

Should doctors be suspended for breaking the law?

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'Should doctors be suspended for breaking the law?' - NO

The first question to ask is whether the law that has been broken is a just law.

Recently the UK medical regulator, the General Medical Council (GMC), issued an apology for suspending doctors convicted for homosexuality under homophobic laws, which have since been repealed and are now widely seen as unjust. The GMC admitted to having “compounded [the] harm” these doctors experienced by wrongly ending their careers.(1)

By suspending Dr Sarah Benn for peacefully protesting outside an oil terminal, the GMC appear to be compounding the harm once again.(2) Dr Benn broke a High Court injunction imposed by Valero, a US-based oil company. The use of privatised civil law to squash necessary and peaceful actions which sound the alarm on the existential threat of climate devastation cannot reasonably be argued as a moral or just use of the law, especially when fossil fuel companies continue to profit obscenely, whilst knowingly destroying the planet and in turn the health of those who live upon it.(3) Yet the GMC saw fit to suspend Dr Benn. Not because she engaged in climate activism, but because she broke the law which they argued (without evidence to support the claim) erodes trust in the profession.(4)

Civil disobedience is a core part of political activism. Philosopher John Rawls argues that it strengthens democracy, either by breaking unjust laws themselves or breaking minor laws to disrupt and draw attention to greater injustices.(5) Indeed, history tells us that positive social change frequently occurs on the back of actions deemed unlawful at the time. Public transport segregation was written into law when Rosa Parks notoriously refused to give up her seat on a bus. If Parks was a doctor, should she have been suspended too? Medical history exudes examples where activism has led to profound change, including medical women imprisoned for suffrage activities; a cause we now all support.(6) Arguably, patients’ trust in doctors, based on their trust-based moral relationships, is upheld and strengthened when doctors advocate for action on important causes, particularly when related to health.(7)

Crucially, arrests for peaceful actions have been far more likely due to recent draconian laws, attracting concern from the UN Special Rapporteur, Michel Forst.(8) Forst warns that professional sanctions against doctors engaging in environmental protection “can definitely be considered as a

form of ‘penalization, persecution or harassment’ and would therefore fall within the scope of my mandate”.(9) Such stern criticism suggests that regulators are straying beyond their scope, sanctioning activities which do not impinge on professional practice at all.

That is not to say that doctors have a carte blanche to break the law, but decisions regarding suspensions must acknowledge the context and motivations in which such actions are taken. I have already suggested the basis of an ethical defense of doctors facing suspension for cause-related arrests in the Journal of Medical Ethics, published on the day Dr Benn was found guilty of professional misconduct.(10) This piece notes that civil disobedience may be justifiable if the cause is just; the action is taken as a last resort when lawful actions have led to minimal progress; is proportionate; has a realistic chance of success; and receives support from a legitimate authority. This final point has recently been strengthened by the British Medical Association voting to protect doctors from sanctions for activism.(11)

Moreover, debating whether doctors should be suspended for law-breaking diverts attention from examining whether it is right for public money to be spent prosecuting doctors for whistleblowing on climate inaction in the first place. In recent cases, juries have been unable to convict health professionals when they were able to explain that their professional codes of conduct required them to raise the alarm on the health implications of the climate crisis.(12)

Instead, should we not be demanding that those responsible for climate devastation, and other social injustices, face legal consequences themselves?

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No conflicts to disclose.

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