

When is it criminal? *R v Ong Min Tan, HCCC v Victor King & similar cases*

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When is it criminal?

- Dr Suresh Nair – manslaughter, supply of prohibited drug cocaine
- Dr Mohamad Rahman – aggravated sexual assault – 17 victims
- Dr Ong Min Tan – aggravated indecent assault – 4 victims
- Dr Victor King – digital penetration - 2 victims – no criminal charge

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Dr Ong Min Tan

- Four patients, age in late teens to late 20s
- Under treatment for mental illnesses including anorexia
- Alleged inappropriate touching and talking 2010, 2011
- First complaint made direct to police by another psychiatrist
- Other complaints followed

Dr Ong Min Tan cont'd

- Outcome:
 - Criminal charges 23 January 2012
 - Northside Clinic referral to Health Care Complaints Commission and Hospital Medical Advisory Board
 - Suspended 1 February 2012
 - Registration relinquished 25 July 2013
 - Guilty plea, 3 years gaol 27 February 2014

HCCC v King 2011, 2012, 2013

- Inappropriate sexual conduct towards young women 2007 and 2008
- Complaints to HCCC
- Medical Tribunal findings of:
 - Odd behaviour
 - Inappropriate sexual questioning
 - 2 episodes of digital penetration

HCCC v King cont'd

- Outcome:
 - HCCC investigation and prosecution
 - Medical Tribunal hearing 2011
 - Practitioner's registration cancelled 6 February 2013
 - No application for review for 12 months

R v Nair 2011, HCCC v Nair 2013

- Guilty plea manslaughter due to overdose of cocaine 2009
- Criminal sentence 26 August 2011, 7 years prison, non-parole period 5 years
- Medical Tribunal 2 December 2013, cancel registration, no review for 6 years

R v Rahman 2011: HCCC v Rahman 2013

- Charged with 2 offences aggravated sexual assault 2010
- NSW Medical Board 15 April 2010 – suspended
- 15 further patients made complaints to police
- Age range 14 to 37
- Unjustified examinations of breasts and genitals

Dr Rahman cont'd

- Outcome:
 - Guilty plea 6 April 2011
 - Sentencing 28 July 2011 9 years in prison, 6 years' non-parole period
 - Medical Tribunal 22 April 2013
 - Registration cancelled 22 April 2013
 - No application for re-registration for 8 years

Implications

- Some issues (not exhaustive):
 - Insurance - Costs
 - Mandatory reporting
 - Fairness
 - Consistency of outcome for like behaviours
 - Public policy
 - Heroes or villains: societal attitude to health practitioners