“Who would you believe?”

A film on sexual harassment & sexual boundaries in the doctor-patient relationship

By Dr. Sunita Simon Kurpad

Introduction

“***Who would you believe?***” is an 18-minute film on sexual harassment- a sexual boundary violation in the doctor patient relationship.

Three sections are woven into this film

- a script reading of a fictional account of a doctor patient interaction in India
- an account of an incident in Canada sometime ago
- an interview with a Clinical Psychologist.

Sexual boundary violations (SBVs) in the doctor patient relationship encompass a much broader area than sexual harassment. It is hoped that this film be used primarily as a medical ethics educational tool to sensitize medical students to sexual boundaries.

While the film focuses on one particular doctor patient profile, some of the broad issues of sexual harassment are similar in any power imbalanced relationship- whether it is teacher- student or senior-junior employee.

The one minute ‘Add on’ section focuses on a few excerpts from the main film. This serves to highlight some discussion points which can be used to sensitize members of anti sexual harassment committees, and is also available at the SJRI website.

In the ‘Know more’ section, some of the commonly asked questions/ discussion points have been listed- again with links to the papers which serve as background reading. To date there have been 3 screenings at St. John’s – the questions came up at these screenings. The ‘Know more’ sections allow the viewer to access further information on this topic.

Of course, to know beyond what is given here, one would need to access the papers which are referenced.

The main film and the "Add on" are freely available on YouTube, with links to further reading material for those who might be interested to know more on this topic. The credits run for nearly 2 minutes and it is would be good if viewers sit through it- an acknowledgment to all those who freely contributed to this film.

This is a film by Dr. Sunita Simon Kurpad, Professor of Psychiatry and Medical Ethics at St. John's Medical College, Bengaluru, India and mentored by Sindhu Thirumalaisamy, a film maker. This film was the outcome of a theatre workshop under the aegis of the Division of Health and Humanities, St. John's Research Institute.

Feedback and comments are welcomed (ethicsboundaries@sjri.res.in).

Who would you believe?

http://youtu.be/ycSHqhCtYyc

Read a review on this film

Ghoshal R. 2016. To believe or not to believe: The onlookers role in cases of sexual boundary violations. Indian Journal medical Ethics. Indian Journal of Medical Ethics Vol I No 1 January-March 2016.

http://www.issuesinmedicalethics.org/index.php/ijme/article/view/2336/4899

Know More - Commonly Asked Questions

- Compiled by Dr. Sunita Simon Kurpad

To date (August 2015), there has been 3 screenings of '**Who would believe?**' at St John's Medical College, Bengaluru. The audience have included faculty from the medical college, hospital, research institute, post graduate students, interns, members of the St John's Anti Sexual Harassment Committee (ASHC), management students, some faculty from other hospitals and amateur film makers. The film screenings were followed by questions/ discussion.

After you see this film, you may have some questions. As the **primary aim of this film is to as a teaching tool for the topic of sexual harassment in general , while focusing on sexual boundary violations (SBVs) in the doctor patient relationship in particular**, I thought it would be useful to list some of the Commonly Asked Questions with answers/ or provide links to some of the answers. If you have a query which is not covered here, do email me at ethicsboundaries@stjohns.in .

1. **Why did you do the film as a script reading and not as a regular film with actors?**

   The script reading format of the film was Sindhu Thirumalaiswamy's brainchild. It was felt that despite good actors it could be difficult to pull off the 'reality' component with amateur film making and a hand held video. It was serendipity that many in the audience found the script reading an effective method to 'think about' something which could otherwise have proved very distressing to actually watch.

2. **Why do you leave questions open ended? Do give the audience the answer.**

   This film is to be used as a teaching tool for medical students to discuss sexual boundary violations. It is important that medical students be given the opportunity to think through the issues that crop up in the film in the discussion time. Giving them answers upfront might prevent free thought about this issue.

   Medical students need to accept the fact that sometimes there is a degree of uncertainty when trying to resolve clinical ethical dilemmas. The uncertainty is not due to any moral ambiguity, but due to practical ones.

   While a few members in the audience said they would have preferred the 'right answer' to be stated explicitly, most members of the audience liked the open ended format.

3. **Can this film be a 'standalone' for teaching purposes?**

No, this film only deals with some aspects of sexual harassment. As different aspects of this film can impact individual members of the audience, it is best that screening of the film is followed by at least 30 minutes of discussion, initially focusing on the points raised by the students themselves. It would be useful for teachers to go through the background reading beforehand, especially Paper 2, to allow for a comprehensive discussion.

4. **Are sexual boundary violations (SBVs) the same as sexual harassment?**

Sexual harassment is one kind of SBV. By definition, sexual harassment is 'unwelcome acts or behaviours' including:

'Physical contact and advances; or a demand or request for sexual favours; or making sexually coloured remarks; or showing pornography; or any other unwelcome physical, verbal or non-verbal conduct of sexual nature.'

SBVs include sexual exploitation of patients- even if they are unaware that exploitation has occurred (for example patient wrongly thinks that an inappropriate physical examination was warranted) or when they have 'consented'. As the doctor patient relationship is a power imbalanced relationship, consent by a patient is not considered 'true consent'. In this situation, the sexual activity may not be illegal (if other Indian laws pertaining to sexual activity/ adultery are not broken), but it would still be considered as unethical.

See paper 3 and 9.

5. **Why was this movie made?**

I had signed up for a workshop on film making which was part of a project on "The Portrait Film as a reflective process of ethical discourse". The workshop, by the Division of Health and Humanities of the St John's Research Institute, was conducted by Dr Mario Vaz and Sindhu Thirumalaisamy with an aim to enrich the understanding of empathy and ethical issues during developing short films- by telling a story- of the patient or carer or professional.

The ethics of boundaries in the doctor patient relationship (both sexual and non sexual) was an area I had worked on over the last nearly 7-8 years. Sexual abuse occurs in all societies across the world and it is particularly difficult to discuss openly when it occurs in traditionally respected groups like doctors, teachers, religious leaders and the armed forces. Unless we talk about it openly, it is difficult to set up systems to reduce risk of abuse. Barring some exceptions, victims and their care givers are also generally reluctant to talk about it and in India admitting that one has been abused in a public forum can sometimes lead to different kinds of problems. This is

why it could be difficult for patients to tell their own stories. I thought it might be a good thing to tell a story from the viewpoint of a friend and colleague when dealing with a doctor's sexual boundary violation, as it reflects a universal problem.

Dr Anant Bhan, a co-author of the Bangalore Declaration had sent me the link on the Canada event some months earlier, and I had been struck by the parallels in Dr Tanya Machado's story- as indeed the commonalities in the experiences of patients and doctors, with other victims and offenders.

It is hoped that this film can inspire other groups in society take proactive steps to deal with sexual abuse in their midst.

See Paper 2

6. **How does it help to sensitize MBBS students and other health professionals about this topic?**

Awareness about this issue could help young doctors reduce risk in themselves or in colleagues. In addition, as it could be 'normal' for patients in some situations to be attracted to doctors, it is important that doctors know how to anticipate and handle these situation safely. Awareness of the 'slippery slope' can prevent – at a minimum patient embarrassment and at a maximum patient exploitation. At St John's this topic, along with non sexual boundary violations (NSBVs) has been included as part of the **undergraduate medical ethics curriculum** for some 7 years now, thanks to the support from Dr. G. D. Ravindran, Head of Departments of Medicine and Medical Ethics.

In addition, my colleagues form the Department of Psychiatry- Dr Tanya Machado, Dr Sheila Daniel and Dr R.B. Galgali and I have conducted several workshops over the years at several local, state and national level conferences to sensitize other colleagues- **medical, psychology, social work and nursing**. There is probably more literature on this topic in the mental health field because patients and care givers report this problem to mental health professionals.

At St. John's, other than medical students, the topic of boundaries is also taught to **students of the Health Management courses** as part of medical ethics.

Paper 2, 4

7. **Are SBVs only an issue with doctors?**

Not at all. It can occur with any health professional. For that matter, it can occur with any professional/ non professional. Sexual abuse exists in society and people can find it difficult to

talk about it. This film is about doctors only because doctors also feel the need to do something about it. And doctors can talk about themselves with some degree of authority.

See paper 1, 2

8. **Are men the only offenders?**

No. As stated in the film, both victims and offenders can belong to any gender. For ease of reference in this particular situation, we refer to the offender as 'he' and the victim as 'she'.

See paper 2

9. **Does this film say that victims are flirts?**

No. This film only points out that sometimes offenders use that term to unfairly 'blame the victim'.

10. **Is this problem specifically in some medical/ surgical sub-specialities?**

We don't have data from India on this but literature from the West suggests that no sub-specialty seems immune. At the moment there is no evidence to suggest that a cultural difference should exist. If anything, the conspiracy of silence is a universal phenomenon, but talking about sexual abuse is still aversive in India.

See Paper 1, 2

11. **Can offending doctors be rehabilitated?**

Of course they can be rehabilitated. But first, they should take responsibility for their actions and face the consequences. The punishment should fit the crime. If there is genuine remorse, compassion would not be misplaced. The course of therapy and rehabilitation would depend on the underlying behavioural issue. Close supervision of their future work is extremely important.

See paper 2

12. **Are sexual boundary violations by doctors common?**

We don't have actual figures, as it would be difficult to do a prevalence study. While under reporting is possible, it is likely that, as in the West, the actual proportion of health professionals who cross sexual boundaries may be low. But the problem is that if they are unchecked, they can become serial offenders. This is why we need to be sensitive to this issue in our colleagues and handle it effectively.

See Paper 2

13. Does consent by the patient make it 'okay' (sexual activity in a doctor patient relationship)?

No, it would still be considered unethical, as consent in a power imbalanced relationship may not be construed as true consent. In addition, in India, laws pertaining to adultery may also make it illegal and a violation of Code of Conduct.

Paper 2, 3, 7.

14. What happens if the doctor and patient feel this is 'true love'?

The doctor should discuss the matter with at least two experienced senior colleagues. If it is felt that this could be 'a genuine situation' (not merely a transitory experience due to transference/ counter transference), then the patient's care should be transferred to another doctor before the relationship is pursued. Even so, it is probably best to refer the matter to the Hospital Enquiry Committee.

Some Western countries have mandated that a certain period of time elapse (1-2 years), before a sexual relationship is permitted. In India, this is as yet uncharted territory and doctors are advised to ensure they are not breaking any laws/ ethical codes by entering a relationship with former patients. Doctors are also reminded that should the relationship break up, the patient might feel he/she was taken advantage of, and might still want to lodge a complaint.

See Paper 2

15. Do false allegations occur?

Yes, false allegations are rare, but do occur. There is a possibility that it is much less common than what doctors think. However, sometimes patients can misinterpret a doctor's action, which makes it all the more important for doctors to follow the correct procedures of physical examination and have a professional manner.

Unfortunately, it is also possible for allegations to occur due to other motivations. Last year, there was a newspaper report about a 68 year old doctor from Bengaluru being allegedly blackmailed over a 'honey trap' laid by a lady who came to him for a consultation.

See Paper 2, Reference 10.

16. Is having a chaperone for physical examination feasible in busy clinics in India?

Do follow the recommended procedure in your hospital for use of chaperone during physical examination. For example- for breast examination, or for per rectal and per vaginal examinations, chaperones should be present, and findings should be properly recorded in the

case notes. *It is far more preferable to spend the few minutes it takes to arrange for presence of chaperone, than to count the hours spent with Hospital Enquiry Committees.*

Doctors are reminded that it is not merely the presence of a chaperone that is important, but that the examination is clinically indicated, and the manner of conduct is professional. Early detection of breast cancer is extremely important, and it is important that medical students learn how to do this in a professional manner.

17. What is the proper procedure to report sexual harassment?

It is best to follow the reporting process in your hospital. Generally the Chief of Services is informed and matter reported to the Hospital Enquiry Committee. Usually a written complaint is required.

Patients also have the choice to make a complaint to the local medical council, or to file a complaint with the police under the Indian Penal Code (Section 354 A).

It would be advisable for the patient and the patient's family, the alleged offending doctor and the third party doctor (to whom the abuse is reported), to have access to **counselling and legal advice,** as making a complaint can seem like an aversive process.

It is always important to hear what the patient and/or their family are saying, as sometimes they may be unwilling for a written complaint or a formal enquiry process. But they would always want to be heard, and want to ensure that systems are in place to prevent or reduce the risk of the harassment to any other patient.

See paper 2.

18. Can sexual harassment of a patient by a doctor be reported to the hospital Anti Sexual Harassment Committee?

The Supreme Court mandated Anti Sexual Harassment Committees generally applies to women employees in the workplace. (Sexual Harassment of Women in the Workplace- Prevention, Prohibition and Redressal Act, 2013). Some hospitals have policies which are gender neutral. However, some of these committees might regard patient complaints as outside their purview. As the members of Anti Sexual Harassment Committees are generally well versed in the issues around sexual harassment, they can, if needed, be approached for advice.

See Paper 9.

19. Isn't there a Code of Practice regarding this issue in India?

The Medical Council of India's current Code of Ethics prohibits 'adultery or improper conduct/ association with patients' (Misconduct Chapter 7). The Indian Psychiatric Society has convened a Task Force on Sexual Boundaries in 2015, and they plan to publish Guidelines on this issue in 2016.

See Paper 7.

20. Can a police case be filed against the doctor in cases of sexual harassment?

Yes, as per Section 354 A of the Indian Penal Code, sexual harassment is a crime. However, sometimes patients and care givers do not want to file a police complaint as they may have some anxieties or concerns about the whole process. They may report it to the hospital authorities with a request to take appropriate action against the doctor, which can be done after conducting a proper enquiry. **It is important for all concerned to take legal advice.**

If rape is alleged, it is better dealt by the criminal justice system.

21. Why report sexual harassment? Sometimes people/ media over react and a life gets destroyed. Why not just give the offender a good 'talking to' and ensure they stop the problem behaviour?

There are different reasons why offenders behave the way they do. Some go on to become repeat offenders. Merely talking to offenders, does not usually stop their behaviour. Unless they are made to face the consequences of their behaviour, it is unlikely that offenders will remain motivated to stop. Those who offend because of mental illness, may of course need treatment more than punishment. Distress at being caught should not be mistaken for genuine remorse at their action.

If your friend or colleague is guilty of sexual harassment, you don't have to stop being his or her friend. He/she is probably in greater need for a good friend to support him/her through upcoming difficult times and help change their behaviour. Setting their behaviour right early in their career, by facing the consequence of inappropriate behaviour could prevent them from repeating the offence (the behaviour is likely to continue, if they are allowed to get away with it). What could have been set right with a reprimand early in career, if allowed to continue and escalate, could result in loss of one's job, or suspension of one's license, at a later date.

Importantly, the victim deserves justice. Not taking the patient's complaint seriously will make the patient victim feel all the more distressed.

22. Should one educate patients and family members on this issue?

Yes, it is important to work towards non-sensationalized education of patients and their care givers on this issue.

Paper 2.

23. All this talk of sexual harassment is making many good doctors anxious.

Yes, that is unfortunately true. However, sexual abuse in society is an unpleasant reality. It is hoped that sensitizing young doctors and other health professionals on this issue will not only reduce risk for themselves, but also help them to recognize unprofessional behaviour in colleagues, should it occur, and ensure they put an effective stop to it. Being alert to some non sexual boundary violations (NSBVs) which sometimes act as a prelude to sexual boundary violations (SBVs) is equally important (the 'slippery slope concept').

Good doctors have less to be anxious about if they do their work in a professional manner.

24. Where can one see the other films made by the other participants of this workshop?

There were 4 other movies made during this workshop. You can see them at:

https://www.youtube.com/playlist?list=PLiFjWbKQwgV6moxdiVEtqbBWY3GziUpr

Your feedback/ comments would be invaluable.

Do email me at ethicsboundaries@stjohns.in

Points for Anti Sexual Harassment Committee

A one-minute "Add on" film

http://youtu.be/ax03SMlQn6E

Know More - Background Information

Our publications on boundaries (1-5), some relevant documents (6-9), newspaper report (10).

1) Sunita Simon Kurpad, Tanya Machado, R B Galgali.
   Is there an elephant in the room? Boundary violations in the doctor-patient relationship in India.
   Indian Journal of Medical Ethics (2010) 7:(2)
   http://www.issuesinmedicalethics.org/index.php/ijme/article/view/315

2) Sunita Simon Kurpad, Tanya Machado, R B Galgali, and Sheila Daniel.
   All about elephants in rooms and dogs that do not bark in the night: Boundary violations and the health professional in India
   Indian Journal of Psychiatry (2012), 54(1)0, 81-87.
   http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3339229/

3) Sunita Simon Kurpad, Tanya Machado, R B Galgali
   "When a yes should mean no": doctors and boundaries
   Indian Journal of Medical Ethics (2011) 8:(2)
   http://www.issuesinmedicalethics.org/index.php/ijme/article/view/1141/2553

4) Bangalore Declaration Group
   A consensus document requesting the Medical Council of India to take action on the issue of boundary violations in doctor-patient relationships.
   The National medical journal of India (2012) 25:2, 96-8; Discussion 98.
   http://archive.nmji.in/archives/Volume-25/Issue-2/Medical-Ethics.pdf

5) The Bangalore Declaration Group.
   Boundary Violations. Our reply to the commentaries on the Bangalore Declaration.
   The National Medical Journal of India (2012), 25 (1), 311.
   http://archive.nmji.in/archives/Volume-25/Issue-5/Correspondence.pdf

6) The draft copy of the Bangalore Declaration was given to the Working Group of the Undergraduate Curriculum Committee of the Medical Council of India (MCI) in March 2011, and the topic of boundaries was included in the proposed curriculum as part of MCI's VISION 2015 document.

Vision 2015. Medical Council of India 2011, Page 18

http://www.mciindia.org/tools/announcement/MCI_booklet.pdf

7) **Code of Ethics Regulations, 2002, amended 2009. (Medical Council of India).**

http://www.mciindia.org/RulesandRegulations/CodeofMedicalEthicsRegulations2002.aspx

8) Sexual Harassment of Women in the Workplace (Prevention, Prohibition and Redressal Act, 2013)

http://www.iitbbs.ac.in/notice/sexual-harrassment-of-women-act-and-rules-2013.pdf

9) **The Criminal Law Amendment Act (2013), IPC 354 A**

http://indiacode.nic.in/acts-in-pdf/132013.pdf

10) **TV channel employee, policeman, actresses in gang accused of blackmailing doctor.**

Indian Express, published by Express News Service. 20 June, 2014.

http://indianexpress.com/article/cities/bangalore/tv-channel-employee-policeman-actresses-in-gang-accused-of-blackmailing-doctor/

Know More - Email at ethicsboundaries@stjohns.in

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