

Made to Care?

**A commentary on the verdict of Gross Negligence by Norwegian Refugee Council (NRC) in the case of Dennis vs. Norwegian Refugee Council (NRC)
by Rebecca Maudling**



Those working within the humanitarian relief and development sector will likely be aware of Steve Dennis' case. He recently won a court case against his former employer the Norwegian Refugee Council (NRC), following an incident in June 2012 in Dadaab camp, Kenya, during which he was kidnapped. The incident left 1 driver dead and Steve, along with 3 of his colleagues were kidnapped for 4 days. The court ruled that NRC had been grossly negligent and that they failed to meet their duty of care towards him as a result of numerous failings in NRC's security risk management and aftercare.

The case has been described as a "[game changer](#)" and as a "[wake up call](#)" for the aid industry. The impact of the case remains to be seen, but given that it is in the most dangerous areas of the world where humanitarian need is often greatest, my hope is that this case will result in positive changes; changes that help to ensure that accessing those most in need does not come at the cost of the lives of those trying to assist.

Security practices vary wildly within the relief and development sector. Some organisations have well established systems for security risk management, including most importantly a "culture of security", where all staff, including senior leadership, take responsibility for security and wellbeing, within an organisational framework of policies and procedures. However, some organisations will argue that security policies and procedures impede their

ability to reach those “most in need”, seeing security risk management as a barrier rather than an enabler to sustainable programming. This attitude seems to assume that security management stops you from doing things and fails to understand that good security risk management does not implicitly make you more risk averse; rather it enables you to do what you want to do, as safely as possible and in full knowledge of any residual risks.

There has been talk within the sector that as a result of the ruling on Steve’s case the sector will tend to risk aversion with consequences for the ability to meet humanitarian needs. However, the ruling did not imply that NRC was negligent by virtue of working in Dadaab, an area with known high risk of kidnapping and risk of Improvised Explosive Devices (IEDs). Rather it was found to be grossly negligent as a result of failing to follow its own policies, procedures and accepted best practice for that context at the time. Had decisions been made on the basis of its own protocols and in consultation with their own security personnel, this would have greatly decreased the likelihood of the incident occurring. There is therefore no need for risk aversion, but rather an acceptance of the need for good security management, fully integrated into project and programme management. Security should never been seen as an add on, or a tick box exercise, but as something that is integrated and part and parcel of how work is carried out; crucial for effective and sustainable programming.

It is important to note at this point that good security management is not purely about protecting people from physical harm; it is about safeguarding the physical and the psychological safety and security of staff. Indeed, the case highlighted the links between security and psychological wellbeing, with damages being awarded for both physical and psychological injuries arising from Steve’s experience. This reinforces the importance of viewing staff wellbeing holistically, and the need to consider physical and psychological safety and security pre-, during and after assignments. This should be considered integral to discharging duty of care adequately.

This is all very well, but establishing a “culture of security ” obviously has implication for time and resources. Where there is a lack of willingness to invest time and resources into security there may be, as has been mooted within the sector, a tendency towards risk aversion. However, those organisations that want to be effective in relieving human suffering will inevitably continue to encounter risks. Aside from the personal impact on staff members affected, a critical incident can have massive financial and reputational ramifications, especially for a small organisation. Therefore, as well as the legal and ethical imperative to ensure its own staff don’t suffer as a consequence of the organisation’s work, actively managing the risks makes good business sense. But the time and money to do so has to come from somewhere, with the risk that it increases an organisation’s overheads. The implications this can have on misguided public perception of effectiveness can be significant. A positive outcome from this case would be that in the future institutional donors will expect security and staff wellbeing to be factored into all proposals as a matter of course.

In addition to the time and resources, an attitudinal shift may also be required in many cases, both at an individual and organisational level. Responsibility for safety, security and wellbeing falls on every single staff member. Recounting stories of kicking back against

security policies and procedures, of near misses, breaking curfews, travelling to unauthorised areas etc. should not be seen as a badge of honour. Policies, procedures and plans can only go so far to protect staff; it is individuals that have to implement them and make decisions based upon them. However, an often-heard argument is that security procedures can be too burdensome and restrictive. Certainly security should not strip organisations of the humanity required to effectively assist people in dire need. Those responsible for developing the supporting framework must ensure it is workable and fit for the organisational approach and values; if it is not, it is of little value.

A positive outcome of this case would be a greater focus on the needs of aid workers, both physical and psychological. The terminology within the legal phrase “Duty of Care” for me is significant- it is about humanity and the virtue of caring for others, supporting them and meeting their needs. Let’s hope it is this imperative, to care for others, that comes through strongly and motivates change, not the threat of being sued. I truly hope that as a result of Steve’s courage we see a shift within the sector, where employers commit to caring for those who work to relieve human suffering and hope to see more organisations embracing effective security management as a means to safeguard aid workers’ physical and psychological safety and security going forward.

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