

# EXPLORING AFFILIATIONS IN AN ESCALATION OF CONFLICT: THREE CRITICAL POINTS IN TIME IN THE JAYANT PATEL, BUNDABERG HOSPITAL CASE

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## **ABSTRACT**

*In 2005, in the Queensland State Parliament, Australia, claims were made that led to a public inquiry into Queensland Health and the practices of an overseas trained doctor, Dr Jayant Patel, who was accused of contributing to the deaths of a number of patients at Queensland's Bundaberg Hospital. This inquiry ultimately led to Patel's arrest and incarceration. His convictions however, were quashed on appeal and a new case was launched against him. This paper explores how the conflict escalated and examines, in particular, the use of affiliations as a resource between players. Public documents were used to track the events in the case, with two methods utilised to examine how the key players defended their claims. To begin, the affiliations are examined as part of the affair process using Boltanski's affair model as a theoretical framework. Then, to enhance this explanation, some affiliations are examined in the context of the field in which the conflicts erupted, using Bourdieu's field model theories. Whilst Boltanski and Bourdieu are considered opposing theorists sociologically, a trading zone between their works can be found, allowing for expansion of the ideas. The findings reveal that, affiliations are important to the defence of claims, but other factors including the timing of such affiliations and the capital affiliates possess, also play a crucial role. This reminds us of the age old adage 'It's not what you know but who you know'... Through the trading zone approach to methodology, this study contributes to a better understanding of organisational conflicts.*

## **INTRODUCTION**

In 2004, Nurse Toni Hoffman made the first of a series of allegations against a doctor at the Bundaberg Hospital in Queensland, to State MP Rob Messenger (Thomas, 2007). In 2005, she claimed whistle-blower status and Messenger took her claims to the Queensland State Parliament, Australia (Thomas, 2005). These claims led to two public inquiries into Queensland Health which examined the registration and employment of overseas trained doctors ("State to cover Dr Death patients' costs," 2005; Thomas, 2007) which included Dr Jayant Patel, who was accused of contributing to the deaths of a number of patients at the Bundaberg Hospital, in the Wide Bay District (Thomas, 2007). This inquiry ultimately led to Patel's arrest and incarceration for the manslaughter of three of his patients and harming another through unnecessary procedures ("Dr Death' found guilty of manslaughter," 2010; "International: Surgeon given seven-year term for manslaughter," 2010). His convictions however, were quashed on appeal to the High Court of Australia and a new case was launched against him (Baskin, Keim, & Robertson, 2013). The final outcome resulted in convictions of fraud and a suspended sentence, in late 2013 (Australian Broadcasting Corporation, 2013). This case was part of a larger study which examined the containment of organisational disputes and scandals as its object. This paper explores how the conflict escalated and examines, in particular, the use of affiliations between players as a resource.

**CONTAINMENT: A BRIEF HISTORY**

The Bundaberg Hospital case was used to demonstrate the containment of organisational conflicts. Containment, as defined in this research, pertains to those strategies utilised by an organisation or institution to prevent a conflict from entering the public domain, where it could potentially cause damage to the organisation or its members (Habiba, 2013b). In order to frame up the object of the containment of organisational conflicts, so that it could be understood conceptually, an analysis of economic and workplace changes from the 1930s to the present, was conducted. This highlighted some of the changes that have occurred in organisations that have led to the containment of organisational conflicts over time. Through the analysis of workplace literature, two key foci were identified that have played a particular role in the containment of disputes. Namely, there was an increased focus upon individuals in the workplace and descriptions of relations between players became psychologised (Habiba, 2013a, 2013b). This also had the effect of focusing attention back to the central players (Habiba, 2013a, 2013b).

The increased focus on individuals could be seen to be a result of many factors. However, four key trends that emerged in the literature and contributed to this focus were; the introduction of Human Resource (HR) departments in the 1960s (Fieldes & Bramble, 1992), the increased alienation of unions by organisations from the 1950s onwards, changes to Occupational Health and Safety (OHS) laws in Sweden in the late 1970s to include psychological well-being of workers (Eurofound, 2009), and the introduction of neoliberalism as a political strategy to stabilise the market (George, 1999; Harvey, 2005).

As goods production moved from mass to more flexible modes (Thompson, n.d.; Womack, Jones, & Roos, 1990) many aspects of the workplace changed (Ehrlich, 1997). The introduction of Human Resource (HR) departments in the 1960s was a means of meeting the changing needs of the new workplace (Fieldes & Bramble, 1992). A key focus for employers was the retention of valuable employees, as they recognised the importance of the capital skilled workers brought to the organisation (Ehrlich, 1997). The HR department focused on aspects, such as improving employer-employee relations (Lécuyer, 2003). This served a two-fold purpose. By ensuring that employees remained happy in the workplace the HR department could foster loyalty to the organisation and reduce movement of employees during times of economic stability (Ehrlich, 1997). Further, these initiatives also improved the ability of the organisation to deal with issues through internal mechanisms, thus preventing intervention from outside bodies such as unions, legal players or OHS officers, when problems emerged (Khilawala, 2011; Lécuyer, 2003).

As work moved towards more flexible modes of production, work agreements changed between employers and employees to more flexible agreements such as contracts, part time, casual agreements (Harvey, 1990). These were also increasingly negotiated by the individual, as unionism was destabilised in many countries from the 1950s (Harvey, 1990). This increased the vulnerability of the employee and placed pressure on them as individuals (Habiba, 2013a).

When new OHS legislation was introduced in the late 1970s in Sweden, to include the psychological wellbeing of workers (Engman, 2003; Eurofound, 2009), this further intensified the focus on individuals. By placing an emphasis on how the organisational environment impacted psychologically on the individual, new areas that could be potentially litigious were opened up (Khilawala, 2011). This, in turn, increased incentives for the organisation to ensure that containment of issues was tightened up through the measures outlined (Habiba, 2013a). As a

result, in the late 1970s when neoliberal policies were introduced, the turmoil of restructuring that occurred in many organisations, meant that many individuals were in a vulnerable position as a consequence of the workplace changes that had occurred over time, and had to negotiate through internal mechanisms.

### **THE CONSTRUCTION OF THE OBJECT**

To explore the containment of organisational conflicts further, Bourdieu's (Bourdieu & Wacquant, 1992) methodological approach of the construction of the object was applied. This meant that rather than taking a predetermined approach to methodology, the research question determined which methodologies were employed in the quest for knowledge about the object (Bourdieu, Chamboredon, & Passeron, 1991; Bourdieu & Wacquant, 1992; Wacquant, 1998). Bourdieu also advocated a polytheistic approach (Wacquant, 1998), which allowed for the use of a number of theoretical models in the study of organisational containment of conflicts. In order to create fluency between theoretical models, as the object was constructed, a trading zone approach as described by Galison (1997) was also adopted. In simple terms, the trading zone approach, draws upon the relevant features of different theoretical models to explore and expand upon findings (Galison, 1997).

While the larger study revealed that many factors contributed to the containment of organisational conflicts, the focus of this paper is to examine in more detail, how players in the Bundaberg hospital case utilised affiliations with other players, as a resource. Because of the public claims made about Patel, Queensland Health and the incumbent government players had an investment in trying to quell the conflict as quickly as possible, as claims about the mismanagement of patients by a doctor, particularly an overseas trained doctor, had the potential to create significant problems for the organisation. In this paper, Boltanski's (1996) affair model is used to explore the affiliations formed between players during the different phases of the escalation of conflict. From here, these affiliations are examined a second time using Bourdieu's (Bourdieu & Wacquant, 1992) field theories. Bourdieu's field theory helps to emphasise why some affiliations were more effective in the conflict process than others.

As one of seven cases being used to explore the issue of the containment of organisational and institutional conflicts in a larger study, the Bundaberg Hospital case, was selected on a number of criteria. This included that the case was a whistleblowing case and had escalated to a full blown social affair which was still playing out in the public domain. It was an Australian case with some overseas elements and was well-documented in the media, which was crucial for access to details about the events of the conflict. 123 public documents were utilised in the analysis of the events of the Bundaberg Hospital case. This included journal articles (10), newspapers articles from local, national and international sources (77), a television report, a book on the case, and web reports which included legislative material pertinent to an understanding of the case (34).

### **BOLTANSKI AFFAIR PROCESS**

Boltanski's (1996) affair model highlights the phases a conflict may pass through, namely onset, breach of containment, recontainment and social affair (Habiba, 2013a). Boltanski (1996) tells us that all conflicts begin as psychological affairs (personal), but not all conflicts escalate to become social affairs (depersonalised). The first three phases of an affair remain psychological (onset, breach of containment and recontainment) and the majority of organisational conflicts remain in the onset phase and are dealt with during this phase (Habiba, 2013a, 2013b). However, some

conflicts escalate to breach containment, entering the public domain. Once containment is breached, the conflict must either be recontained, which takes it back to the private phase once more, or it may be transformed through the depersonalisation and generalisation of the issues, to become a social affair (Boltanski, 1996). Conflicts that are dealt with as psychological affairs, either during the onset or recontainment phases, generally result in superficial changes (Boltanski, 1996; Habiba, 2013a, 2013b). However, as social affairs, they result in more significant changes including changes to legislation, culture or the systemic structure of the organisation, because they are depersonalised and affect a wider, more general group (Boltanski, 1996; Habiba, 2013a, 2013b).

Each phase of the affair (onset, breach of containment, recontainment, social), consists of a series of events. An event can be determined by the following structure. There is a denunciation followed by the identification of the key participants in the affair; denouncer, target, persecutor and judge. There is a claims process with the central players making claims and counterclaims. The central players utilise resources, human and other, to defend their claims and these are presented to a judge who determines a settlement or agreement, thus ending the affair (Boltanski, 1996). The use of resources is particularly important in this process. In this paper, a focus on the human resources highlights how the conflicts between Dr Patel and nurse, whistle-blower Toni Hoffman led to the Bundaberg Hospital case, not only breaching containment, but also escalating to become a full-blown social affair.

### **THREE POINTS IN TIME IN THE BUNDABERG HOSPITAL CASE**

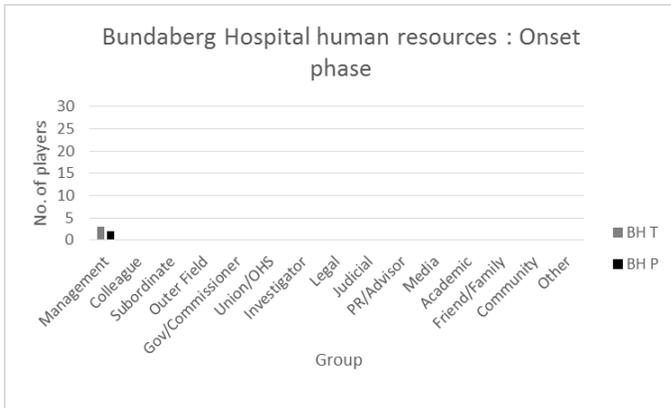
To demonstrate the effectiveness of affiliations utilised by the central players to advance their claims, three different points in time throughout the Bundaberg Hospital case are chosen. These show the onset, breach of containment and escalation to social affair and are discussed briefly here in light of the object of the broader study that is, the containment of the conflict. All of the events of the case, throughout the affair were analysed in detail. The players, used as resources by the target and persecutor as identified at the point of denunciation in each event, were listed. These players were then categorised into groups which broadly fell into five general clusters, namely occupational (managers, colleagues, employees, associates from the outer field), collective (Government, union, OHS players), legal (investigators, lawyers, judiciary members), media and others (family, friends). Then these players were counted for each phase.

### **ONSET**

Details about the onset phase were gleaned from later events, as information about this phase does not become available until a breach occurs. The analysis of the onset documents revealed that both Hoffman and Patel were forming affiliations between members of staff (Thomas, 2007, p. 99) (see Figure 1). However, close investigation of these players reveals that Patel was supported by players in administrative positions and this resulted in the matter being dealt with through internal mechanisms for over a year, culminating in Hoffman's decision to whistle-blow to force action on her allegations against him (Jones & Hoffman, 2005; Thomas, 2007).

Figure 1

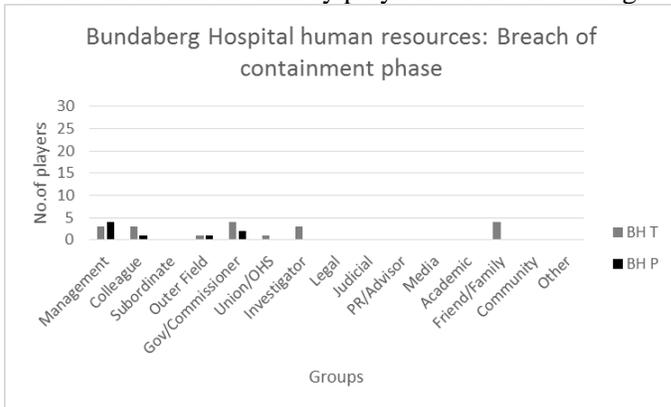
Human resources utilised by players in the Bundaberg Hospital case: Onset



**BREACH OF CONTAINMENT**

Figure 2 shows that during the breach of containment phase, as a result of Hoffman blowing the whistle and enlisting the support of a State Opposition player, two key groups became involved in the claims and counterclaims process defending Hoffman and Patel, namely the occupational and collective players. As the conflict escalated, the issue moved quickly to a battle between state parliamentary players over the state of Queensland Health and the government’s defence of Patel (Thomas, 2005). There is an increase in action by the players in this phase. In particular by the persecutor/s, which included both Patel and the Queensland government who attempted to recontain the matter.

Figure 2  
Human resources utilised by players in the Bundaberg Hospital case: Breach of containment

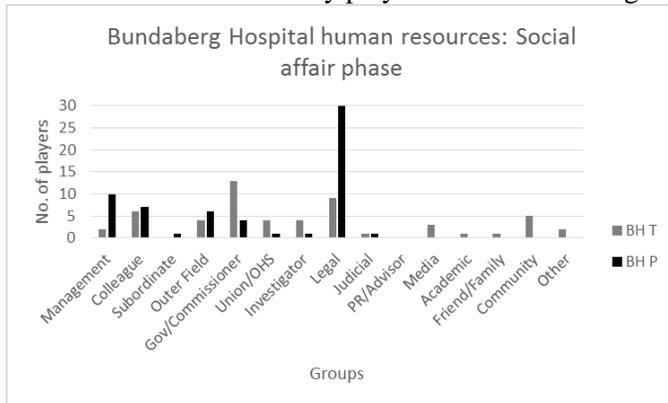


**SOCIAL AFFAIR**

However, continued pressure from the Government opposition and other players, resulted in the transformation of the affair to a full-blown social affair when a full inquiry into the practices of Patel and the registration and problems with overseas doctors was announced (Todd, 2005). As the conflicts escalated, the claims made by the players change from personal to depersonalised allegations. The affiliations between players altered from predominantly personal alliances to relations between players who could defend the collective whole. For example government players took up the fight and defended the patients at the hospital. Many more players became involved and legal representation was important (see Figure 3).

Figure 3

Human resources utilised by players in the Bundaberg Hospital case: Social affair



To this point in the affair, Hoffman’s ability to advance her claims against Patel could be seen to be successful because of her affiliations with government players. As the affair escalated through to the social affair phase, Patel’s defence lay in the hands of his legal experts who needed to defend against Hoffman’s claims. Whilst Patel’s legal team countered by drawing on Patel’s own affiliations within the medical field, to fully understand how Patel’s team counteracted the attack on his credibility, it was useful to take a closer look at these affiliations, in the context of the field in which the conflicts erupted.

**BOURDIEU’S FIELD THEORY AND THE AFFILIATIONS BETWEEN PLAYERS**

Bourdieu’s (Bourdieu & Wacquant, 1992) field theory provides a model for examining the affiliations made by the central players. By viewing the conflicts between the players as erupting within a field, it was possible to see pressures being exerted from inside and outside of the field. Bourdieu (Bourdieu & Wacquant, 1992) explained that when a conflict erupts, all players compete for a central stake using their capital (economic, social, cultural and symbolic) to gain control of the stake. (Bourdieu, 1986; Bourdieu & Wacquant, 1992). Of these, social capital was most important to Hoffman and Patel as they attempted to gain control of the stake at Bundaberg Hospital, which could be seen to be the management and care of the patients. The field itself is roughly comprised of two main sectors, the orthodoxy and the heterodoxy. Both Hoffman and Patel belonged to the orthodoxy. However, Patel’s cultural capital as a doctor seemingly gave him leverage. Damage sustained to his capital, through prior incidents in the US eroded his capital significantly ("'Dr Death' stalked intensive care unit," 2005; Thomas, 2007)

**EFFECTIVE AFFILIATIONS: STRONG SOCIAL CAPITAL**

As was seen in the Boltanski (1996) analysis, during the early phases of the affair, Hoffman and Patel both drew on their colleagues for support. Using Bourdieu’s (Bourdieu & Wacquant, 1992) field theory it could be seen that Patel was in a stronger position during onset because of his connections with both doctors and administrative staff, who had more power in the field.

As the affair advanced and breached containment, Hoffman was drawing on outside players, who were able to bring pressure to bear on the field through their political influence. Hoffman’s

government supporters had more influence than Patel's supporters from within the field, during the breach of containment phase as they were able to put pressure on Queensland Health and were able to influence an investigation into Bundaberg Hospital. This highlights that affiliations made from outside of the field needed to be made with players that could influence the field. Further, these players needed to hold the appropriate capital to take on the persons they were opposing. Messenger had to challenge the State's Premier to bring about the inquiries. To do this he drew on his social capital within parliament.

As the conflict escalated into the courts, legal players also became important as they fought on behalf of the central players. Here the same rules applied, each team needed to build up a number of strong players. Whilst the main goal of the incumbent Government and Patel's team was to recontain the affair, Patel's strength lay in his strong social capital within the medical field and the expertise of his legal team to defend the claims made.

Despite the support, Hoffman was given during the trial, her capital was that of a nurse taking on the orthodoxy of doctors whose practices were being challenged. From a field perspective, her capital was not as strong within the field against these players. Even though she held an orthodox position, of Intensive Care Unit Nurse Manager, it was not as powerful (Thomas, 2007; "Toni Hoffman AM," 2008). Her integrity was challenged by Patel's legal team and as in court, Patel's legal team and many medical practitioners with whom he'd had long term affiliations, attempted to discredit the testimonies of Hoffman and her supporters. Patel was exonerated in the High Court when it was found he had been convicted on prejudicial evidence (Owens, 2012). In a retrial solid links could not be made between Patel's actions and the patient's outcomes and he was acquitted (Baskin et al., 2013; "Not guilty," 2013). Patel was eventually convicted of fraud but other charges against him were dropped by the Director of Public Prosecutions and he was given a suspended sentence in late 2013 (Australian Broadcasting Corporation, 2013).

## **CONCLUSION**

The aim of this paper was to examine the role of affiliations in the containment of conflicts across three points in time in the Bundaberg Hospital case. At onset it could be seen that both Hoffman and Patel, as the central players in this affair, utilised other players from within the field. As they both held positions within the orthodoxy and were drawing on players with similar levels of power, this had the effect of containing the affair for some time and internal measures were used to address the issues. Hoffman did not have sufficient support or capital to create a change internally. Once the affair breached containment and Hoffman utilised the support of a state opposition government player, she was able to bring pressure to bear upon the field. By utilising the capital of players who were able to influence the field, particularly players from the state opposition, Hoffman brought about the change she was unable to effect from within the field. At that point in time, other players took up her fight and that of Patel and Queensland Health. As a social affair, the issue became a matter that was no longer between Hoffman and Patel, but became a general issue which involved many players who were defending the rights of either the patients at Bundaberg Hospital or potentially, the overseas trained doctors who had come under the spotlight as a result of attention on Patel.

At each phase of this affair, the players utilised different affiliations with other players according to the escalation of conflicts. When Hoffman's attempts to raise support internally failed, she used outside means which had the effect of bringing pressure on Queensland Health. It can be

seen that her moves were specific and utilised players that brought about effective results. In a conflict these affiliations are of utmost importance when advancing a claim. The onset phase in this dispute highlighted how, players with equal teams can be placed in a position of stalemate locking the affair into containment. In order to advance a claim the target must gather the support of players at the critical moments in the affair, who not only hold positions of influence but also have the capital to influence the field.

Whilst this research is only a small scale study into containment of organisational conflicts and scandals and the role of affiliations in the containment of these conflicts, future directions for this sort of research could include an exploration of how affiliations formed between players during a conflict are affected post conflict. Further, an analysis could be done of what learning occurs about effective affiliations and how this is applied by players during and after involvement in social affairs, such as the Bundaberg Hospital case.

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