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Course

17 March 2019

Case study: Whistle Blowers and public policy

Today, the issue of whistleblowing is widely discussed in the media to highlight wrongdoing by an organization. By definition, whistleblowing is a public exposure of wrongdoing which involves an ethical resistance against that wrongdoing being hidden, protected or forgotten (Maria). In this regard, two notable whistleblowers; Peter Buxtun and Hugh. Thompson are discussed. The former had blown the whistle on the unethical Tuskegee Syphilis study by the U.S. Public health service, while the latter was involved in exposing a massacre at My Lai, Vietnam which saw hundreds of innocent people being killed by the U.S. military. The paper aims to examine these incidents and contrast between them to indicate how they are public policy failures, leading to innocent people and families being killed, raped or afflicted with disease. In both cases, malice was aimed towards people of different races, subjecting them to inhumane conduct or torture that resulted in fatalities. It was clear that life was not valued by the perpetrators and whistleblowing proved instrumental in preventing further damages or casualties. 250

The 1968 My Lai massacre is considered to be among the most horrific incidents of war crimes against unarmed civilians in U.S. military history. It involved a company of soldiers brutally killing nearly everyone including women, young girl’s children and the old, in My Lai. Nearly 500 people were massacred while several women and young girls were raped and mutilated before they were killed. The incident was covered up by the officers until it was leaked to the press, which led to intense international and local public outrage. Reports of the cover-up further fueled anti-war sentiments within the U.S. The incident occurred as the Charlie Company operating in the Son Mu area thought Viet Cong (VC) or NLF fighters hiding within the village. Thus, the soldiers were ordered to burn the complete village down. When the soldiers did not find come across the presence of any fighter within the villages, they targeted women and children by rounding them up within their huts, killing them on the spot, raping women and then burning down the complete village (Cookman). The massacre ended only when Hugh Thompson, a Warrant Officer, intervened by landing his aircraft between the fleeing villagers and U.S. soldiers, threatening to fire if they did not stop attacking. The crew further provided medical care to several survivors. Despite Thompson’s early reports to operational headquarters, no one stopped the massacre. Officially, it was claimed that the operation successfully killed 128 VC fighters. It was then when Thompson began to blow the whistle on the event and later testified against the ones’ responsible, who initially faced resistance from the government and military but was eventually recognized in 1998 for his act of bravery.

The second incident occurred in Tuskegee where an unethical research experiment was conducted on the African-American population in Macon County, Alabama, which lasted for 40 years. The participants in the U.S Department of Health study hailed from poor backgrounds and were convinced for participation by offering them free meals, burial expenses, minor remedies and permission to autopsy their bodies after death. Nearly 400 of the participants suffered from Syphilis but were not told about the disease nor offered treatment for it besides painkillers. By 1943, penicillin was found to cure syphilis, but none of the study's participants were provided any treatment. The experiment continued for nearly 40 years without informing any of the participants that they will deliberately not be treated as part of the experiment. Instead, they were told that the procedures involved treatments for ‘bad blood’ which was believed to be a leading cause of death among the community (Gray). The study came to limelight when a whistleblower, Peter Buxton, leaked information to the press after his protests and attempts to stop the unethical practice did not gain a response within the department. In 1966, Buxton had written to the CDC and expressed his concerns about the unethical aspect of the experiment; however, the department repeated the need to finish the study until all subjects died and were autopsied. Additionally, the National Medical Association supported the CDC in continuing the study. Peter Buxton then decided to approach the press in the early 1970s, and the story caused intense public outrage at the time. It led to an ethics panel being formed which finally determined that the study was unethical and unjustified medically, ordering its termination.

Both of these incidents represent bad examples of public policy. Although they both differed with regards to the suffering they caused, they were inhumane practices against a population which was looked down upon. Neither the innocent participants infected with syphilis nor the people in My Lai who were killed and raped could fight back, against what was clear malice towards them by those who did not value life. The Tuskegee syphilis study was described as an evident example of racism, which was further seen when several defenders came out to try to justify the experiments. These practices stem from institutionalized racism within public administration, where a failure to understand how racism impacts administrative decision-making led towards an inability to prioritize values and care, towards a racial minority (Starke, Heckler, and Mackey). Although the participants of the study had agreed to be treated and examined, they were not informed of the experiment’s true purpose or what was actually involved. They were intentionally misled to authorize the experiment, not deeming it important to obtain informed consent. The ground realities surrounding the experiment and the influence of racism in complicating the issue has to be understood and acknowledged to see why it was not deemed important to treat the suffering black patients (Reverby).

In contrast, the massacre at My Lai raised fundamental questions about America’s way of war and its record. The savagery demonstrated by the soldiers was beyond all expectations, who engaged in a killing orgy against unarmed infants, children, and women who offered them no resistance. The incident provoked many questions as to how this could happen. According to Zimbardo's theory, there are systemic and situational forces at play sometimes can influence even normal individuals to commit inhumane or evil acts. In a war where progress was determined from the body count, the distinction between civilians and fighters became blurred. Furthermore, the massacre indicated the political and cultural processes that enabled soldiers to massacre an entire village with no regard to the sanctity or value of human life (Russell). Consent for the massacre reached far up in the military hierarchy and demonstrated that the matter was one of privilege in which the dominant party thought they could determine the fate of those at the other end. Zimbardo further suggests that the distinction between evil and good is sometimes permeable, and seduces even good people through that line. The environment can influence people to perpetrate evil who often attempt to rationalize it by citing obedience to authority. He pointed to the various social processes involved which involve dehumanizing the other, blind, uncritical obedience to authority, diffusion of personal responsibility, passive tolerance of evil and various other factors in unfamiliar situations (Zimbardo). It explains why Hugh Thompson said that he was not surprised that the “cover-up started "up" and worked its way all the way back down.” (Digital History).

As a result of the revelations, there were different policy reforms triggered by the intense public reaction. Buxton’s information regarding the Tuskegee experiment led to federal inquiries, lawsuits, and Senate hearings. A lawsuit filed by the affected families led to a $10 million settlement which involved the U.S. government providing lifetime services, and health and medical benefits to the participants who were living, as well as later to their offsprings and widows. A significant change was observed in research practices to prevent ethical mistakes seen in the Tuskegee experiment. The National Research Act 1974 created a National Commission which aimed at protecting human participants in behavioral research and biomedical studies. Principles of ethical conduct were identified, and new regulations made it mandatory to obtain informed consent from all stakeholders or individuals involved in research. Any education, health, and welfare related research would be subject to an Institutional Review Board to oversee ethical standards being met (CDC). The Belmont Report was published in 1978 to provide ethical guidelines in protecting human subjects in studies, which emphasized justice, beneficence, and respect for personshttp://sphweb.bumc.bu.edu/otlt/MPH-Modules/EP/EP713_ResearchEthics/ada-reference.gif (HHS Gov). In the aftermath of My Lai, the U.S. military also recognized the need for ethics training and combat ethics, while emphasizing the principle of restraint in populated areas. However, further incidents of abuse that were leaked by whistleblowers revealed that reforms were still inadequate and ineffective (Jones).

It is evident from the two incidents that whistleblowers played a key role in ending or diminishing the impact of the incidents. To facilitate whistleblowing, it is important to create a culture where whistleblowers are encouraged to report anonymously without fears of unfair retaliation or harms to their safety. Policies should be enacted to provide them legal immunity from criminal prosecution in exchange for information. Those who disclose information on an organization's wrongdoing should not be liable for any claim or action for a breach of confidence, criminal offense, misconduct or defamation, as long as the one disclosing the information was not among the perpetrators. Secondly, to encourage whistleblowing, policies should be enacted to protect them from reprisals (OECD). Any reprisal is indicative of organizational support of wrongdoing. Therefore, it is important to protect them from retaliation and unfair treatment by complicit organizations. Further protections against those conspiring to retaliate against the whistleblower are also needed, which may include disciplinary or legal actions in case the safety or prospects of the whistleblower are harmed.

To address the underlying misconduct observed in these two incidents, a number of public policy measures are recommended. Firstly in the case of the military, all personnel should be trained to critically look at orders through the lens of ethical frameworks so that the soldiers develop the same kind of courage and moral rectitude as Hugh Thompson in such situations. Military ethics should emphasize on soldiers being servants of the nation first, and thus report and reject immoral or illegal actions and orders. They should further be trained to recognize the intrinsic worth and dignity of all people in war or peace. Similarly, the U.S. government should enhance efforts to prosecute those found guilty of unethical war practices. In addition, the deployment of legal experts on military operations could ensure that commanders have access to legal counsel and advice when needed, to help execute and plan operations in line with international obligations and principles, and to ensure that civilian damage is minimized (Borch). Lastly, to avoid such potential crimes against humanity, it is imperative for the U.S. to avoid wars of choice, as a policy.

Furthermore, there needs to be greater attention paid to race in academia and research, in terms of differential or negative treatment, when deliberating upon bioethics. Boards should be directed to encourage researchers to take into account any institutional or structural racial biases which prevent disadvantaged and vulnerable groups from being exploited in research studies. It is necessary to prevent participants from being exploited by meager incentives offered by research institutes in exchange for participation. Boards should be directed to determine whether research studies involving vulnerable populations are well grounded within ethical frameworks and uphold the Justice Principle. Researchers should also be directed to clearly identify the purpose of the research and how it could impact the well-being and health of the economically disadvantaged. Furthermore, it should be evaluated whether the research would provide clear benefits to these groups being studied and adds substantially to generalizable scientific knowledge (Yearby).

To conclude, our understanding of why such incidents occur and what emotions and motivations drive them should lead us towards enacting practical and complex changes in social and public policy. Although public outrage and emotional reactions help bring attention to such incidents, devising public policy to prevent them from reoccurring requires a detailed analysis of the factors, causes and underlying biases that make these incidents possible. The actions taken in the case studies are bad examples of public policy that led to hundreds of people being killed and struck by disease. It indicates what could happen when the value of human life is systematically cheapened within an individual’s mind. The presence of these institutional and systemic biases towards members of the other race or nation led to further cover-ups as a result of which these incidents could never possibly have been brought to light, if the ethically upright whistleblowers did not act.

# Works Cited

Borch, Fred L. *What Really Happened on 16 March 1968? What Lessons Have Been Learned? A Look at the My Lai Incident Fifty Years Later*. 4 May 2018. 17 March 2019. <https://armyhistory.org/my-lai/>.

CDC. *How Tuskegee Changed Research Practices*. 14 December 2015. 17 March 2019. <https://www.cdc.gov/tuskegee/after.htm>.

Cookman, Claude. "An American Atrocity: The My Lai Massacre Concretized in a Victim's Face." *The Journal of American History* 94.1 (2007): 154-162. <https://www.jstor.org/stable/25094784>.

Digital History. *Hugh Thompson: The Vietnam War as History*. 2018. 17 March 2019. <http://www.digitalhistory.uh.edu/active\_learning/explorations/vietnam/h\_thompson.cfm>.

Gray, Fred D. *The Tuskegee syphilis study the real story and beyond*. 2nd. Montgomery, AL: The Tuskegee syphilis study the real story and beyond, 2013.

HHS Gov. *The Belmont Report*. 18 April 1979. 17 March 2019. <https://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/read-the-belmont-report/index.html>.

Jones, Howard. *The Washington Post: The lessons of My Lai still resonate*. 16 March 2018. 17 March 2019. <https://www.washingtonpost.com/opinions/the-lessons-of-my-lai-still-resonate/2018/03/15/4d35613a-2708-11e8-874b-d517e912f125\_story.html?noredirect=on&utm\_term=.686dc49907c9>.

Maria, William De. *Deadly Disclosures: whistleblowing and the ethical meltdown of Australia*. 1st. Kent Town Adelaide, SA: Wakefield Press, 1999.

OECD. "Whistleblower protection: encouraging reporting." Toolkit. 2012. <http://www.oecd.org/cleangovbiz/toolkit/50042935.pdf>.

Reverby, Susan M. "Ethical Failures and History Lessons: The U.S. Public Health Service Research Studies in Tuskegee and Guatemala." *Public Health Reviews* 34.1 (2012): 1-13. <https://publichealthreviews.biomedcentral.com/track/pdf/10.1007/BF03391665>.

Russell, Rebecca. "Bodies, Bare Life and Dehumanisation in the My Lai Massacre." *ANU Research Journal* 3 (2011): 111-123. <http://press-files.anu.edu.au/downloads/press/n1675/pdf/ch09.pdf>.

Starke, Anthony M., Nuri Heckler, and Janiece Mackey. "Administrative racism: Public administration." *Journal of Public Affairs Education* 24.4 (2018): 469-489.

Yearby, Ruqaiijah. "Exploitation in Medical Research: The Enduring Legacy of the Tuskegee Syphilis Study." *Case Western Reserve Law Review* 67.4 (2017): 1171-1226. <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=4723&context=caselrev>.

Zimbardo, Philip. *TED 2008: The psychology of evil*. February 2008. 17 March 2019. <https://www.ted.com/talks/philip\_zimbardo\_on\_the\_psychology\_of\_evil?language=en>.

—. *The Lucifer Effect: Understanding How Good People Turn Evil*. 1st. New York, NY: Random House Publishing Group, 2008.