Asylum Evaluations— The Physician's Dilemma

HARVEY M. WEINSTEIN and ERIC STOVER

In the following paper, Annemiek Richters of the University of Leiden in the Netherlands addresses the dilemmas faced by health professionals who are asked to evaluate and provide supporting documentation for those refugees who seek political asylum in the countries of Europe. It is in the politically charged arena of asylum applications, government regulations, and public policy where bioethics, human rights, and health converge. Despite the 1951 Convention on Refugees, a treaty signed by nations around the world to safeguard the rights of those who are displaced, and other treaties that protect the rights of vulnerable populations, refugee and asylum policies have become increasingly strict in an effort to deter those who would seek safety. This tightening of borders in the countries of the West challenges physicians who find themselves caught between obligations to treat, to advocate, and to challenge policies that make treatment a potentially dangerous proposition. Unfortunately, the World Trade Center attacks have exacerbated the problem by labeling asylees and refugees as potential terrorists and subject to deportation.

Professor Richters explores the conflicts experienced by health professionals who must reconsider certain of their ethical obligations in light of international human rights law. Asylees whose rights have been violated in their own countries must prove a "credible fear of persecution" to an asylum officer whose language may be quite different and whose understanding of the politics of the asylee's country is very limited. If deported, the asylee applicant may face death or engage in ongoing attempts to enter a safe country with all the risks that road entails. In clinical vignettes, Professor Richters describes how ethical practice can be challenged by these larger human rights considerations. Physicians may be confronted by a situation where their "duty to treat" confronts the harsh reality that treatment may contravene the tenet of "do no harm." For example, harm may arise from good treatment when recovery leads to deportation. The original therapeutic considerations such as treatment of depression or anxiety may seem almost irrelevant when the asylee patient faces a return to repression, fear, and even death. Richters raises our awareness of the need to address these dilemmas and suggests that health professionals cannot confine themselves only to the doctor-patient relationship but also must become political advocates when human rights concerns threaten the well-being of those they serve. Finally, she revisits the question of how a postmodern ethical perspective can offer a framework for clarifying bioethical obligations.

At the beginning of 2001, the United Nations High Commission for Refugees estimated that there are more than 22 million refugees and internally displaced