Guest editorial

Corporate tyranny

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The making of decisions by committees and similar groups has the apparent advantage that the odd beliefs of individual members may become modulated in the process of reaching a consensus, so that the final decision is more conformable to "justice", or at least to its appearance, than what might be the wild decision of an individual. This is what gives value to corporate decisions; and on balance, it may compensate for the risk of corporate indecision, which is not unknown. But is indecision the only danger in the process of decision-making by committee? I believe not; and in this paper I draw attention to another danger, which I have ventured to call "corporate tyranny", to distinguish it from the more frequent tyrannies perpetrated by individuals.

I believe that, exceptionally perhaps, committees may make decisions leading to actions from which each of the individual members, acting as an individual, might shrink. This may come about in various ways. Should one or more members express abhorrence, with a request that "an example be made", it is difficult for what may be the tolerant, or balanced, majority to match the clarity and cogency of the clairvoyant fanatic. Should the majority grow weary, they may, however unworthily, settle for peace, and the comfortable anonymity of "a committee decision". Again, something may be converted into a moral issue, or even "a matter of principle", when it is really a matter of aesthetics, of custom, or of current legal provision. In such a case, the action taken may be out of proportion to what is reasonable or necessary. (I am paying committees the compliment of supposing that they are not influenced by "political correctness", which amounts to little more than ascribed popular opinion, rarely evidence-based; and that they are not to be persuaded by external authority to consider their particular problem otherwise than on its own merits.)

My concept of corporate tyranny may be best clarified by a couple of examples; and to find them it is not necessary to go back so far as to the Committee of Public Safety, in revolutionary France. For convenience, my first example is a recent one, and therefore likely to come easily to mind; it is the decision of the Human Fertilisation and Embryology Authority to prevent a widow from using the available semen from her dead husband, in order to try to have the child whom she claims they

both wished to have. Their prohibition was extended to prevent her from taking the semen abroad, where its use would have been unequivocally "legal". The facts are set out dispassionately in the *British Medical Journal* of 30 November, 1996¹; and commented on by me, rather less dispassionately, in a letter in the *British Medical Journal* of 11 January, 1997.² In essence, their prohibition was based on the lack of written consent from the husband, who was unconscious at the relevant time; and my suggestion is that this formal legal requirement should have been waived in such circumstances.

My second example concerns the sequel to an obituary of Dr G A H Buttle, published in the *British Medical Journal* in 1983.³ This included a mention of a suicidal attempt by Orde Wingate in Cairo; and made it clear that this was not attributable to any form of psychiatric illness, but to a bout of cerebral malaria. Some time later, the Editor received a letter from the Registrar on behalf of the General Medical Council, taxing him with a breach of confidentiality. As it happened, that section of the obituary had initially been subedited out; but Dr Lock re-instated it, believing it to be a matter of public interest, and one which explained on an innocent basis what might otherwise have been seen as a discredit to Wingate. Like the "*méchant animal*" of Voltaire, Stephen Lock had both the will and the skill to rebut this criticism. It would not be for me to gloss the article⁴ in which he does so, other than to state my full agreement with the case he makes.

At first sight, these two cases are very different. One is a prohibition, with serious practical consequences; the other may be regarded as a reprimand, with little practical effect. However, what they have in common seems to me more significant than their superficial differences. They are both exercises of authority by a duly constituted body, entirely correct in their formal process, but with an outcome in the first case only saved from being ridiculous by the gravity of its effect, in the second not even so redeemed. They both involve important ethical principles, informed consent in the first case, confidentiality in the second. But neither of these is a principle which admits of no exceptions: a rigorous interpretation of informed consent would preclude any study, other than observational, of a great deal of mental disease, and of disease in infancy and early

childhood; and confidentiality is regularly, and properly, breached in the prevention and detection of serious crime, and (perhaps less properly) within the NHS in the pursuit of what are delicately if imprecisely described as "essential management functions". I suggest that in both my examples the protection of a principle, generally agreed and under no particular threat, has been given too much weight, to the obvious detriment of particular individuals. It is not enough to ask of a decision, "Is it legal?" One should further ask, "Is it sensible?"; and, "Is it humane?"

My consideration of these matters does not yield anything so definite as a conclusion; but it makes me venture a suggestion to the considerable number of people who serve on committees, tribunals and the like. Like the rest of us, in regulating their own conduct as individuals, they should be guided by whatever ethical insights flow from their nature, upbringing and experience, enjoying the freedoms and trials of deontology; but when they are acting as members of a corporate body, they have an additional duty to be deliberately utilitarian, the prime utility being that of the individual whom they are

considering. I am not so foolish as to deny the existence and importance of "society"; but alarm bells should ring when societal considerations, not necessarily clear-cut, are made the basis of decisions which harm individuals. It may not be necessary to go as far as William Blake in the view that "General Good is the plea of the scoundrel, hypocrite, and flatterer"; but to look at particular issues with a perspective limited to abstract principle can damage the "Minute Particulars" which give effect to benevolence.

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References

- 1 Dyer C. Widow's case raises issues of informed consent. *British Medical Journal* 1996; 313: 1351.
- 2 Black D. Widow is a victim of "corporate tyranny". *British Medical Journal* 1997; 314: 143.
- 3 Obituary of G A H Buttle. *British Medical Journal* 1983; 287: 138.
- 4 Lock S. A question of confidence: an editor's view. *British Medical Journal* 1984; 288: 123-6.

News and notes

HIV/AIDS and ethics – submissions invited

At the proposal of the Editorial Board the journal intends to introduce an annual monothematic issue. The first such theme, scheduled for late 1998, is to be *HIV/AIDS and ethics*. Submissions are invited, to arrive at the editorial office by 1 April. As usual papers of up to 3,500 words (including references and all words) are preferred – an absolute maximum of 5,500 words. Also as usual papers should be well argued, interesting and intelligible to any interested and intelligent reader. We would particularly like to see papers focusing on contemporary perspectives. If

sufficient publishable papers on the theme are not received the monothematic issue will be delayed, or even aborted – in which case acceptable papers will be incorporated into the journal's usual publishing schedule.

Submissions should be sent to: The Editorial Office, Journal of Medical Ethics, Analytic Ethics Unit, Imperial College of Science, Technology and Medicine, Exhibition Road, London SW7 2AZ. The envelope should be clearly marked Submission for 'HIV/AIDS AND ETHICS'.