treatment to the patients outside, with the other half reluctant to damage the relationship you have built with the hospital. However, your team agrees that your decision is final.

- **Option A:** Accept that you can do nothing, follow the advice of the nurse and continue to assist in the hospital.
- **Option B:** Inform the nurse that your organization is neutral and you are duty bound to give aid to all patients who may need it, and send your team to deliver medical care to the patients outside the hospital.

## **Potential learning outcomes**

1. To be able to identify and consider competing ethical issues in a scenario
2. To utilize moral reasoning in order to reach a moral decision
3. To consider the importance of relations between local populations and international aid organizations
4. To understand the paramount duty of healthcare workers to treat only according to clinical need

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## **Keywords**

- Civil war
- Discrimination
- Non-governmental organisation
- Healthcare
- Aid
- Genocide
- Ethnic conflict
- Refusal to treat

## **How this training should be conducted**

- **Layout of session**
  - The layout of the training room should ideally be that your group can split into sub-groups to discuss issues, and then be able to come back together as a group
  - The group do not need to make notes during the session, emphasize that this is a discussion-based session
  - Have the learning objectives, Option A and Option B written on a flipchart/ PowerPoint slide
- **First 10 minutes:**
  - Explain the aim and learning outcomes of the session to the group
  - Ask if any student needs clarification on any aspects of the case
  - Ask the students, after an initial review of the case to individually vote for either Option A or Option B
  - Then split students into sub-groups of four or five
- **Next 10- 15 minutes:**
  - Assign 50% of the groups to Option A and the other 50% to Option B

- Tell them that their aim is to convince the opposing teams that their option is the “right thing to do”
  - Explain that you will provide assistance, but want the groups to work together to identify the ethical issues in the case, consider the scenario from the points of view of both groups of patients, hospital staff, your organization and team members
- **Next 10-15 minutes**
    - Have each group present back their argument
    - This can be done in a debate format, or all groups presenting their arguments one after the other
- **Last 5-10 minutes: Reflection**
    - Ask anybody who changed their vote why they changed their vote
    - Did discussing their ideas help?

## **TRAINER NOTES**

### Principal issues raised by the case

- 1. Duty of healthcare workers to treat only according to clinical urgency***
- 2. Reaching a consensus decision and managing team dynamics***
- 3. Conditional acceptance of health care resources***
- 4. Impact of the final decision on the local population and on the reputation of the hospital and your organization***

### Additional prompts

- 1. Is it always possible for NGOs to stay completely neutral and not become involved in social/ political conflict?***

Your organization operates on principles of neutrality and impartiality and you are loyal to your organization. However, for your organization to be able to do the work that it does, it needs to build up strong relationships of trust and partnership with the local population. By abiding with the wishes of the hospital staff, you show tolerance and respect for the views of the local people that you are working with, but do so at the expense of abandoning your duty of care as a health-worker to provide help to all individuals regardless of any factors other than clinical need.

Take the example of Mediciens Sans Frontieres. Bernard Koucher, the founder of MSF, used to work for the International Committee of the Red Cross (ICRC). The ICRC, as the organization which drafted large sections of International Humanitarian Law (IHL), operates under a strict ‘neutrality’ principle. However, the ICRC was witness to the horrors of Nazi concentration camps and the mass genocide of the Biafra secession, but failed to report them to the world on this principle. Koucher took this as ‘tantamount complicity’ in these events. He then

founded MSF which operates under a 'non-neutral moral position' which allows for raising awareness of witnessed breaches of IHL around the world whilst maintaining impartiality in treatment delivery.

**2. *Would you potentially endanger the lives of your team if you send them to provide aid to members of the "perpetrating" ethnic group?***

This is a dangerous area, where a huge amount of violence has recently occurred and you are aware that the violence has not completely ceased. You are also aware that whilst NGOs are symbols of neutrality, you know that being associated with the hospital provides an additional element of protection for your team. In the unstable climate of the country and the nature of the recent conflict, would you be potentially putting your team at risk by going against the wishes of the local people and providing aid to people who may have been implicated in the genocide? Is it your responsibility as the team leader to protect them, or should they individually be accountable for risks they are exposed to? You also do not know whether the patients outside are armed or may pose a threat to your team.

**3. *Have you got the capacity to treat a large group of casualties without the assistance of the local hospital?***

You will not be able to provide much in terms of emergency, critical care or surgery without the assistance of the hospital.

**4. *If you did manage to treat patients both inside and outside the hospital, does it have an impact on the patients you are currently treating?***

You have built up a relationship of trust with the patients within the hospital. If you begin to treat the patients who belong to the ethnic group who perpetrated the genocide, are you potentially harming your relationship with the victims? It may cause the patients distress to be treated alongside those who they have been in conflict with. Is there a potential for violence within the hospital? Are you potentially bringing the outside patients into an area where they could be exposed to more risk?

**5. *What about the ethical principles of your team members and the resulting impact on team dynamics?***

Whichever action you take, half of your team have to act against their expressed principles. Is this fair? Or is it their duty to act as members of the team above their individual ethical principles?

**6. *Are there long-term ramifications of your decision?***

If you choose to abide by the advice of the local staff, you show tolerance and respect for their views, which will strengthen your working relationship with them and for future partnerships between them and your organization, and

potentially other international organisations. However, you may also set precedence that the principles of neutrality and impartiality are not always abided by, which may represent a reputational risk to your organization, and may undermine trust within the local community for years to come.

**7. *If you did decide to treat the outside patients, you may be treating people who actively participated in the genocide as well as civilians caught in the crossfire. Does this make a difference?***

Is it morally right to treat patients who you know have committed criminal acts of violence? (The problem here is a question of proof and the presumption of innocence.) The duty of care determines that you must treat all individuals equally, regardless of background or actions.

**Reference**

1. Schwartz L, Sinding C and Hunt M. Ethics in Humanitarian Aid Work: Learning From the Narratives of Humanitarian Health Workers. *AJOB Primary Research* 2010; 1(3): 45-54.