

# A criminal and fitness to practice investigation following a newspaper 'sting'

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In 2012, Claudine Domoney, a London teaching hospital gynaecologist and sexual and reproductive health (SRH) specialist of 25 years standing, received a text message asking if she offered sex-based terminations in her private clinic. She replied that she did not, but offered the patient an appointment to come in to talk. It was a consultation that would result in criminal investigation and a General Medical Council (GMC) fitness to practice hearing. Following the recent case of Dr Hadiza Bawa-Garba, a paediatrician convicted of gross negligence manslaughter and subsequently struck off the medical register,<sup>1</sup> I spoke with Claudine about her own experience.

A British-Asian woman, Neha, came to that consultation at Claudine's practice accompanied by a white woman who introduced herself as Neha's advocate. Claudine described how the advocate dominated the room, vocally as well as physically, and sat at an odd angle which, it was later revealed, was due to a hidden camera filming the encounter. "At one point, I did something which I don't think I've ever done in a consultation before," Claudine said. "I put my hand up to block this other woman who kept intervening. 'I need to hear what Neha thinks,' I repeated."

Neha explained that her second husband already had a boy from a previous marriage, and the couple now wanted a girl. Neha was pregnant with another boy, and so she wanted a termination. This reasoning didn't add up. "The only thing that would have fitted the odd dynamic was coercion of some sort, such as domestic violence," said Claudine. "Usually you can see where the discord is, whether it's a bad relationship with the partner or the mother. Even if they're not in the room, you can feel them through what the patient says. But I couldn't work it out." Twenty-five years of practice had

not prepared her to spot a journalist with an actress fabricating an abortion request.

Claudine left the room mid-consultation to telephone a colleague and express her concern. He agreed to a follow-up with Neha in a few days' time. "I thought I'd done what I needed to do with respect to GMC guidance: If you don't feel you can deliver care to a woman seeking an abortion, you refer to someone else." Claudine told Neha she was going on holiday, but that this other doctor would see her as soon as possible. "It was true, but the holiday wasn't the reason I wasn't proceeding." After the patient left, Claudine found the sonographer next door who had performed a dating scan, and had been asked to check the baby's gender. She was crying, equally unsettled by this situation that she couldn't comprehend.

Two weeks later, Claudine received a call requesting she contact *The Daily Telegraph*, urgently. The journalist who picked up told her a story was to be published the following day about her role in providing an illegal sex-selection abortion. Claudine listened in disbelief, firmly denying the allegations. Suddenly, the reasons for the strange request, the 'advocate's' incongruous behaviour, the sonographer's distress, and the general sense that something was not right about the consultation, began to fall into place. She had been framed.

Claudine woke the next morning to hear the story on Radio 4. 'Doctors are offering illegal abortions on the basis of gender', the headline ran. Three doctors were accused, with Claudine stereotyped as *the white, privileged Harley Street woman*. The Health Secretary, Andrew Lansley, demanded a criminal investigation. Claudine's employer called an 8.00am meeting. Driving to the hospital, Claudine thought back through the 250 women she must have seen in the interim, to replay that peculiar appointment. "I



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## Box 1 Useful organisations

- ▶ NHS Practitioner Help Programme: <http://php.nhs.uk/>
- ▶ Medical Defence Union: <https://www.themdu.com/>

could remember the details of this consultation so well because it had been so bizarre,” she said.

In the aftermath of the *Daily Telegraph* sting, Claudine was contacted by the GMC, who had been made aware of accusations that were under police investigation. She returned to work after 48 hours, attending an Interim Orders Panel hearing of the GMC 2 weeks later. Inferring Claudine’s intentions from the reported dialogue of the consultation, the panel temporarily prohibited her from providing or authorising terminations.

Meanwhile, media interest grew. Claudine’s husband and children were confronted outside the family house. “My mum is Catholic, and she didn’t know I did this work. All her friends are Catholic. They were supportive and not judgmental, but still.” She had an excellent lawyer from the Medical Defence Union (box 1), as well as assistance from the NHS Practitioner Help Programme (box 1). The criminal investigation ran for 16 months, during which time Claudine was not allowed to speak publicly.

The criminal case was dropped, but the disciplinary hearing of the Medical Practitioners Tribunal Service (MPTS) – the independent fitness to practice adjudication body for the GMC – went ahead. “The adversarial nature was truly shocking to me,” Claudine said. “As doctors, we are trained to see what people are trying to communicate to us, rather than challenge them and trip them up.” She says that the tribunal seemed uninterested in her side of the truth. “Institutions have to react in a way that supposedly protects public opinion, which is also what the GMC does. They review the public opinion of the doctor, rather than try to explain the opinion of the doctor. I thought that was going to be the end of my career. I’d done a quarter of a century of good care.”

The MPTS stated an expectation that doctors should explain their thought-processes – concerns about abuse for example, uncertainty about the situation at hand – to their patient at each stage of the care pathway. But Claudine says she would have been failing in her duty to understand the cultural, social and domestic pressures acting on this woman if she had declined the request outright, or expressed her unease without a second opinion.<sup>2</sup> She maintains that she is – and always has been – wholeheartedly opposed to sex-selection terminations.

When Claudine compares the Bawa-Garba case with her own, a striking difference is the reaction of co-workers. “The thing that really got me in the hearing was the testimonials. Everyone was so lovely. It became overwhelming. Even a colleague who speaks

publicly against provision of abortion wrote that despite our differences of opinion, he recognises me as somebody who has the best welfare of women at the heart of my practice. It was really powerful.” At this point in the hearing Claudine broke down. Reflecting on the almost intolerable pressure, she emphasised that evidence shows “the mental health impact on doctors referred to the GMC as well, as the suicide risk, is very dangerous.”<sup>3</sup> But her seniority was an asset. In the case of Bawa-Garba, Claudine is appalled by the vulnerability of this unsupported locum junior doctor. “She was left to fend for herself. I didn’t feel that, but generally doctors have found it very difficult to stand up together and stand up for each other. The isolation just destroys people. The horror I felt when I read that Bawa-Garba was arrested 2 weeks after having a baby, 7 hours held in a cell to talk about what had happened 18 months prior. It’s just unbelievable.”

Eventually Claudine was acquitted and returned to full practice. Does she feel free? Not at all. “The after-effect is that if you google me to find my contact details, you see the sting on the first page. It’s not at all clear I’ve been exonerated. That doesn’t make the news.” “We all know about patient safety and the ‘Swiss cheese’ model,” she continues. “It’s never one person. It’s always a number of factors. Responsibility should be held by institutions rather than finding a scapegoat.”

Claudine feels that she was that scapegoat. “It was about opposition to abortion care. We were just pawns in the whole process.” The GMC does not publish statistics about the cases brought before them according to medical specialty, but due to its politically charged nature, abortion care seems a field prone to accusation. “The press was baying for blood. I felt so disgusted by the female journalist, that she would be doing this to try and limit access to women in need. Working in obstetrics and gynaecology, it’s absolutely frontline medicine in terms of the mix of the physical, psychological and social mores of the time, and we have to deal with that. But I never regretted going into it.”

As medical decision-making becomes ever more defensive, Claudine believes the connection between doctor and patient is fraying. “The GMC is trying to depersonalise medicine. The rules attempt to reduce human error, but they also strip medicine of human engagement and human interaction. Once you’ve lost that, you’ve lost the essence of what it takes to really care about people as a doctor. The boundaries are being formulated by people who don’t necessarily understand the true complexity of the issues we’re dealing with.”

*It could easily have been me* is a sentiment that has been repeated by many doctors in recent weeks. Errors are part of medicine, but setting clinicians up to make errors, or seem to, drives distrust between doctors and the public. What are the justifications for this kind of

medical sting within investigative journalism, and what kind of truth does it hope to uncover? The intention of framing malpractice actually distorts the encounter the journalist was purporting to observe. It is one thing to make a mistake in a situation where all parties – both doctors and their patients – are seeking an optimal outcome; it is quite another to find oneself in a situation which is designed to make the doctor appear to fail.

Years later, one of the other obstetricians accused by *The Telegraph* attended a talk Claudine gave at the Royal College of Obstetricians and Gynaecologists and came up to her afterwards and said: “You don’t recognise me, do you?”. It took a moment for Claudine to remember. This doctor was still fighting a private case relating to the 2012 accusations. “What makes me really happy is that you’re still up there,” she said to Claudine. “You’re able to continue your career. Everything isn’t over.”

Ultimately, Claudine loves her job. “It’s a fantastic mixture of medicine and surgery, talking to women and empowering them to make choices. What we do is work out together what will help their quality, perhaps their quantity, of life. If you keep the woman at the centre, the rest you can deal with. I didn’t want to be chased out by those other people.”

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