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Beyond Leveson

Since its formation ten years ago, the Institute of Communication Ethics (the publisher of *Ethical Space*) has been committed to expanding the debate over media standards. It is a broad church: some of its members believe strongly that a regulatory system underpinned by legislation is needed to bring an unruly mainstream national press to order. Others (on both the political left and right) believe equally strongly that any attempt to legislate on press standards seriously threatens the freedom of the press.

Some members even consider the whole Leveson debate a distraction which (like all previous attempts to reform the press – whether through Royal Commission, committee inquiry, Press Council or Press Complaints Commission) is likely to have little impact. Indeed, perhaps the Leveson Inquiry is best understood as largely spectacular theatre – too trapped within the system it is attempting to reform to have any lasting effect. Is it not simply providing the illusion of moral intent by the state and its propaganda institutions – the leading media corporations – when, in reality, the system is run on ruthless profit-oriented principles?

Significantly, Leveson's priorities and those of the mainstream media covering it have reflected dominant values and sourcing routines: celebrities, leading journalists, proprietors and politicians have dominated proceedings while 'ordinary' people (such as the parents of murdered schoolgirl Milly Dowler) were allowed to play their harrowing bit-parts in the Great Leveson Theatre Show before being condemned to obscurity in the wings.

Were not revelations about the intimate, collusive links between politicians and Fleet Street also all too predictable? Such ties have long been analysed and documented by countless academics. And while politicians may wring their hands in guilt over being too intimate with the press in the past, Leveson is hardly likely to change this since newspapers remain far too closely integrated into the dominant structures of political, economic, cultural and ideological power.

The richness of the debate on press standards promoted by ICE was certainly in full view at the annual conference at the Frontline Club, London, on 25 October 2011. This issue of *Ethical Space* carries a selection of the papers. Firstly, John Tulloch focuses, with typical flare and originality, on the media hounding of Rebekah Brooks, former CEO of Rupert Murdoch's News International. He writes:

Last year, Rebekah Brooks positively willed herself to be my subject. She is, as many have seen fit to tell us, hard to resist. Not the Cotswold-living lady who rides retired police horses, or the tabloid editor and compulsive chum of celebrities, or the CEO of News International, the erstwhile 'most powerful woman in British media'. But the woman in the middle of the bizarre process that seems to happen regularly, when, for a short period, they become a subject of press interest, are objectified and, not be too dainty about it, monstered.

Tulloch argues that studying this 'monstering' is important since it is but one example of the way in which the 'press reflects one of the most persisting sources of inequality that we negotiate day by day: the differential construction of images of men and women'.

Next John Steel argues that the Leveson process was flawed since it failed to address deeper systemic and structural issues which have contributed to the crisis not only in journalism but in public life itself. Steel writes:

Rehabilitating the press is not only currently unfeasible, as numerous inquiries and royal commissions have demonstrated, but attempts to force the popular press to behave in ways which run counter to their *raison d'être* misses the point about the broader democratic and civic culture which exists in Britain today.

According to Judith Townend, the Leveson Inquiry has broken new ground for court and political reporting: for the first time a public inquiry held under the Inquiries Act 2005 was played out live on the internet. Online media provided a chance for ordinary members of the public, non-profit groups and small media organisations to expand and question mainstream media narratives, as they watched, blogged and tweeted proceedings. Yet Townend concludes that the public's increased access to inquiry resources and reporting tools does not necessarily indicate a greater role on the 'news stage'.

The Leveson Inquiry threw the spotlight on some journalists' intrusive, insensitive and in some cases illegal harassing of sources. Here Sallyanne Duncan and Jackie Newton continue their ground-breaking studies of the press coverage of the bereaved and examine the results of their interviews with both journalists and bereavement groups. They conclude:

Regulation alone will not improve professional standards. It needs to be underpinned by journalists developing a rigorous ethical framework. A considerable number already possess this and education and training, discussion and promotion of good practice and a desire to do the right thing could develop this in the future. A key factor is the need to treat people with common decency, which means respecting interviewees, remembering they are not commodities and that it is not all about the story.

Finally, David Baines and Darren Kelsey argue that a crisis of trust in British journalism, which led to the 2012 Leveson Inquiry, highlights, above all, the need for an ethical and practical turning point in British journalism education.

So a rich mix of views to digest. Certainly whatever results from Leveson, ICE members will be watching closely and critically –with their ears not only on the din of the debate but also on what crucial issues are ignored.

Richard Lance Keeble
University of Lincoln

'A little bit Salem': Rebekah Brooks, of News International, and the construction of a modern witch

Introduction

Nothing in this paper should be understood as having any bearing on current or future legal proceedings. My subject is emphatically *not* hacking of 'phones or computers, the alleged bribery of officials by journalists nor other wrong-doing. Rather, it is about one small aspect of how we make sense of the world – or rather, how we use the press to make sense of the world for us. And how that press reflects one of the most persisting sources of inequality that we negotiate day by day: the differential construction of images of men and women.

Last year, Rebekah Brooks positively willed herself to be my subject. She is, as many have seen fit to tell us, hard to resist. Not the Cotswold-living lady who rides retired police horses, or the tabloid editor and compulsive chum of celebrities, or the CEO of News International, the erstwhile 'most powerful woman in British media'. But the woman in the middle of the bizarre process that seems to happen regularly, when, for a short period, they become a subject of press interest, are objectified and, not be too dainty about it, monstered.

Schadenfreude – taking pleasure in others' disasters – is too weak a word to describe the savouring of the extraordinary and delicious irony of Rebekah Brooks's fall by large sections of the media class and academia. That a person who had been responsible for editing the *News of the World* (2000-2003) and the *Sun* (2003-2009), those great engines for reproducing sexist stereotypes of women and promulgating the idea of human evil, should be herself turned

into a witch or a Medusa, was a dream so wet, an irony of such purest poetry, that description was not just beggared, but hung, drawn and quartered. But rejoicing in the tokens of her fall, though delicious, diminishes all women – and Brooks has the same rights to imaginative fair-dealing as the most virtuous feminist. And apart from the too tempting opportunities for portentous moralising, her case is fascinating for what it can tell us about contemporary media culture, the persistence of class-based attitudes and a sexism so engrained into our public life as to appear 'natural', old boy.

The making of a witch

The process of 'witchifying' Brooks was given an elegant start signal on BBC2's *Newsnight* by Charlotte Harris, a prominent lawyer representing alleged victims of phone hacking. The occasion was the appearance by Rebekah Brooks in front of the Leveson Inquiry on 12 May 2012. Ms Harris, of course, might be construed to have ample grounds for anger:

Rebekah Brooks compared to witch by hacking lawyer: Critic says former News International chief looked 'a little bit Salem' Mail Online, 13 May 2012

Rebekah Brooks' outfit at the Leveson Inquiry has been compared to the clothes worn by 17th-century witches by a top phone-hacking lawyer. In an interview on BBC2's *Newsnight*, Charlotte Harris seized on the plain black dress with a white Peter Pan collar worn by the former News International chief executive as she gave evidence last week.

Ms Harris, who has represented a series of phone-hacking victims, said: 'Her appearance was interesting because she appeared to be dressed quite innocently. But with the contrasting collar, it did look a little bit Salem.'

The show's presenter, Gavin Esler, interrupted to check she was referring to the infamous Salem witch trials in Massachusetts in the 1690s.

Ms Harris then replied: 'A little bit. She is a very dramatic and iconic figure and there was that drama with the inquiry. She turned up with her mass of red hair, wearing a black outfit with a white collar and white cuffs.'

The unflattering description was followed up by another guest, who described Mrs Brooks's appearance as 'Puritan chic'.

He said the look was 'straight out of Arthur Miller's *The Crucible*', referring to the well-known dramatisation of the witch trials written by the celebrated American playwright...

The cue was speedily taken up by Guido Fawkes (aka Paul Staines, the conservative political blogger): Guido can't help but notice Rebekah Brooks has gone for the classic Salem Show Trial chic for her turn on the stand...' (Fawkes 2012).

And numerous others soon followed, as the witch image, along with 'Medusa', speedily went viral. The cover of *Private Eye* – that reliable barometer of the British media climate – of 31 May featured Brooks in the notorious dress, with the caption:

THE STORY SO FAR: It is new England in the Year of Our Lord 2012, and diabolical goings-on have led to the Witchfinder-General being called in to determine who is guilty of bewitching whom. A simple girl, Rebekah, confesses to being a disciple of the Devil, known to all as Murdoch...

Brooks was also involved in spinning the story herself and with her husband Charlie claimed angrily that a 'witch hunt' was being perpetrated (*Mail on Sunday*, 2012)

Apart from the joys of pure mischief, what was the attraction of the witch image? And what was involved in constructing it? Following Brooks's appearance in court on 12 May, key elements were mortared into position. Rebekah Brooks's background was described as somewhat mysterious, with an evasive *Who's Who* entry masking 'umble origins, a tugboatman father and an identity speedily nailed by *Daily Mail* journalists, courtesy of innumerable Victorian novels, as a sharp-elbowed social climber, a 21st century Becky Sharp. 'She never introduced us to people from her past' an informant told *Vanity Fair*. 'That was a little creepy, as if there was no past.' (*Vanity Fair* 2012) Not for her the traditional English (male) networks – school, university, clubs – but an adroit use of the dark (feminine) arts. According to one of her more assiduous pursuers, Geoffrey Levy in the *Daily Mail*, her:

... remarkably swift rise in the company was due not so much to her talents as a journalist but to her single-minded ruthlessness and her dazzling, feline ability to charm (Levy 2011).

Her alleged mysterious hold on powerful men, we are nudgingly told, involves an attempt to substitute for their natural daughters. 'I wouldn't think Rupert stood a chance,' one of her 'oldest acquaintances' told Levy (Levy 2012). The formation of the witching identity

draws on some ancient myths and theories. For instance:

- the witch's background is mysterious – sired perhaps by the devil;
- witches breach natural relations;
- witches emanate malevolence – notably in the form of Medusa whose stare paralyses;
- she gets access to the powerful in a mysterious way, using wiles, charms and the power of prophecy;
- she threatens patriarchal systems with her special abilities;
- she is in touch at a mysterious level with the community – gossip, remedies, old skills;
- other women look to her skills e.g. for abortions, female maladies, child illnesses, contraception, impotence cures;
- men can't compete with her intuitive qualities: she is in touch with the pre-Christian pagan self, and knows how to captivate, and capture male attention.

The longest, most sustained analysis of her mysterious powers appeared in *Vanity Fair*:

'She'd get you to do things,' says another former *News of the World* reporter. 'She had this charisma, this magnetic attraction,' he says. 'She would praise to high heaven, make you feel like you were on top of the world. It was only afterwards that you realised you were manipulated.' In a largely male tabloid world – a business in which Brooks was once asked at a corporate golf gathering to sew a senior executive's button back on his shirt, which she did – perceptions counted for a lot (Andrews 2012).

Utilising her femininity

For the BBC's Edward Stourton, Brooks utilises her femininity in an extraordinary, upfront way, combining self-confidence with a magical quality:

Colleagues at her first serious job in journalism remember her appearing as suddenly and mysteriously as a genie from a lamp. Graham Ball was the features editor on Eddie Shah's famously short-lived *Post* newspaper when the 20-year-old Rebekah approached him in its Warrington offices. 'She came up to me and said: "I am going to come and work with you on the features desk as the features secretary or administrator." I said: "I'm afraid that's not going to be possible because next week I'm going to London," and I thought nothing more of it. The following Monday,

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I got to our new office in London, and there she was,' he said. 'She did everything with great finesse, she was very clever' (Stourton 2012).

Edward Stourton's tale celebrates her mystery and seemingly superhuman cleverness. Not, of course, conventional cleverness – her 'childhood friend' Louise Weir describes Rebekah Brooks as more emotionally intelligent than academic.

She's been very charming and she's always been able to get what she wants out of people, even if they don't really like her. 'She is a typical Gemini; she's got her lovely fluffy side and then her angry side,' Louise recalls' (ibid).

How appropriate the horoscope should be deployed for a tabloid editor. A chap like Stourton can't compete with that, with a clear above-board CV which shows he's gone to the right educational establishments, touched all the right journalistic bases...is one of us:

- born 1957, Lagos Nigeria;
- educated Ampleforth and Trinity College, Cambridge;
- BA English Literature;
- graduate trainee ITN;
- founder member Channel 4 News;
- 1983 reported from Beirut;
- 1986 Channel 4's Washington correspondent;
- 1988 BBC Paris correspondent;
- 1990 ITN diplomatic editor;
- 1993 BBC *One O'Clock News*;
- 1999-2009 *Today* programme.

Of course, what is played with some nuance and sensitivity by Edward Stourton turns into an exercise in the bleedin' obvious in the coarser tones of the *Daily Mail*:

Rebekah Brooks, the schmoozer hated by Murdoch's wife and daughter

Who would have imagined when Lewis Carroll wrote *Alice's adventures in wonderland* in 1865 that the Cheshire village of Daresbury where he lived would one day produce its own real-life Alice? Her name was Rebekah Wade (now Brooks) and her tugboat-man father could have had no idea when his only child was born in 1968 that she would step – or rather schmooze – into a world of princes, prime ministers and proprietors, every bit as hazardous as Alice's. This

was the media wonderland run by Rupert Murdoch, and until yesterday he made sure that no harm would come to the girl he has virtually treated as another daughter (he has four real daughters, from three marriages) (Levy 2011).

And then there's wee Peter McKay, also of the *Daily Mail*, the journalist as frustrated screenwriter:

As a story, it has everything – larger-than-life characters, seedy villains, bewitching women, protesting celebrities who feel ill done-by, and a thrice-married, 80-year-old billionaire media mogul who said his chief aim was to stand by his Medusa-haired chief executive, who rose from the typing pool to the boardroom (McKay 2011).

Imagine 'Medusa-haired George Entwistle...' Medusa, of course, is usually described as 'having the face of a hideous human female with living venomous snakes in place of hair. Gazing directly upon her would turn onlookers to stone...' The *Guardian's* Simon Hoggart was captured playing the same game, in a radio interview about the *News of the World*, angering at least one female listener:

Nothing struck me until Hoggart brought up News International chief executive Rebekah Brooks, describing her as having 'curly red hair, rather like Medusa'. That's almost all he said about her. Maybe I'm overreacting, but that description rubbed me the wrong way. Powerful women are too often stereotyped in unflattering ways. Even though [she] may allegedly have overseen a hacking scandal [which she denies] couldn't Hoggart have stuck to the allegations rather than critiquing Brooks's appearance by comparing her to a monster of Greek myth? (Milne-Tyte 2012).

Conclusion

Harmless tabloid mischief? Maybe. A defining feature of British tabloid culture is its tendency to create objects of hatred by a process of dehumanisation and the routine invocation of 'evil' as an explanatory tool. As I have argued elsewhere (Tulloch 2009), this essentially Manichean view of the world deploys monsters and saints, angels and devils, and witches. In these moral fables of villainy, the demonisation and public execution of women has a special place.

No less a figure than Paul Dacre, editor of the *Daily Mail*, publicly embraced this role, when

he told the Society of Editors in November 2008: 'Since time immemorial public shaming has been a vital element in defending what are considered acceptable standards of social behaviour ... For hundreds of years, the press has played a vital role in that process' (Dacre 2008).

Dacre's analysis shows this process is no mere populist reflex but a deliberate strategy. Circulations are built, and maintained, by creating the most powerful of Northcliffean 'talking points' – human evil (Tulloch 2000).

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Note on the Contributor

John Tulloch is Professor of Journalism at the University of Lincoln. He is co-director of the Centre for Journalism Research (CRJ). Previously (1995-2003) he was Head of the Department of Journalism and Mass Communication, University of Westminster. Edited books include *Tabloid tales* (2000) (edited with Colin Sparks) *Peace journalism, war and conflict resolution* (2010) (edited with Richard Lance Keeble and Florian Zollmann), and *Global literary journalism* (edited with Richard Lance Keeble, 2012). He has also written recently on extraordinary rendition and on the journalism of Charles Dickens, Gitta Sereny and Gordon Burn.

AFTER LEVESON?

Leveson: Solution or symptom? Class, crisis and the degradation of civil life¹

This paper argues the Leveson process is one which has been flawed since its inception. Understandable though they are, the calls for tighter regulation of the press following the News of the World's despicable treatment of the Dowler and McCann families and many others, will undoubtedly fail to address deeper systemic and structural issues which have contributed to the crisis not only in journalism but in public life itself. Rehabilitating the press is not only currently unfeasible, as numerous inquiries and royal commissions have demonstrated, but attempts to force the popular press to behave in ways which run counter to their raison d'être misses the point about the broader democratic and civic culture which exists in Britain today.

Keywords: democratic deficit, media reform, political legitimacy, civic disengagement

Introduction

After more than twelve months of speculation and some anxiety amongst media commentators and journalists about what exactly Lord Justice Brian Leveson would propose in his report into the culture, practice and ethics of the press, on 29 November 2012 the waiting was over and he delivered his scathing assessment of 'a culture (or, perhaps more accurately, a sub-culture) within some parts of some titles' within the press (Leveson 2012a: 9). In addition to assessing the culture, practice and ethics of the press, Leveson was also charged with devising a new model of regulation which would address the failings of the press, failings which had not been addressed in some seven previous inquiries into the press in Britain.² In the build-

up to the report's publication the pressure from various interested parties was exerted on Leveson and, in particular, on Prime Minister David Cameron to 'do the right thing'. The public debate has been characterised broadly as a contest between journalistic responsibility and accountability on the one hand and 'freedom of the press' on the other. The public face of this contest featured high profile members of the campaign group Hacked Off (2012) arguing that time had finally run out for the press and some form of statutory underpinning behind press reform was required. On the other side of the debate we saw the self-aggrandising 'Free Speech Network' which is made up of a collection of organisations and individuals 'who share concerns over protecting freedom of expression' (Free Speech Network 2012). As expected, the report is highly critical of certain sections of the popular press in their treatment of ordinary members of the public, public figures and celebrities, who for no fault of their own became targets of press intrusion and victims of illegal and unethical practices.

In addition to the analysis and recommendations made by Lord Justice Leveson, the process itself has also provided a useful insight into the culture of a particular type of tabloid journalism. The forensic examination of witnesses and witness testimony has shone a light on the privileged 'insider' culture that has empowered journalism and fuelled its mythology as the Fourth Estate. It has allowed members of the public an opportunity to see the façade of journalism as the 'Fourth Estate' for what it really is. Indeed, through the process itself it seemed that journalism's seedy underbelly was being called to account in its complicit dealings with the powerful. The daily spectacle of the hearings brought about a sense that we were finally witnessing an exposé of journalism that would go a long way in the process of reforming it. It seemed that this was the moment when journalism would finally be forced to meet its democratic and civic obligations.

The hearings, and particularly the evidence provided by victims of press intrusion, seemed to demonstrate that finally journalism would now get its comeuppance and there would be more to follow once the various police investigations had concluded. 'Who is watching the watchers?' is of course an oft-used and even clichéd question, yet it is one I regularly put to my students. The watchers were being watched and finally being called to account, or so it seemed. Yet it is the mythology of journalism as the Fourth Estate is a mythology that has arguably contrib-

uted to this particular crisis in journalism. The *News of the World's* celebratory account of its own contribution to watchdog journalism in its final edition betrays a narrative that draws on long-standing traditional notions that at times it is necessary for journalism to bend and even break the rules for the greater public good. The obvious point, of course, is often journalism, barring a few notable exceptions, seems incapable of scrutinising itself to any significant degree.

Though the issue of some form of statutory underpinning has been one of the central features of the debate about Leveson, this paper will not rehearse these arguments; nor will I look to make a case for either side of the debate. I am, however, concerned with the Leveson process and, in particular, how the Leveson Inquiry itself and lobbyists on both sides of the debate have highlighted a deep-seated crisis which exists in British civic culture. However powerful Leveson's arguments might be for a statutory underpinning to an independent regulator and however potent the counter arguments are, this paper argues that ultimately the Leveson process has missed the point, both in terms of its remit and, unsurprisingly, in its recommendations. As such I put forward three points for consideration.

Firstly, I suggest that the Leveson process should be seen as indicative of a well-established, historically salient and elite-driven contempt for the working class and working class identity. Secondly, that recent controversies surrounding journalism, one of which of course prompted Leveson, highlight an existential crisis at the heart of journalism's quest for a meaningful identity in the face of rapid social and technological change. Thirdly, I argue that the Leveson process is reflective of a deeper civic malaise which is manifested in a largely sceptical and depoliticised civic culture in which the failings of politicians, journalists and the police are largely divorced from the wider social and cultural context. I suggest that the more fundamental issue of de-politicisation, lack of legitimacy and an entrenched lack of faith in civic life have contributed significantly to a form of anti-civic scepticism, the responsibility of which arguably lay in the systemic debasement of democratic culture.

As such, Leveson should not be seen as a solution to the 'problem' of the press, more a symptom of a crisis of civic legitimacy. In making these arguments I will first highlight the historical nature of Leveson and the essentially class-

bound and elite-driven dynamic therein. From there I will briefly highlight the crisis of journalism which arguably has its roots in a much deeper structural and cultural transformations. Finally, I will go on to highlight the work of Hay (2007) and Furedi (2005) and draw on key arguments which go some way in providing the theoretical basis for my overall thesis.

Historicising Leveson

Before the first session of Leveson it seemed as though the writing was on the wall for certain sections of the tabloid press. Once the proceedings were underway the list of celebrity victims of alleged hacking added to the weight of public condemnation heaped on News International's management team and journalists. One after another painted vivid pictures of 'grubby journalists' invading their privacy for their unscrupulous bosses. What was striking about much of this testimony was the implicit way in which the tabloids' readership was framed. It seemed that it was not only the tabloids, and particularly the Murdoch-owned tabloids, that lacked any moral worth, but also its readership by association.

Though the readership of the newspapers was only obliquely discussed (primarily in terms of discussions about the public interest and what 'interests the public'), there was an unspoken sense of collective disdain for those who buy and consume this material; a subtextual assertion that the tabloids and by association their readership are somehow morally bankrupt. Tabloid culture was not only morally corrupt and potentially criminal, by implication, the readership of the likes of the *Sun* were also given to such moral failings as they sustain this a culture. Such contempt for a particular readership is nothing new. Elite-driven moral outrage at the activities of the press has been ever present. Paternalistic public moralists and philosophers of the nineteenth century consistently ridiculed sections of working class press and sought to develop a counter print culture which would contribute to the betterment rather than debasement of the people.

As Mark Hampton (2004) has suggested, the press during the first part of the nineteenth century adopted what might be termed an 'educational ideal' in which certain elements of the press sought to imbue specific moral and political values and virtues in its reading public. Such paternalism was often directed towards the so-called 'lower orders' who needed to be 'educated' so that they would learn to respect 'proper virtues and positions' (Steel 2009).

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The 'quality press' has also historically had a hand in driving this paternalistic dynamic. As Patrick Collier (2006) has demonstrated in his book *Modernism on Fleet St.*, the early years of the 20th century witnessed an elite-driven disdain for certain sections of the press which orientated itself towards the masses. The fundamental problem was the mass public and their general lack of ability to wean themselves off the 'gutter press'. It seems it has always been the case that the unwashed hoards just don't know what's good for them. Such paternalistic sentiment has been a feature of all the royal commissions and inquiries in some form or another. In that respect Leveson is no different as therein we are witness to an unspoken contempt not only for the likes of News International's Paul McMullen, Rebekah Brooks and Rupert Murdoch, but also for the very people who read the tabloids.

Paradigm repair

Of course, Leveson is just the latest in a series of inquiries, royal commissions, parliamentary select committee reports to scrutinise the press and its activities (see O'Malley and Soley, 2000). Adrian Bingham (2007) has noted that a familiar pattern has emerged as:

...ever since the first Royal Commission on the Press recommended the formation of a body to monitor the press in 1949, newspaper proprietors have fought to ensure that [such a body's] powers were limited and that [newspapers] remained under the control of the industry (ibid: 89).

The pattern being that government pressure and the threat of statutory control has led the industry into making 'tactical' concessions in order to stave off legal constraints. Bingham goes on to highlight how during the crisis of the press during the 1990s even the free market extolling 'Conservative party was convinced of the need for firm action to curb the excesses of the popular press, and was genuinely interested in introducing laws to protect privacy' (ibid). Yet the familiar rhetoric from sections of the newspaper industry and particularly the 'feral beasts' have so far been in a position to mollify the threats to their commercial interests in the name of 'free speech' and 'freedom of the press' (Petley 2011; Steel 2012).

As well as projecting and amplifying anxieties about the morality and practices of the popular press into the public domain once more, the Leveson Inquiry is also significant in the context of anxieties within the industry itself. The

so-called 'crisis of journalism' has also demonstrated a sense that journalism is, at best, going through rapid and chaotic change; at worst it is at risk from both economic and technological transformations which will reshape journalism significantly (see Zelizer 2009; Lee-Wright, Phillips and Witshge 2012; Peters and Broersma 2012). In addition to the range of structural alterations journalism is attempting to deal with, journalism as a professional identity could also be said to be in existential crisis. From Jayson Blair to Johann Hari, the Gilligan affair to the recent controversies at the BBC's flagship news programme *Newsnight*, these controversies have brought with them challenges both to orthodox conceptions of journalism and its role (see Nerone 1995), but also to the processes and practices of journalism and journalism's very identity (see Anderson, Bell and Shirky 2012).

How has journalism responded to this threat? One might draw on theories about 'Boundary Maintenance' and 'Paradigm Repair' (Bishop 1999; Berkowitz 2000) to examine the way in which journalism has constantly sought to reaffirm its core responsibilities through a process of self-correction following crisis. As Eldridge (2012) has stated, journalism's introspective scolding of its own failures seeks to rehabilitate journalism's failings and restate its core values and role. It tends to do so 'by criticising and excoriating failed adherence' to a set of ideals. We saw such a process unfolding after the death of Princess Diana (in August 1997), after the Hutton Report (into the strange death of UN weapons inspector Dr David Kelly) of October 2010, during the recent WikiLeaks controversies and the latest crisis in journalism at BBC (over Savile/Newsnightgate). Journalism is yet again engaged in a process of 'boundary maintenance' being forced to confront bad practice by reasserting a set of core values (Eldridge 2012).

Framed in this way the Leveson process can be seen as another example of self-correction through purging and reconstitution via renegotiation, a renegotiation which comes to life in this instance through the narratives concerning self-regulation. Of course the dominant discourse has been one which refers to journalism's Fourth Estate role and whether it's the *Daily Mirror's* Bill Greig echoing the 1949 Royal Commission's report by noting that 'it is generally agreed that the British Press is second to none in the world' (Greig 1949: 2), or Lord Justice Leveson regurgitating the watchdog trope (Leveson 2012: 78), the tired mythology seems to remain intact.

Civic malaise?

In addition to the barely concealed class contempt amid attempts at rehabilitation, the inquiry and the subsequent media 'navel gazing' highlights a far more damaging trend in British political and cultural life, one that betrays a complete lack of faith in public institutions and a deep suspicion of civic life itself. Rather than a solution to the 'problem of journalism', Leveson is symptomatic of a more deep-seated socially constituted contempt for civic life. Given the seemingly never ending parade of high profile scandals involving the police, MPs, the royal family, the judiciary and even fallen celebrities, one might legitimately ask: 'is it any wonder that we're highly disillusioned with the political classes and public figures?'

It could be argued that such scandals merely highlight the imperfections of human nature. However, I think it is far too simplistic to point the finger at the fallen heroes and other public figures and blame them for our lack of faith in public life. Colin Hay, in his book *Why we hate politics* (2007), has attempted to trace the seeds of public dissatisfaction and disengagement with politics and the widespread cynicism associated with public life. He has suggested that the seeds of disengagement from politics stem from a pessimistic view about public life which in part emerges from politics itself. This comes about because we have come to assume, with good reason, that politicians and public figures tend to act in their own best interest at the expense of the public interest.

The problem with politicians historically is that they tend to be looking for the best ways in which they can secure and subsequently stay in power by appealing to those who can offer the best guarantees of keeping them there. In their attempts to gain and keep power, politicians have attempted to maximise votes based on an appeal to as many people as possible irrespective of the consequences (ibid). Despite trying to appeal to everyone, politicians often end up disappointing a great majority of the public. The reality is that politicians do not have the capacity, expertise or often desire to deal with the harsh political decisions they face because they are effectively 'spinning far too many plates'. The result being that genuine democratic legitimacy is a myth and by attempting to retain power, political parties have made unrealistic and undeliverable promises to the electorate and the consequences have often been a failure (ibid).

Hay points to the economic crises of the 1970s as pivotal as they helped shape the view that politicians and political institutions were essentially the problem. The political institutions were overloaded and overburdened and the only 'rational response' was to distance politics from the responsibility of economic management as much as possible. Enter the politics of the New Right which would assert the rationality of the market as a cure for dealing with the problems of society. The consequence of this, of course, was that politicians themselves and other political elites increasingly saw the limitations of politics and became pessimistic about the opportunities to change society. The Public Choice theories so lauded by the New Right provided the intellectual seeds of contemporary public malaise.

Even today there is evidence that politicians lack conviction and a belief that politics and particularly political ideas can generate meaningful change in society. Hay points to an increasing trend within contemporary politics to disempower itself and remove heavy burdens from its shoulders. Whether it is the crisis in the Eurozone, the management of the National Health Service or of the BBC, politicians according to Hay are increasingly giving up the ghost and either passing powers to un-elected technocrats or ensuring that society's problems are confronted by market forces. The sense is that political and social problems are best managed by experts and not by people who have been elected by the public to do a job. Moreover, it's the 'Invisible Hand' which is posited as the saviour of society's ills.

The seeds of de-politicisation, then, according to Hay, lay in the effective gradual removal of political responsibility and political debate from the public sphere. 'Party leaders present themselves as credible and competent administrators, not for the most part, as principled advocates of a set of policy preferences' but as managers who delegate. '[P]ersonality rather than policy content is what the electorate is increasingly [being] asked to adjudicate on in elections – and it has very little to go on in making such an assessment' (ibid: 119). As Andrew Gamble maintains: 'It is the irony of contemporary politics that many of the forces which have helped weaken and destroy traditional forms of authority have been "conservative" forces' (Gamble 2000: 66). As such it is the market itself and the rise of political pragmatism that has undermined traditional forms of authority and accountability.

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A similar perspective emerges from Furedi (2005) who maintains that a form of 'political exhaustion' now pervades many liberal democratic societies as political elites and voters have become cynical about the power of political ideals to change society and instead 'defer to fate' (ibid: 29). The continuous disparagement of politicians in popular culture and the media suggests that what we are experiencing is not simply the exhaustion of politics but the rise of cynicism and even hostility to it (ibid: 28). Politics is increasingly aligned with consumer choice (Lees-Marshment 2004) in which the politics of identity and individualism has replaced a sense of shared political obligation. Kenan Malik (2012) has also emphasised a more structural analysis to the problems of civic culture given the erosion of political authority through a 'hollowing out' of politics away from the politics of class has enabled the media itself to fill the void left by traditional political allegiances. In doing so the 'media has assumed its position of unprecedented influence by default' (ibid).

Concluding comments

While campaigners for media reform have criticised Leveson for the relatively limited scope of his inquiry, particularly in relation to issues of media plurality and diversity (Media Reform 2012), it is the lack of engagement with a broader structural and wider social analysis which I assert is the fundamental problem at issue here. Whatever avenue the government chooses to go down regarding the recommendations of the Leveson Report, the crisis of legitimacy in public institutions, political parties, and civic participation looks likely to remain. Media reform must explicitly relate to the democratic obligations of journalism which has to be framed in relation to political agency. This is the sense that politics matters and can be affected by people. However, journalism's historic relationship with political elites and their intertwined symbiotic relationship, so acutely emphasised by Leveson, contributes to the widespread rejection of such engagement. Moreover, as long as the public is socially constructed as essentially self-serving, largely politically ignorant and in desperate need of guidance by some higher moral voice, we will remain at the margins of politics. Such a framing of the public extends the notion that politics must be reduced to a technical exercise in which maximisation of utility is a priority and the role of managing society is best served by technicians and experts. This view needs to be challenged and a reconnection with political agency is required.

I would suggest that journalism's civic role cannot be rehabilitated unless we regain a conception of politics which starts to challenge the notion of politics as a technical exercise, or that social problems are best solved by the mechanics of the market, until these problems are addressed journalism's deliberative function will remain marginal. The wider cultural shift towards a more democratically engaged public and the forms of journalism envisaged by media reform groups cannot be brought about by merely reforming the press. Rather such a shift would more likely stem from a more critically engaged analysis of how we have arrived here in the first place. In short, Leveson is 'the wrong solution to the wrong problem' (Malik 2012). Moreover, as Pippa Norris (2000) has argued, emphasising the media's role in contributing to political disengagement is somewhat missing the point as:

[b]laming the news media is easy but ultimately that is a deeply conservative strategy, [as] it diverts attention from the urgent need for real reforms to democratic institutions, which should have our undivided attention (Norris 2000:319).

Fundamentally, by attempting to rehabilitate journalism via Leveson, it could be that we are ignoring more fundamental problems affecting politics and civil society of which Leveson is but a symptom.

Notes

¹ I would like to thank Scott Eldridge II for his helpful comments and suggestions

² Three royal commissions, two Calcutt Reviews and the Younger Commission on Privacy. See also O'Malley and Soley (2000)

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Leveson online: A publicly reported inquiry

The Leveson Inquiry has broken new ground for court and political reporting: for the first time a public inquiry held under the Inquiries Act 2005 has been played out live on the internet. Online media provided a chance for ordinary members of the public, non-profit groups and small media organisations to expand and question mainstream media narratives, as they watched, blogged and tweeted proceedings. This paper considers public access to the inquiry, arguing that digital communication has allowed for a newly liberated form of debate and enhanced the public's entitlement to report what they hear in court, in accordance with a longstanding legal tradition of open justice. Additionally, it has improved UK citizens' right to freedom of expression – which includes the right to receive as well as impart information and ideas. The public's increased access to inquiry resources and reporting tools does not necessarily indicate a greater role on the 'news stage', but it opens up the possibility for greater public influence on news discourse, and beyond that, political debate.

Keywords: Leveson Inquiry, open justice, freedom of expression, newsworthiness, news access, social media

Introduction

The Leveson Inquiry, established by the Prime Minister in July 2011, was the first public inquiry to have a significant online presence outside the courtroom: while the Chilcott Inquiry (into the Blair government's decision to invade Iraq in 2003), which heard evidence from 2009 to 2011 was also broadcast live and tweeted about, it was not a public inquiry under the Inquiries Act 2005. Other inquiries held under the Act have also made online material available, but not in the detail provided on the Leveson

Inquiry's site, nor attracted such a strong and vocal external online debate around proceedings.

The Leveson Inquiry's official online activity during Part One of proceedings¹ has included: live and archived video of all hearings, except a rare few with anonymity or special provisions; transcripts of each sessions, uploaded swiftly following hearings; copies of public rulings made by Lord Justice Leveson; the written submissions made to the inquiry after they have been formally read and information about the inquiry. Shortly after he announced the report's release in a televised statement on 29 November 2012, hyperlinks to the four sections of the report and the executive summary were published on the website, as the press embargo lifted². The inquiry had its own Twitter account, although it only published one update between July 2012 and the report's publication in November and it was used for posting notifications about updates to the website, rather than interacting with online followers.

Alongside this official digital activity has been an unofficial stream of commentary and reportage via Twitter. Viewers, including ordinary members of the public, non-profit groups and small media organisations, tweeted and blogged during hearings, which they were able to watch and listen to live online if they did not attend court. Conversations could be easily followed with a Twitter search on Leveson's name, or other related keywords (such as a witness's name), with the inquiry dominating journalists' Twitter use while evidence was being taken³. The availability of transcripts allowed writers to quote proceedings at length, beyond media reports, without necessarily watching or attending hearings.

As a result of this official and unofficial online activity, the Leveson Inquiry broke new ground for court and political reporting, as it played out live on the internet. The legal blogger Adam Wagner, a barrister at One Crown Office Row, called the inquiry's online presence 'a minor landmark for open justice' (Wagner 2012). This paper takes a similar position, arguing that the Leveson Inquiry has enhanced the public's access to proceedings as well as individuals' right to freedom of expression, which includes the right to *receive* as well as *impart* information. It will, however, be suggested that this widened participation only goes so far. While digital communication has allowed for a newly liberated form of debate around the public inquiry, the public has maintained

a spectator role, with high profile figures such as well-known journalists, celebrities, lawyers and academics dominating the 'news stage' (see Cottle 2000; Keeble 2012): at public events, on social media channels and on mainstream media platforms. Access to inquiry proceedings and reporting tools does not necessarily mean that ordinary members of the public have greater influence on news discourse, or beyond that, political debate. It does, however, offer them the possibility of greater participation.

A tradition of open justice

The principle of open justice and the public's right of access to court is long-established, even before the famous concept 'justice must be seen to be done' was introduced in 1924 (*R v Sussex Justices, Ex parte McCarthy*, All ER 233). In Geoffrey Robertson's analysis, the principle was first articulated by 'freeborn' John Lilburne (1614-1657), the Leveller, who made the successful submission that no man should be tried in 'any place where the gates are shut and barred' (Robertson 2012: 9). While the public is usually free to attend court⁴, citizens have often relied on intermediaries to relay accounts of proceedings through the law reports and media coverage. Judges have long recognised the role of the media in enabling open justice: in a recent family court judgment, Lord Justice Munby – (then Mr Justice Munby) described how 'the role of the court reporter is that of public watchdog over the administration of justice' (*Norfolk County Council v Webster & Ors* [2006] EWHC 2733 (Fam): 29).

With the advent of new communication technology, there has been a marked decrease in court attendance: Lord Neuberger, then Master of the Rolls, observed in March 2011 that 'it is only on rare occasions that our courts are full of members of the public' (2011: 12). Significantly, there are also fewer intermediaries in court, as the journalists in court and specialised legal correspondents dwindle in number. Joshua Rozenberg, legal correspondent and commentator, has noted that 'the newspapers don't provide the service they did [in the past]' (Aldridge 2010). More recently, Lord Justice Leveson has observed that when he started at the bar 'there was a local reporter in every court: that is no longer the case' (2012:3)⁵. While there is limited empirical research in this area, it has been suggested that the financial cost of court reporting has discouraged media organisations from investing resources in regular court reporting (see PA Mediapoint 2009; Watson 2009; Davies 1999).

The disappearance of the 'watchdog' in many hearings is worrying, but digital technology has also enabled enhanced access to proceedings in some areas, with the publication of legislation and judgments and judgment summaries for a limited number of courts. In *Norfolk County Council v Webster & Ors*, Lord Justice Munby also quoted Lord Denning, writing over fifty years before: 'Every member of the public must be entitled to report in the public press all that he has seen and heard' (Denning 1955: 64). Denning's opinion was voiced before the internet had been conceived, but it is the development of online platforms which have helped the public report: members of the public are no longer dependent on editors to report – they are able to publish themselves directly using free online tools. However, these free tools have removed the necessity of media filters, with some worrying side-effects, which various judicial and parliamentary committees and consultations have struggled with, most recently the Law Commission's ongoing consultation on contempt. Nonetheless, the Leveson Inquiry's provision of material on the website – with a few rare exceptions where anonymised witnesses gave evidence in closed court – has enabled members of the public this right to report alongside journalists: on social media, Twitter and in the comment sections underneath mainstream media stories.

Public access to inquiry proceedings

Under the terms of the Inquiries Act 2005, section 18, an Inquiry must allow public access to inquiry proceedings and information:

Public access to inquiry proceedings and information:

(1) subject to any restrictions imposed by a notice or order under section 19, the chairman must take such steps as he considers reasonable to secure that members of the public (including reporters) are able:

(a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry;

(b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel.

In summary, the public must be able to attend or to see and hear a transmission of inquiry proceedings and to obtain or view a record of inquiry evidence and documents. But what do the provisions require in a digital age? Does it mean that a video and audio stream must be made available online? When should evidence and documents be uploaded online?

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These are questions being addressed by inquiries other than Lord Justice Leveson's. For example, the media recently challenged the Metropolitan Police during the Azelle Rodney Inquiry, which is investigating a shooting by police seven years ago, about the availability of material on the inquiry website: the timing and form of its release⁶. Catrin Evans, representing the BBC, ITN, BSkyB, Guardian News and Media and Times Newspapers Ltd, argued that no distinction could be made between the rights of the members of the public following proceedings online and those in the courtroom:

... [T]he only distinction that could possibly be made, which would be one worthy of any contemplation ... would be if there were any material difference between the right of access of the public in this room and the right of access of the public out there, who couldn't be here. And in my respectful submission, that is a distinction without a difference; that it is not possible to draw it (Evans 2012).

In the event, material was made available on the website after it had been formally read-in, unless a specific reporting restriction was applied. The inquiry's website records this, and other decisions, relating to the public's access to evidence⁷.

The Azelle Rodney application indicated a developing expectation of *online* access to public inquiry material. This online availability of source material is allowing an extension of Lord Denning's 'public press'; the 21st century version includes online blogs and forums, Twitter streams and Facebook pages.

The right to receive information

This type of online openness, where the public has direct access to transcripts and video proceedings has helped also improve the public's right to freedom of expression, as defined under Article 10 of the Human Rights Act:

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

The emphasis is usually on the right to *impart* information, in media cases emphasising the right to publish, balanced against a claimant's right to privacy and reputation, for example. Until recently, the right to *receive* information carried 'very little weight in domestic law'

(Tench 2010). The right was scrutinised, however, when a consortium of newspapers and broadcasters applied to attend private hearings in the Court of Protection, under a provision in the Court of Protection Rules 2007, which allows reporting if 'good reason' can be shown⁸. The media was, for the first time, exercising a pre-existing right to attend and report Court of Protection proceedings (Series 2012: 112-113). The Court of Appeal found in favour of the media, upholding an earlier decision, looking to European cases which had considered a broader interpretation of 'freedom to receive information' and the right of access to information. According to Romana Canetti, a member of the *Independent's* legal team, it was the first time that the court 'explicitly recognised that the right to freedom of expression in Article 10 of the European Convention of Human Rights includes the freedom to receive – not only to impart – information and ideas'. 'In other words,' she said, 'the public had a right to be informed, in addition to the media's right to freedom of expression' (2012: 48).

The approach taken in the handling of the Leveson evidence appears to follow this principle. Access has been extended beyond the *media's* right to receive and impart: the *public* has enjoyed its right to receive information. Furthermore, this information is received *directly*, at source, without relying on journalists' interpretations and news choices. This unmediated information also helps the development of public reportage and commentary, via blogs and social media, which suggests that a recognition of the *direct* 'right to receive' helps facilitate the public's entitlement to report, as set out by Lord Denning in the mid-20th century.

Editorial filters

The ability to receive information directly is significant because it enables the public to access information without relying on media filters, where editors and reporters select new items for publication through a 'complex multifaceted gatekeeping process' (Clayman and Reiser 1998), subject to various competing interests. The phone hacking scandal, which led to the creation of the inquiry, epitomised how a definition of 'newsworthiness' based on the public interest can be undermined by a combination of professional, political and commercial interests and this is what led to a collective redaction of developments in the phone hacking story up until July 2011, with notable exceptions (Bennett and Townend 2012). Similar redactions can be found in the press' coverage of Leveson, although any content analysis would require a

sophisticated methodology to determine which angles have been selected by which titles.

Patterns can be traced around certain events, as contributors to the LSE Media Policy Project have noted in a series of blog posts, which show how the Leveson report has been framed by the media, using codes applied across media reports on selected days.⁹ Sally Broughton Micova's initial analysis, for example, suggests that newspapers' coverage extended beyond their own defence – contrary to what might have been expected by media critics – and once past the front page, national newspapers provided a 'more balanced and complex version of the story' (Broughton Micova 2012). Further empirical research and analysis in this area is to be welcomed.

It is more straightforward to isolate smaller examples. *Private Eye*, for example, has found plenty of material for its articles that identified 'What you didn't read' following Leveson Inquiry hearings (for example, issue 1303, 2011: 7). Indeed, Lord Justice Leveson observed, during the session when the journalist Peter Osborne was giving evidence, that:

Private Eye has also been publishing during the course of this inquiry what the newspapers don't publish. In other words, they've gone through a number of stories and said: 'Actually, it's rather interesting that this story appeared in this paper but it didn't cover another aspect' (Leveson 2012a).

Predictably, *Private Eye* reported Lord Justice Leveson's remarks in its next issue, noting that his observation was not reported in a single national newspaper (*Private Eye* 2012: 5).

Michael Gove MP's treatment by the press provides an interesting example through which to examine newspapers' choices. As a former journalist, he has been seen as a defender of the press's corner and he introduced the idea of Leveson's 'chilling effect' in a speech to the parliamentary press gallery, which was widely reported in February 2012. The *Mail on Sunday* went so far as to suggest Lord Justice Leveson had considered quitting over Gove's remarks, to which Leveson responded with a firm statement (Leveson 2012b). Gove's appearance at the inquiry can be compared with that of a known critic of the press, the Liberal Democrat MP Simon Hughes, who had actively called for the inquiry before it was set up.

Simon Hughes' appearance attracted mention in the national newspapers, but was overshadowed by the revelation that the police had leant a horse to Rebekah Brooks in 2008¹⁰. His evidence, which claimed that the *Sun* had access to his phone records, was used in the headline in pieces in the *Guardian* (p 9) and *Express* (p 4) and mentioned in stories, which led with the police horse in the *Telegraph* (front page), *Mirror* (p 28) and *Times* (p 13)¹¹. In summary, there were five print stories, two of which led with his evidence. Additional online stories also appeared on the *Telegraph*, *Independent*, *Guardian*, and *Mail* sites.

Three months later in May 2012, Gove's appearance attracted a total of 22 print articles: 14 articles of these led with his comments on a free press – in the *Telegraph*, the *Daily Star*, the *Daily Mail*, the *Guardian*, the *Independent*, the *Sun*, the *Times*, the *Daily Mirror* and the *Daily Express*. Additionally there were 30 stories online, on the *Mail*, *Guardian*, *Independent* and *Telegraph* sites.

This seems to indicate the press found Gove's comments more 'newsworthy' or of more public importance than Simon Hughes'. There are various factors to consider. Gove may have benefited from the fact that the only other witness that day was the home secretary Theresa May, while Hughes gave evidence on the same day as three other witnesses with interesting evidence: Jacqui Hames, who formerly presented BBC *Crimewatch*, Nick Davies, the investigative journalist whose work brought the phone hacking scandal to light in 2009, and Christopher Jefferies, who was wrongly arrested for the murder of Joanna Yeates and unfairly maligned in the press in early 2011. Another factor could be that the press was eager to pursue a line that fitted with their own agendas – Gove's comment that a 'cure' proposed by Lord Justice Leveson 'may be worse than the disease' (Gove 2012). Additionally, stories about media malpractice are often given short shrift (cf. Bennett and Townend 2012: 180).

This isolated example shows how the public is presented with a version of inquiry events that may not be entirely representative of Inquiry proceedings. The uploading of transcripts and video to the inquiry's websites, however, allows the public to receive unmediated information if they wish, and obtain an account of events which does not depend on editorial discretion, enhancing citizens' right to freedom of expression (the right to receive) and access to court proceedings.

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Identifying the public mood

The public mood has been central to the Leveson Inquiry, from its very inception: when announcing the inquiry, Prime Minister David Cameron described how the 'whole country has been shocked by the revelations of the phone hacking scandal' (Guardian.co.uk 2011). Yet establishing what the public thinks – or the public voice – is notoriously difficult. When reflecting the public's view politicians may well rely on the media to tell them what the public thinks, but – as shown above – media self-reporting is vulnerable to competing interests, resulting in markedly selective reports. Public opinion polling is perhaps the most reliable method of assessing public mood and allowing the public a voice, but there are two major factors which should be considered when assessing the results data: the way the polling questions are framed and the way the media reports the results.

YouGov, a national polling organisation, was commissioned to run three separate polls: one by the Hacked Off campaign, one by the Media Standards Trust, and one by the *Sun*. The findings of the first two polls contrast with the latter poll (Kelner 2012a). Four in five voters wanted 'an independent body established by law' to regulate journalism but only 24 per cent wanted 'a regulatory body set up through law by parliament, with rules agreed by MPs', prompting YouGov president Peter Kelner to ask how we can 'reconcile these two apparently contradictory findings, given that they amount in practice to the same proposal?' His explanation lies in the construction of the questions and the positioning of words like 'independent' and 'MPs'. 'It is a matter of framing', he argues. 'We don't like the idea of politicians curbing the freedom of speech; but neither do we want editors and publishers remaining in charge of regulation' (ibid). In an interview for BBC Radio 4, he defended the polls, arguing 'it is perfectly reasonable to ask the questions in different ways because that whole issue of framing the debate is part of what the debate is about'. His final comment relates to the availability of the original data:

...because we've put it all up on our site, people can see exactly what we've asked, they can see the bits that the *Sun* picked and which they didn't pick and actually it's not simply a question of whether people notice it in the *Sun* or not... people do look at what we put on [the] site and people start blogging and tweeting about it. This is a very, very transparent process. (Kelner 2012b)

In other words, the availability of the data in PDF format enhances public access to information. However, it seems likely most members of the public would access the version of the poll from the media publication, rather than at source.

A *Times*-commissioned poll provides another useful example through which to examine factors affecting the media presentation of a poll. A poll conducted by Populus for the *Times* showed that 59 per cent of respondents believed that the Leveson Inquiry 'will lead to more effective regulation of the press' (Populus 2012). While the full Populus poll showed this result (the data is available in PDF format on the company's site), *The Times* did not include it in its news report (see Kishitwari and Coates 2012), preferring to focus on a different proposition that had been put to respondents: 61 per cent agreed that the 'Leveson inquiry has lost its way as a procession of politicians, journalists and celebrities have simply tried to defend themselves against one another's allegations' (Cathcart 2012). *The Times's* version was markedly selective in presenting its findings in the version that would be most read by members of the public.

The Leveson Inquiry team was interested in this poll, and in his fourth written statement to the inquiry, *The Times's* editor, James Harding¹², responded to a request for information about the editorial process that led to the publication of the article. Harding defended the coverage by saying that 'a poll is almost never published in full in the paper':

Constraints on space in the paper, the relevance of the questions to the general public and the judgment about the newsworthiness of the poll findings always determine how many questions and answers are printed and how prominently (Harding 2012).

When explaining his newspaper's omissions over phone hacking before July 2011, Harding blamed the response of official sources as well as the tendency to see an agenda in a rival publication's reportage (see Bennett and Townend 2012: 175, 178). In this more recent example, he explains that the editorial decision was based on a judgment of 'relevance' and 'newsworthiness'.

Harding's comments illustrate how 'newsworthiness' decisions affected the representation public mood in this latest example. In this way, polls and reports of polls are limited in their

presentation of public mood and vulnerable to variance in selective framing and presentation in media reports. Polling results are, however, more reliable and empirically grounded than media reports based on an individual commentator's speculation.

Incidentally, but relevant here, Harding's correspondence with the inquiry team led to another illuminating example of selective reporting by the mainstream media. *The Times* article which contained this poll data actually led with the news that the Leveson Inquiry would be parodied in the new BBC series of *The thick of it* and was headlined online: 'The joke is on Leveson in new series of *The thick of it*' (Kishtwari 2012). It is more probable, however, that the inquiry team was interested in *The Times*' poll, rather than the satirical mocking of the inquiry, which is indicated by Harding's focus on the poll in his answer. In October 2011, however, the *Independent* picked up on Harding's July statement, claiming that the inquiry had had a sense of humour failure:

... the editor of *The Times* was required to write to Lord Justice Leveson earlier this summer explaining why the paper had run a short story revealing that the BBC2 show's current series would satirise a public inquiry run on similar lines to the press ethics inquiry (Milmo 2012).

This version of events, which has been repeated elsewhere¹³, is not convincing and examination of Harding's letter suggests that the inquiry had no interest in *The Times*' reporting of *The thick of it*, but was rather interested in *The Times*'s presentation – or decision to run – the poll. If the public were given access to the inquiry's letter to the *Times*, this puzzle might be resolved.

Role of social media

Just as press coverage has varied, so has use of social media platforms: Twitter and blogs have allowed a creative interaction with the Inquiry beyond public interest commentary and reporting. While the public's use of social media has been flippant on occasions – for example, one of the inquiry counsel gained unfair notoriety during an episode in which Twitter users teasingly mocked her for apparently gazing at witness Hugh Grant during his evidence, tagging their updates '#womanontheleft' – social media has played a substantial and important role. It has been a chance for members of the public, non-profit groups and small media organisations to expand and question mainstream media narratives.

Media omissions have been documented by media academics and others, some of which have been noted in the mainstream press. As one example, the circumstances around the murder of the private investigator Daniel Morgan in 1987 have been discussed online and in blogs, despite the media's fluctuating interest in the story. Most recently, some of the detail went 'mainstream' when the legal blogger David Allen Green used his *New Statesman* blog to draw attention to the failed police inquiries and to make a call for a judicial review (Green 2012). Similarly, journalists such as Richard Pippiatt and Chris Atkins have used online media to draw attention to their work that exposes dubious press behaviour, alongside production of material for mainstream organisations, such as Channel 4 and the *Guardian*.¹⁴ Finally, blogs have provided a platform to discuss the selective presentation of polling results (see, for example, Hirst 2012; Kelner 2012; Cathcart 2012).

While its role is important, the influence of social media on inquiry proceedings and public consumption of the Inquiry should not be overstated. This paper has argued that digital communication has allowed for a newly liberated form of debate and enhanced the public's entitlement to report and has improved UK citizens' right to freedom of expression – which includes the right to receive as well as impart information and ideas. But less clear is whether this increased public online engagement – facilitated by enhanced access to proceedings and digital media tools – has affected news discourse and beyond that, political debate.

Simon Cottle has identified in his review of 'news access' and the 'news stage', 'who gets "on" or "in" the news is important':

Whose voices and viewpoints structure and inform news discourse goes to the heart of democratic views of, and radical concerns about, the news media (Cottle 2000: 427).

It is the voices of 'elite' journalists, lawyers, celebrities and – occasionally – academics who have often dominated the Leveson conversation: at public events, on social media channels and on mainstream media platforms. While the public has access to the data at source, ordinary public voices may not change the dominant narrative constructed by newspapers, which informs the wider political debate. As shown above, there are issues with selective media reporting of public voice, based on national polls.

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Members of the public were often confined to a spectator role during proceedings, as national newspapers extensively reported Leveson's investigation into their own industry's failings. Richard Lance Keeble (2012) goes further still, to suggest that the Leveson Inquiry is 'best understood as largely spectacular theatre':

'Ordinary' people, such as the parents of murdered schoolgirl Milly Dowler, have been allowed to play their harrowing bit parts in the Great Leveson Theatre Show before being condemned to obscurity in the wings.

Nonetheless, access to evidence helps enhance the public's access to proceedings and its entitlement to report in the 'public press' and the right to receive information. Improved digital access to proceedings and communication platforms at least allows for the possibility for members of the public to influence media and political discourse. The mainstream media publications may continue to control the biggest gateways to information, but members of the public are able to choose smaller alternative entrances if they wish to get direct access – they are open to all.e

Notes

¹ The inquiry's terms of reference also set out details for a Part Two, which would examine 'the extent of unlawful or improper conduct within News International, other newspaper organisations and, as appropriate, other organisations within the media, and by those responsible for holding personal data'. On 29 November 2012, the Prime Minister said it was the government's full intention that it would take place, but a timescale has not been announced

² Members of the media were given access to the publication before the report was published and the embargo lifted, but only for a short period of time in the late morning on the day of publication under 'lock-in' conditions.

³ According to research findings published by a PR consultancy, Portland, using data collected by the media platform Tweetminster, tweeting journalists were preoccupied by the Leveson Inquiry from April to June 2012. Its index, which monitored just under 288,700 tweets by journalists from national news media organisations, showed that the top five most popular news stories across media from April to June 2012 were 'Leveson', 'David Cameron', 'Police', 'Murdoch' and 'Jeremy Hunt' (Flanagan 2012; Townend 2012)

⁴ Notable exceptions include the Court of Protection, where hearings are held in private unless the judge permits members of the public and/or media to attend, and the family courts, which journalists (not the public) can attend but are bound by strict reporting restrictions

⁵ Lord Justice Leveson was called to the bar in 1970

⁶ Available online at <http://azellerodneyinquiry.independent.gov.uk>

⁷ Available online at: <http://azellerodneyinquiry.independent.gov.uk/key-documents.htm>

⁸ In *A v Independent News & Media Ltd & Ors* [2010] EWCA Civ 343 (31 March 2010)

⁹ Available online at: <http://blogs.lse.ac.uk/mediapolicyproject/>

¹⁰ The revelation that Rebekah Brooks had been lent a police horse in 2008 was a widely reported story in the national press and the incident became known as 'horsegate'

¹¹ Searches were conducted on the Nexis UK database and the Journalist site

¹² James Harding has since announced his resignation as editor of *The Times*, in December 2012

¹³ See, for example, Walker 2012

¹⁴ Details of their work at <http://rich-peppiatt.com/articles.html> and <http://www.guardian.co.uk/profile/chrisatkins>

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A better death in a digital age: Post-Leveson indicators for more responsible reporting of the bereaved

Reporting death has always been a controversial and sensitive subject for both the bereaved and journalists, but after revelations from the Leveson Inquiry of poor ethical behaviour towards the bereaved this form of reporting is likely to come under greater scrutiny. Research indicates journalists would welcome further guidance, particularly in relation to using social media. The bereaved also would appreciate a more equitable relationship with the media. Through interviews with journalists and bereavement groups, this paper explores their views on the effect the Leveson Inquiry might have on reporting bereaved people, lessons that can be learned, and on any measures which could be adopted in the future.

Keywords: death reporting, bereaved, death knock, Leveson, ethics, regional press

Introduction

On 29 November 2012, Lord Justice Leveson published the report from his inquiry into the culture, practice and ethics of the press. Many victims of press abuse and intrusion who gave evidence at the inquiry welcomed his proposals for an independent regulator supported by measures for statutory underpinning. A total of 143,704 people had signed a petition set up by the Hacked Off campaign for a free and accountable press by 6 December, calling for Lord Leveson's recommendations to be implemented by the government, which could be taken as a sign of the public's outrage at press treatment of vulnerable people (Hacked Off 2012).

Clearly, many victims, some of them ordinary bereaved families, suffered terribly from the appalling behaviour of certain journalists and their news organisations. Breaches of the Press Complaints Commission's editors' code of practice, and indeed the law, figure regularly in these victims' stories and consequently their calls for tighter regulation would seem legitimate and relevant. Regardless of what form of regulation is introduced it is apparent that a new, more explicit and potentially more stringent set of guidelines will be required for the industry to appear to change its working practices. These are likely to focus on the industry's relationship with the public, and given the evidence presented by victims at the Leveson Inquiry, they are likely to wish to address: in particular how the press treats vulnerable people such as the Dowlers, the McCanns and the Bowles family.

Reporting the bereaved and traumatised is a customary activity for regional media journalists so perhaps there are elements of best practice that could be adopted in any guidelines for the new regulatory body. But between the extreme cases that were outlined at Leveson and the ideal behaviour of a free and faultless press lies a great deal of muddy water where journalists' ethical decision-making can go adrift. Even the most comprehensive guidelines cannot cover every situation. Interpretation will always be left up to the individual, and within that interpretation an errant journalist can stumble. Research has indicated that journalists would welcome greater guidance in death reporting whilst the bereaved would appreciate a more equitable relationship with the media (Duncan and Newton 2010; Newton and Duncan 2012). Thus, it would seem a suitable time to address both the needs of journalists and the bereaved. The authors have conducted a total of 79 interviews as part of a larger death reporting and social media project; 55 with predominantly regional reporters and editors and 24 with bereavement groups and families. A further eight follow-up interviews were undertaken to clarify positions and experiences after Leveson.

Wading into muddy waters

Journalism by its very nature is intrusive (Newton and Duncan 2012) as reporters need to be able to ask questions in order to secure stories. Even when interviewing the bereaved this intrusion generally is accepted as a necessary part of the process, and the death knock is seen to be a legitimate part of a journalist's job (Keeble 2009). However, that intrusion becomes dam-

aging when journalists prioritise the story at the expense of the people they report. Several journalists, news managers and proprietors did this in the publications involved in the hacking scandal when they went after the story and treated people like commodities where the ends justified the means. In his report, Leveson explained that an overarching complaint from victims was that the press 'failed always to treat individuals with common decency'. He said: 'The way in which parts of the press treated the Dowlers, the McCanns, and Christopher Jefferies indicates a press indifferent to individual privacy and casual in its approach to truth, even when the stories were potentially extremely damaging for the individuals involved' (Leveson 2012: 3.2.1: 473).

Here, the morality of the action was based solely on the ends of getting stories and not on the manner in which it was achieved. However, the inquiry may well have left the public with the perception that all intrusion is unwelcome, which is not necessarily the case, and that all newspaper journalists treat the subjects of their stories casually, which is definitely not the case. Many regional and national reporters have received acknowledgements from families who believe they have handled the story of their tragedy well (Willis 2010; Griffiths 2005). Journalists who report traumatic events have to intrude on the grief and shock of those directly affected by the loss but when a grieving relative agrees to an interview they are giving their approval for the intrusion. That said, they are not giving their permission for the journalist to act in an ethically agnostic manner, rather they place a level of trust in the journalist to act responsibly. Sometimes this is misplaced and the journalist can get it wrong by being ethically naïve or by being caught off guard. Thus, they end up in muddy waters where their intentions may have been legitimate but the execution can appear 'indifferent' and 'casual'. This happened with Kay Burley, a news reporter and presenter at the UK's Sky News, who by her actions in interviewing vulnerable people stirred up a storm of public outrage, mostly on social media site, Twitter.

She was covering the disappearance of five-year-old April Jones from her home in Machynlleth, mid-Wales on 1 October 2012. Four days later while reporting live she broke off from interviewing a fellow journalist about the police's view that they did not expect to find the child alive to ask a woman nearby for her reaction. The woman, who had been helping in the search, made it clear she had only just

heard the news that the abduction investigation had become a murder inquiry. Her distress was evident and at this point she was joined by another woman, who on hearing the news also became distressed. Within minutes Twitter was inundated with complaints about Burley's conduct, including one from Tom Watson MP, who described her questions as 'insensitive, bordering on cruel' (Sabbagh 2012).

In their guidelines on privacy, the section that deals with the treatment of vulnerable people such as the bereaved, Ofcom, the independent regulator and competition authority for the communications industry in the UK, states: 'Broadcasters should not take or broadcast footage or audio of people caught up in emergencies, victims of accidents or those suffering a personal tragedy, even in a public place, where that results in an infringement of privacy, unless it is warranted or the people concerned have given consent.' It adds: "People in a state of distress should not be put under pressure to take part in a programme or provide interviews, unless it is warranted (Ofcom 2012: 8.16-17). Ofcom received more than 300 complaints from viewers and on investigation they found that there was no clear breach of the broadcasting rules and as a result it did not warrant more detailed scrutiny (Faull 2012). This may have been because when adjudicating complaints they consider certain potential pressures on broadcasters covering such stories which might make it difficult to judge at the time whether filming or recording is an unwarrantable infringement of privacy (Ofcom 2012: 8. Forward).

It is evident that Kay Burley found herself in a difficult ethical place. She was reporting on live rolling news and had stumbled into informing an interviewee of the probable death of the child, and then asked them for their reaction. Much of this would seem contrary to professional standards and strategies in reporting the bereaved. She broke the news of a potential death. She apologised then asked her interviewees for their reaction. She made the classic error in death reporting by asking: 'How are you feeling?' Kay Burley is an experienced journalist, yet she seemed to be wrong-footed when dealing with traumatised people. Was this insensitive reporting? Did she show errors of judgment? Was it right for Kay Burley to keep the cameras rolling? Shouldn't her director have pulled the plug when it was clear she was getting into difficult territory? To be fair, she was also working in the digital environment of live rolling news, where time for

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reflection is minimal and pressure on reporters is significant.

The charity Disaster Action in their submission to the Leveson Inquiry reported an instance of two competing broadcasters both attempting to interview a woman bereaved in a disaster, and squabbling about it in front of her. Burley was perhaps less conscious of ethical constraints because she was interviewing volunteers whom she may have assumed were not vulnerable because they were not April's family. However, this case highlights the need for news teams, regardless of the medium, to assume collective responsibility in their dealings with the bereaved, rather than leaving it to the judgement of the reporter who is face-to-face with a grieving or upset person and consequently, whose judgement may be impaired.

This happened despite guidelines from an apparently robust independent regulator, her considerable experience of live reporting and the consent (albeit implicit) of her interviewees. By contrast, US TV reporter Jeff Gradney says he leaves the cameras behind when first approaching victims of violence or survivors of disaster. He said: 'To hell with taping that first moment of intense emotion. This story will air for a couple of minutes at most; if we do it right, it'll replay for a day or two. But the family lives with this for a lifetime' (cited in Coté and Simpson 2000: 103).

Despite Ofcom's ruling the public perception was that Kay Burley had failed 'to treat individuals with common decency' (Leveson 2012: 2.3.2.1: 473). In a similar situation when a tabloid newspaper journalist broke the news to a grieving family that a body had been found, the Press Complaints Commission (PCC) said in their adjudication, which was upheld, that 'newspaper staff should be well-equipped to deal with unexpected situations' (PCC Report 1997: 73). However, as both examples show they are not always. Post-Leveson independent regulation, even with statutory underpinning alone is unlikely to address insensitivity and errors of judgment. Journalists need to develop a robust ethical framework in order to make trustworthy decisions. One regional managing editor interviewed for this study said of Leveson: He has been asked to come up with proposals to deal with a problem triggered by 1% of the media which has nothing to do with the rest of us. I think his role is reactive and doesn't allow him to consider positive ways of building on a lot of great work which is routinely being done in journalism. His focus will be 'how do we stop

families being hounded by disreputable reporters' and not 'how can we help families and journalists to frame fitting memorials to their loved ones'.

Thus, it can be deduced that an independent regulator is not the sole solution. A more positive attitude and change of focus in reporting vulnerable people may go some way to modifying the public's perception of the press in these circumstances. Regulation can be a fitting guide but education, training and experiential learning can play a vital role too. Detailed guidance from regulatory bodies which extends beyond a clause or two in a code of practice and transparency in the news room about expected and acceptable behaviour would also assist significantly. Engaging journalists in informed discussion of ethical issues to increase their awareness and to encourage a greater understanding of grief, anxiety and bereavement could change the focus from bereaved people as commodities to bereaved people as partners in the story.

Changing focus: Ethical journalism is better

Given the statement by the regional managing editor above it would seem that the media in general could learn from the practices of experienced, ethical journalists in order to adopt a more positive attitude, change of focus and thus improve the profession's image. This was borne out from the interviews undertaken for this research. One daily digital editor said:

I would hope he [Leveson] will codify the sort of good practice already enshrined in the [PCC] editors' code and followed actively by most regional media, who have always tended to be more sensitive towards victims/relatives in their community.

This view was supported by other respondents who said that they did not think their approach would be any different after the Leveson Inquiry because, as one regional daily journalist said she 'always took account of moral and ethical issues during interviews'. The respondents made recommendations for good practice: these included

- contacting a family only once;
- gathering the story from authoritative sources when the relatives do not wish to participate;
- treating the bereaved with tact, care and sensitivity;
- adhering to the fundamentals of good journalism such as accuracy,
- and building trust with the bereaved through the quality of their reporting.

Limiting contact to one approach, as advised by the PCC's editors' code, was particularly important to reporters. One freelance journalist, and former tabloid news reporter, said:

If they say no, I would just leave it. In the past, I would be asked by the news desk to return to a door several times, and would do that. Things have changed a lot since then though. For me, being my own boss, I wouldn't put myself in that position.

Some respondents emphasised that accountability could lead to better journalism and if all journalists were in touch with their community – the people they report and those who read their reports – they might behave better. One local newspaper reporter said:

We realise that we will continue to be in the community so you therefore do not want to step on any toes, whereas a national newspaper can swoop in, do the story, get what they need in any way they can and within reason not have to deal with the consequences.

Although this was a common view among regional journalists, national reporters interviewed said such notions were based on old practices and prejudices and were not necessarily true in recent times, even pre-Leveson.

Autonomy in the manner in which they cover a story about the bereaved was extremely important to reporters. One said she was very lucky to have editors who trusted her to get the facts right and to behave responsibly. This trusted relationship was also acknowledged by a news agency editor who said she listens to any concerns her reporters may have. She said: 'On no occasion have any of them expressed concern about knocking a door. In turn, I have never asked them to go back to a bereaved family's door after an unsuccessful doorstep.' One reporter recognised that not all reporters had a trusted relationship with their editors and this could have a strained effect on the story. She explained that whilst she now had considerable control because she is a freelance this was not always the case.

It's hard for young reporters to stand up to news desks, especially if they are shouting down the phone to try again, try the neighbours, try the granny, the auntie etc. You knew the story would be reported in a way the news desk wanted, regardless of what you did. Often they had a specific line in mind before you even left the office.

This view was echoed by a former *Sun* reporter who felt that more stringent regulation would not necessarily help reporters to make the right ethical choices and that pressures from the news room culture would continue to be detrimental. He said:

You have to have your own parameters. You have to know what's worth pursuing and what isn't and always do it with sensitivity. People die, and death touched me more than I thought when I was a reporter. Whereas you used to have time to write a story with details, circumstances and be able to get some kind of picture of the people involved, newspapers don't allow for that anymore. It's like we've got to have quick hits.

Whilst autonomy is important to the journalists they were well aware of the need to recognise a hierarchy of ethical decision-making. Editors, in particular, did not believe that news rooms needed to be more democratic so that reporters had greater input on the ethics of reporting stories about the bereaved. This was, as one digital editor said, because 'established protocols are drawn up by experienced journalists' who had previously covered such stories. However, he added: 'A good boss will always take account of reporters at the cliff face.' Additionally, a regional daily news editor explained that reporters could exercise control over appropriate conduct during an interview. In her news organisation they could refuse to work on a particular story if they felt it ethically compromised them or they could insist their byline was not used, thus putting the onus back on the news editor. This would seem to be evidence that the conscience clause proposed by the NUJ and by Lord Leveson, which has been dismissed by some journalists as unworkable, is actually being practised in some form within the regional press. She added:

Newspapers have a strict hierarchy because decisions have to be made very quickly in a busy newsroom. I cannot imagine it would work if individual reporters were involved in making editorial decisions. If the editor and the news editor are good at what they do, this shouldn't be an issue.

Even a local newspaper reporter felt that she did not need to be involved in this decision-making. She said: 'I think my own moral code and the fact that I work for a company who are very respectful of people means that we always handle these stories with care. I don't think I need to have more say in it.'

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The national newspaper reporters interviewed felt they also had a degree of autonomy in their practice. 'You are making individual judgments every day as a reporter. I only do what I believe to be ethically sound and in line with the PCC code. I can't speak for others.'

That said, generally the respondents would welcome clear guidelines on the type and scale of activity that is acceptable, providing greater transparency for them as well as the grieving family and the public, although a news agency editor felt there were too many variables amongst news organisations to regulate conduct effectively. She said:

Even if rules are introduced, will small independent agencies abide by them? Will tabloid journalists, working under immense pressure from news desks to get the scoop, stop and ask themselves if knocking a door for the second time is unethical? Will journalists and desks who abide by rules, get sick of not getting the story? They could lose readers.

Training for young journalists who may lack the professional experience to reflect critically on their approach to reporting the bereaved was a recommendation made by one regional editor. She said: 'Being sent on a death knock is a really difficult thing to do and in my experience reporters are left to sink or swim. They are usually thrown into this situation with little or no preparation.'

Further guidance from media regulators on social media would assist in improving behaviour when reporting the bereaved. As noted in previous research the belief is that journalists have a right to use social media material that is in the public domain because it has been placed there consciously by users (Newton and Duncan 2012). However, a daily digital editor thought social media operators should take greater responsibility here, and not merely make this the media's concern. They should 'give overt warnings to their users that their words/images were in the public domain, and thus they had given up rights to reasonable privacy. The onus could also be placed on news organisations and media interest groups, such as the Newspaper Society, the Society of Editors and the National Union of Journalists, to devise transparent procedures for staff/members. For example, a news agency editor explained that her company did not allow its staff to use photographs from a social media site but a consequence was that sometimes they failed to secure a picture unless the family or the police provided one.

Throughout their comments the respondents emphasised the need to respect the people involved in their reporting, and this had been lacking in the journalists whose disreputable practices led to the Leveson Inquiry. One local newspaper reporter, whilst recognising that many ethical journalists work on national newspapers, observed: 'The basic principles of reporting have been lost. The news agenda has been warped around this need to know more about people's private lives and that is where it all went wrong. I feel there are a lot of ruthless reporters working for these titles who let their ambition overrule human decency.'

National newspaper reporters interviewed for this project were dismissive of the perception that regional journalists were automatically more ethical than their national counterparts – particularly as all those participating had trained on regional papers. One suggested such a notion was simplistic and took no account of the many experienced national reporters who have interacted with vulnerable interviewees without complaint and have won plaudits from the industry for some of their stories. Research (Newton 2011; Disaster Action 2001-11) and subsequent interviews for this study suggested that complaints from the bereaved were widespread, with regional newspapers, magazines, TV journalists and documentary makers all being named as culpable. Nevertheless, a participant from a red top tabloid said that while he felt his practice was always ethical, the newsroom culture pre-Leveson could sometimes be intimidating. 'I think in the past year journalists have reviewed the way they act and become far less bullish in the way they work.'

Focus on the families

Newton (2011) found that incidences of perceived intrusion after a tragedy came from relatives who objected to being door-stepped shortly after they had been told of their loss. Perhaps the only obvious way any regulator could deal with this is by restricting the death knock altogether. However, the majority of participants did not complain about being approached in such a way, and some were expecting the call, so if the practice was restricted this could arguably disadvantage the majority of bereaved families. One participant said: 'The dangers are families who would like to pay tribute to loved ones, seek redress or go for justice have less of a voice. Not everyone has the confidence and know-how to approach a newspaper.'

Family members participating had an understanding of the reasons journalists approached

the bereaved, but shared journalists' concerns about repeated approaches. Newton (2011) found that support groups were willing to act as intermediaries between the bereaved and the media in the immediate aftermath of a tragedy but lacked the funds and volunteers to do so systematically. However, one national tabloid reporter said journalists are increasingly using intermediaries.

The recent case of the British students killed in a polar bear attack is a relevant example. My newspaper made no direct approach to families at all. Instead, we went via the travel company in charge of the trip who made it clear no family members of those killed wanted to speak. Later on, however, a surviving victim did wish to talk and gave an interview to us which he and his family were delighted with.

Expert witnesses from victims' organisations felt that greater accountability was important all through the process, from first visit to finished story. Although intrusion can be upsetting, participants were concerned that longer lasting damage can be done by sensational coverage and insensitive portrayal of the victim. One bereaved mother said:

One thing that should be addressed is how they portray and sometimes slaughter the victim when the story should be about the perpetrator. It is extremely unfair for the victim's family to have to read that or hear it in the case of TV and radio. I felt I had to put forward all sorts of information and pictures to 'defend' my daughter after the things written.

Regulation is too blunt a tool to deal effectively with the majority of problems the bereaved have with coverage, which are more concerned with insensitivity, neglect of families' wishes, lazy labelling of victims, and carelessness with detail than with intrusion. These can be ameliorated to an extent by more informed journalism education, better newsroom awareness of bereaved people's needs and good listening on the part of the reporter. Families have asked that journalists sent out on such jobs act with honesty, sympathy and maturity; honesty about what they are looking for and what the outcome is likely to be, sympathy and sensitivity when carrying out the interview and maturity to understand some of what this tragedy means to the family. One support group organiser said:

We need the media; what we don't need is sensational coverage that devastates the families. Journalists should imagine the headline they are writing is about one of their family members. How would they like it? How would that affect their family?

A problem with framing guidelines in this area is that families have differing responses to the initial contact with the news media and coverage after a tragedy – and their views can change over time. This often means that practices perceived as being 'ethical' in one case can be disadvantageous in another. One bereaved mother was horrified by the graphic and explicit description of the violence used in the reports of her daughter's death, some of which were extreme by any journalistic standard. Years later she believes those same reports, although still painful, actually fulfilled a purpose; that of demonstrating how horrific the murder was and how her daughter suffered.

I didn't like that at the time because I felt there was no need for it, especially when her children could be exposed to it, but now I think it did show the perpetrator for what he was, how evil he was. It's difficult. Your view can change.

Several participants at the Leveson Inquiry, who were concerned with the lack of victims' rights, emphasised how necessary the press were to their campaigns. Bereaved parents Audrey and Paul Edwards describe the news media as sympathetic, respectful and courteous and say they are in contact with many more families in similar situations who have been treated well by journalists. They ask that nothing be done which would give extra protection to those in public office against "legal attempts by the press to make any malfeasance on their part public knowledge".

Conclusion

Independent regulation with stringent penalties may help curb outright abuses by the press like the ones identified in the Leveson Inquiry, however these incidences are rare. Many journalists – on both the national and regional media – strive to be ethical practitioners, and that is evident from the respondents' comments. This suggests that those journalists already have a good understanding of ethical practices when dealing with the bereaved. An independent regulator, just like self-regulation, will not be able to address many of the ethical dilemmas faced by journalists on a daily basis; rather these will be left to reporters and editors

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on the spot to solve. Errors of judgment will occur and given the profession's current public standing and the call for rigorous regulation there could be anxiety, particularly amongst novice reporters, that errors will in the future be interpreted as deliberate unethical behaviour, and punished accordingly.

Regulation alone will not improve professional standards. It needs to be underpinned by journalists developing a rigorous ethical framework. A considerable number already possess this and education and training, discussion and promotion of good practice and a desire to do the right thing could develop this in the future. A key factor is the need to treat people with common decency, which means respecting interviewees, remembering they are not commodities and that it is not all about the story. Respect for people can also be demonstrated by journalists' recognition that the bereaved are not a homogenous group (Newton 2011), and this study underlines the concern that 'ethical' restraints suggested by some would work against the best interests of others. There is a danger acknowledged by both journalists and a number of bereaved families that increased regulation will result in journalists avoiding families rather than be accused of intrusion, harassment or misrepresentation. Therefore it is important that any regulatory body understands the full extent of media relationships with the bereaved rather than just the shockingly intrusive examples heard by Leveson.

Those bereaved by tragedy are individuals with personal stories to tell, thus journalists should not narrow their approach; they have to be led by the family's needs. Of course journalists will get it wrong sometimes but they should strive to do the least harm and develop the social skills to deal with emotion and trauma. Bereaved relatives wish to be interviewed by journalists who can act with honesty, sympathy and maturity. Journalists too, need to be clear about their role within the reporting of tragic death. Ultimately, these stories are 'an acknowledgement of what the living owe the dead – of how we must honor (sic) them – of which stories we should tell about their lives, and of what we have learned from them' (Kitch and Hume 2008: xxiv).

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Journalism education after Leveson: Ethics start where regulation ends

Theory and practice in journalism education are not separate, binary entities; they are inter-linked, interrelated and interdependent. This paper argues that a crisis of trust in British journalism, which led to the 2012 Leveson Report, highlights the need for an ethical and practical turning point in British journalism education. By considering more nuanced, active, informed notions and understandings of ideology and political economy we argue that incorporating critical frameworks into journalistic education provides the reflexive, philosophical and theoretical tools necessary for developing future journalism education, post-Leveson. In conclusion, we propose that attention to Aristotle's concept of phronesis – usually translated as 'practical wisdom' – has much to offer journalism educators, encouraging a 'culture of informed dialogic engagement', which offers the promise of eroding the often prevailing 'cult of the leader'.

Introduction: Crises in context

Business schools have realised that preeminent among those who bore responsibility for the current global financial crisis were their graduates and are reflecting on the manner in which they have prepared those graduates for leadership roles in industry, commerce and finance ('Schumpeter', *Economist* 2010). Journalism in Britain in 2012 faced a crisis of trust. What has become known as 'the phone hacking scandal' (Keeble and Mair, 2012a, 2012b) resulted in a public inquiry led by high court judge Sir Brian Leveson QC, and exposed opaque and manipulative relationships between, primarily the News International media organisation, and both police and politicians. Did journalism graduates in Britain contribute to this crisis of trust?

This paper puts the case that Leveson presents journalism schools with an opportunity to reflect critically on how journalism is taught, why it is taught in the ways it is and the philosophical and ideological contexts which inform journalism education, and training. Through more critical engagement and embracement of theoretical concepts in journalistic training, we propose in conclusion from the discussion below that attention to Aristotle's concept of *phronesis* demonstrates the culture of more active agency in journalism as a way of progressing ethical practices beyond Leveson.

It is tempting for journalism educators to say: 'We give our journalism students an ethical grounding and if something goes wrong later, that is the fault of employers.' Tom Watson and Martin Hickman tell us in *Dial M for Murdoch* (2012: 17): 'Rupert Murdoch promoted [Rebekah Wade] to deputy editor of the *Sun* in 1998 and in May 2000 to editor of the *News of the World*, a heady position for a 32-year-old with no journalism training.' Journalism educators might well say: 'Had she been trained properly things might have been different.' But the problems which emerged in evidence to Leveson and associated police and parliamentary inquiries exposed networks of hidden and potentially corrupt relationships which involved big media, government and public service from the chief executives, chief police officers and prime ministers – to lowly reporters, constables and MPs.

Following 'Operation Motorman', an investigation by the UK Information Commissioner into the use by journalists and others of private investigators to obtain personal information in breach of the Data Protection Act 1998, the report to the UK Parliament (Thomas 2006) listed 32 national newspapers and magazines on which 305 journalists had been identified as customers 'driving the illegal trade in confidential personal information' (the *Guardian*, *Independent* and *Telegraph* were not on the list). Those 305 journalists were not named – but it is likely that the majority will have held a National Council for the Training of Journalists (NCTJ) qualification. Between April 2011 and December 2012, more than 47 journalists were arrested as a result of these investigations (Turville 2012). It is reasonable to assume that many of them will have had an NCTJ qualification.

Problems close to home: National crisis includes local journalism

While there is no evidence of local papers indulging in phone hacking and the paying

of bribes to police and other public servants, there is a continuum across the press (in particular) of practices, processes and structures which demand attention from a moral perspective. Wendy Weinhold's 2008 study of a local newspaper in the US found 'American community newspaper journalists forced to negotiate their values and internalise business demands in order to answer their employers' profit motives' (Weinhold 2008: 476). She concluded: 'I contend the managers rarely placed stories' newsworthiness above their market potential ... Each of these stories was selected for its ability to sell papers over its news value' (ibid: 484). Weinhold equated news value with relevance to the needs of the community. But in the local-newspaper business model, the 'community' becomes a commodity to sell to advertisers. This is not an ethically neutral state of affairs. From a Kantian perspective, people are being treated as means to the commercial organisation's ends, rather than ends in themselves (Kant 2002 [1785]: 45).

Two examples demonstrate how this is exemplified by the local press. First, Danny Schechter points to the role the local press played in the property bubble which led to the global financial crash as it placed business interests before those of its readers: 'The newspaper industry became, in some communities, the marketing arm of the real-estate industry' (Schechter 2009: 21). Secondly, let us apply Kant's thinking to issues that local journalists face in a practical sense. Research by Nick Davies (2008) and the Cardiff School of Journalism demonstrated how journalism had become a production line process in which PR copy was directly reprinted in local newspaper articles. Traditional, investigative and reporting processes of journalism had been replaced by a culture of 'churnalism', as Davies called it; fewer journalists under increasing pressure to produce more copy became means to the end of churning out news from pre-packaged resources. As Davies points out: 'It is a common experience among young journalists that they leave university with a degree in journalism, bursting with enthusiasm, only to end up chained to a key board on a production line in a news factory, churning out trivia and cliché to fill space in the paper' (ibid: 56).

Such examples demonstrate that the ethics of journalism, business and economics have more of a bearing on the local press than we are often led to believe. The press owners' 'human resources', their journalists, and communities which they ostensibly serve are both commodified: both become means to corporate ends.

Shared crisis, shared solutions? Parallels in journalism and business ethics

The issues above demonstrate the cross-disciplinary nature of ethical issues that journalism and business schools both face. Our thoughts on ethics and journalism education have been informed in part by perspectives on ethics and the education of business students set forth in a paper delivered to business school academics by Stewart Clegg, Professor of Management at the University of Technology, Sidney (Clegg 2012). In criticising the traditional (Anglo-American) models of business education, he said:

No clear consensus emerged as to what constitutes the public good in university-based management education. The typical undergraduate business school curriculum still looks like a trade school preparation for vocational purposes. It has no broad-based disciplines constituting it – and many MBAs, perhaps the vast majority of MBAs, offer a functional and shallow smorgasbord' (Clegg 2012: no pagination).

There are uncomfortable parallels here with a form of journalism education which is in large part informed by a craft model maintained and directed in Britain by such organisations as the National Council for the Training of Journalists. The NCTJ is, in its turn, directed by the newspaper industry with the aim of producing entry level recruits with a skill set stipulated by current editors. This model tends to be self-perpetuating: it is not constituted of broad-based disciplines, nor does it generate a clear consensus as to what constitutes the public good in university (or college or private-sector) journalism education.

Many professions restrict membership through monopoly control of conditions of entry enforced through a professionally-defined curriculum taught at university, and whose exclusivity is sanctioned by the state. Clegg makes the point that 'whereas doctors and lawyers for instance must be professionally qualified to practise legally, anyone, almost anyone, can call themselves a manager and thus become one'. The same is true of journalists. And he continues: 'It is for this reason that the legitimacy role of business schools is important. In an organisation field that is open to malpractice on a catastrophic scale, and in which the gatekeeper function, such that it is, resides in a variety of for-profit, not-for-profit and public business schools, no other organisation comes close to assuming the mantle of responsibility.' For business schools, we might read journal-

ism schools. But if journalism educators are to assume the mantle of responsibility, and their schools a legitimatory role, key tensions need to be addressed. They and their students need to critically interrogate the ideological bases of the models of journalism they embrace. They need to address inequality and imbalances of power in organisational practice. And inherent in each of these tensions are ethical or moral concerns.

Solutions to such imbalances of power and the ability to reorientate organisational power do not, of course lie, solely in the hands of individual journalists or journalism educators. But we suggest that journalists are able to take a lead in developing solutions if they can bring to the field the necessary knowledge, understanding and wisdom to do so – and if they have the confidence, individually and collectively, to deploy these in an ethical manner. We argue that it is up to journalism educators to endeavour to ensure that their students enter careers with that knowledge, understanding and confidence; encourage them to develop that collectivity and equip them to develop that wisdom. This is not to say that the skills to find and tell stories are not critically important. But journalism educators need to give equal parity to criticality; to encouraging a praxis which provides honest and ethical brokerage of information and analysis; which helps us all to make more sense of the increasingly complex and diverse society in which we live.

Clegg (2012) pointed to a critical failing in business schools. James O'Connor (1974) and Jürgen Habermas (1976) both set out analyses of the financial and economic systems which explored their flaws and presciently predicted how those flaws would precipitate a crash: analyses which closely correspond to the manner in which the current financial crisis developed. But, Clegg noted that:

...neither O'Connor's political economy nor Habermas's political philosophy would have found much resonance in the strategy literature of the day or since because the provenance of these tools in Marxist accounts with their apocalyptic focus on capitalism's necessary crisis hardly suited the rhetorical purposes of the business school as an institution – vision was truncated. Business school academics lacked a systematic analysis of the crisis, or the tools with which to make one. The assumptions of conventional economic approaches cut strategy and strategic management off from, not only some of

the most interesting and creative currents in organisation theory, but also from the broader currents of social analysis, especially sociology (ibid).

Subsequent to this lack of resonance, we suggest that more nuanced, active, informed notions and understandings of ideology and political economy are crucial to progressive ethical practices in the media field.

Rediscovering ideology: Critical theory for ethical practice

As McLellan (1995) demonstrates, there are various social, historical and political contexts and ways of understanding ideology. He also states: 'Any examination of ideology makes it difficult to avoid the rueful conclusion that all views about ideology are themselves ideological. But avoided it must be – or at least modified by saying that some views are more ideological than others' (ibid: 1-2). Although we are stating that ideology should be realised more consciously in both self-reflective and accusatory contexts, we still keep McLellan's caution in mind. We propose that rather than recognising ideological critiques as inherently Marxist – oppositional, revolutionary idealist, economically reductionist, *destructive* perspectives – a more *constructive* account would apply the suggestive nature of critical theory in a reflective context that informs and intellectualises media practice, as it does for media theory. In the same way that media theorists should be encouraged to consider journalists as media workers and recognise the structural pressures and conditions in which they work (rather than destructively criticising the work they produce), the ethics of practitioners would also benefit from recognising the constructive contributions of media theorists. But among some of the fundamental problems we recognise in this relationship between theory and practice lies the common (negative) perceptions of a particular word: 'ideology'.

We propose that ideology should not be used solely in accusation or criticism (a fault that often lies with media critics and theorists) but in observation and recognition – even in one's proposed political arguments and solutions. If you criticise something for its ideological intentions, a progressive approach to ideology would accept that your counter-argument might be equally ideological. This approach immediately welcomes (rather than suppresses) the possibility of discussions about structural issues involved in, for example, news production.

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Since the rhetoric of Tony Blair and New Labour, we in Britain have often faced constructions of 'post-ideology' politics and an economic system that deals with 'reality' over ideology; for example, the 'third way' of New Labour supposedly overcame the pulls and persuasions of left and right wing ideology. As recently as 2011, Blair spoke of post-ideological societies in the 21st century: 'We live today in a post-ideological era of government. The fundamental political divide between left and right is a phenomenon of the 20th century' (Blair 2011). Of course, Blair's vision of a Third Way always remained ideologically constructed, and maintained, but its perception of socio-economic 'compromise' suppressed the salience of ideology at work. As Fairclough observed in his critique of New Labour's rhetorical strategies, 'the pamphlets, speeches and newspaper articles of New Labour politicians are full of descriptions of how the "Third Way" of New Labour differs from the "old left" and "new right" ...' (2000: 9). As Blair stated in *New Labour's Annual Report* of 1998: 'The Third Way is a new politics that helps people cope with a more insecure world because it rejects the destructive excesses of the market and the intrusive hand of state intervention' (ibid: 10).

As we have since learnt, market forces in both business and journalistic contexts, are far from the bliss of post-ideological harmony evoked by Blair. Nonetheless, a more engaged cultural and political awareness of ideology, in journalistic (and business) education, we argue, would stimulate a more active and negotiated process of ethical thinking and practical decision making. If media practitioners (journalists and editors) of the future, and theorists alike, were more open to the relevance of ideology and political economy on an observational level then we create possibilities for more progressive ethical thinking in practical and professional contexts.

Rediscovering ideology, so to speak, increases the potential for a more critical, structural awareness and reflective engagement among media practitioners. This is where ideology, in a working and ethical context, becomes intrinsically linked to political economy: when workers – be it journalism graduates or their counterparts from business schools – are increasingly aware (and potentially critical) of the structural systems they work within and the economic, political and social (ideological) interests that they influence, and represent. In agreement with Fowler, through the analyses that media theorists provide, critical work on journalism

seeks to be descriptive rather than destructive (1991: 10). Media workers need to be able to adopt similar frameworks in the discussions they have in the newsroom and the way they reflect on their work; we argue that an awareness of ideology and political economy in such a context is descriptive rather than destructive. Reflective and descriptive ethical encouragement can only be a healthy progression for media industries, post-Leveson. To only observe ideology in a destructive context is naïve: it assumes that identifying ideology and criticising the bias of another party makes one's self unbiased or uninfluenced by ideology. The latter provides, arguably, a vulgar application of Marxist thinking that has at least contributed to the negative (all be it, inaccurate) impression of other neglected models discussed above. Fowler provides a useful analogy of naïve perceptions of ideological bias in the press:

... There is an argument to the effect that biases do exist as a matter of fact, but not everywhere. The *Daily Express* is biased, the *Socialist Worker* not (or the other way round). In a good world, all newspapers and television channels would report the unmediated truth. This view seems to me to be drastically and dangerously false. It allows a person to believe, and assert, complacently, that *their* newspaper is unbiased, whereas all the others are in the pocket of the Tories or the Trotskyites; or that newspapers are biased, while TV is not (because 'the camera cannot lie'). The danger with this position is that it assumes the possibility of genuine neutrality, of some news medium being a clear undistorting window. And that can never be (Fowler 1991: 12).

Incorporating critical frameworks into journalistic education provides the reflexive, philosophical and theoretical tools of thinking necessary for developing the future of journalism practice beyond Leveson. Theory and practice are not separate binary entities; they are interlinked, interrelated and interdependent. Their binary separation is an artificial conflict that suppresses intellectual thinking for the convenience of ideological interests that, pre-Leveson, went unchecked in their control of media production. To develop the work of Kant that we referred to earlier, the critically engaged and theoretically enriched minds of young journalists can redirect journalism away from the production tendencies of top-down pressures and the persuasions of ethically disinclined practices. This redirection can provide journalism with the answers (post-Leveson) that the

business and banking sectors have arguably lacked since the economic crisis.

One thing we have become increasingly aware of is the need to clarify our own political and theoretical intentions when introducing students to traditionally Marxist disciplines of cultural theory. When we present particular theoretical models to students, some of them are prone to a binary perception of the Marxist teacher arguing against the dominant order of contemporary capitalism. This should not be the case. Rather, as we often need to clarify, using Marxist theory does not mean we are dogmatic or idealistic Marxists; rather, Marxist theory is suggestive and provides a critical and reflective awareness that ethically minded journalism graduates can benefit from in the long, gradual quest for responsible journalistic practice. The latter reasserts the point made earlier regarding scholars such as O'Connor and Habermas who foretold the current financial crisis in the 1970s.

Yet, in British journalism there is a fault line of suspicion, defensiveness and anti-intellectualism which is evident in repeated disparagements of media and journalism studies as legitimate disciplines and this fault line is often reflected in an uneasy relationship between those who teach journalism practice and those who teach journalism – and media – studies. Of course, this is not true of every institution – but the NCTJ does not demand that reading lists feature journals such as *Ethical Space*, or *Journalism Studies* on courses it accredits. Just as Marxist critiques of capitalism which predicted the crash were shunned by business schools in pursuit of legitimacy in the eyes of employers in commerce and industry, there is a danger that a lack of a wider sociological perspective on the media cuts off much of journalism education – or training – from broader currents of critical media theory and wider social analysis. And this can deprive some journalism students – and educators – of the tools they need to analyse the crisis which led to Leveson.

The Academy of Management, the European Academy of Management the European Group for Organisational Studies are all pushing Business Schools to reassess what they teach and how. Who, to paraphrase Stewart Clegg, is 'pushing an agenda in journalism schools for a more ethical and more responsible mode of practice in what and how journalism schools teach'? We suggest that there is a role in the field of journalism for the Institute of Communication Ethics, the Association for Journalism

Education and similar organisations around the world to press for a reassessment of journalism education.

But engaging with the critical paradigms which help us to understand media's place in society, while necessary, is not sufficient. Journalism education and business education show a degree of correspondence in their pedagogical approaches to ethics. These discussions are, in both, couched in terms of the individual. It is individuals who require reformation, rather than structures. Indeed, some quite lowly individuals are now being held to account for structural and organisational failings at the *Sun* and other titles. But individual action always takes place within social structures which both encourage and facilitate and discourage and restrict individual agency – so we need to understand these structures.

Accrediting bodies demand that our students learn the relevant industry-body codes of practice. Whether or not our programmes are accredited by industry bodies, ethical elements of journalism education and training are at best heavily informed by, at worst limited to, such codes. While codes of practice are useful in some respects, there is a danger that they define – and confine – the boundaries of journalistic ethics. If it is not in the code, it may not be regarded as an ethical issue. However, industry-led questions of ethics have a narrow focus – and so questions relating to ethics are often foreclosed. Clegg says: 'It is as if all that is needed is to know the right rule in order to do the right thing: Ethics becomes a question of following the rules' (2012).

But when rules run out we are still faced with moral choices. Clegg numbers among issues which are not touched upon by business school ethics the ideas behind contracts of employment, equity and poverty, shareholder and stakeholder conflicts (ibid). In journalism, we might number the lack of diversity in the workforce; commodification of public and employee; a business model that drove a property price bubble; the muting and marginalisation of minority voices. Such matters are not morally neutral, but they also arise out of the structures of, and ideological influences within, the industry. They do not feature in codes of professional practice intended to regulate the conduct of journalists. They are rarely reflected upon by the press. Weinhold on US community journalism concludes:

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Journalists' training and education should be restructured to incorporate an understanding of the economic imperatives at work in newspaper decision-making, and a rearticulation of journalists' principles that accommodates increased transparency in the connection between journalists and their labor is needed (Weinhold 2008: 485).

An understanding of, increasing the transparency of economic imperatives is necessary, but not sufficient if we are to encourage the development of ethical organisations. So where do we look for a way forward?

Conclusion: Thinking through *phronesis*

There has been a revival, in the interrogation of ethical behaviour in the professions, of attention to Aristotle's concept of *phronesis* - usually translated as 'practical wisdom' - and this is the case in journalism (Glasser and Ettema 2008; Quinn 2007). Aristotle conceives of *phronesis* as 'concerned with things human and things about which it is possible to deliberate', it is applied when there are variables to consider, it is applied to an end or purpose and that end or purpose is a good that can be brought about by action (Ross 1925: 1141b, 9-13). *Phronesis* is thus a practical ethical form of knowledge, always grounded in experience and context. It foregrounds the 'common sense' of, in our case, working journalists. It is primarily dialogical - it comes from discussion and argument, it melds inquiry with value and reflection and a programme for action. It calls on theory and practice, but Aristotle resolves and synthesises theory and practice within praxis where actions taken are uniquely shaped by practical wisdom. Clegg (2012) sets out the process through which practical wisdom is applied - three questions - plus a fourth:

1. Where are we going?
2. Is this desirable?
3. What should be done?
4. And - who gains and who loses?

He further suggests, although Aristotle does not, that *phronesis* must address power relations. Power relations - and the abuse of power - in and by media organisations have featured prominently in evidence put before Leveson and are relevant to any consideration of journalism education, and praxis, post-Leveson. If we are concerned here with dialogical practice - within the newsroom and between the newsroom and the wider organisation in which it sits - then power lies in shaping an environment in which there is confidence in being able

to express views which might be at odds with doctrine of the day.

We do not lay claim to great originality in this suggestion. Clearly it is informed by Clegg (2012), Quinn (2007), Glasser and Ettema (2008), Frost (2011) and others. Indeed, Richard Keeble, in *Ethics for Journalists*, acknowledges in a note:

...John Tulloch for stressing the importance of 'eloquence; to me during our many discussions on media ethics and other matters. Kovach and Rosenstiel (2003: 181) make the same point: 'Every journalist, from newsroom to boardroom, must have a personal sense of ethics and responsibility - a moral compass. What's more, they have a responsibility to voice their personal conscience out loud and allow others around them to do so as well' (Keeble 2009: 37).

And this is, indeed, how journalists decide the moral course of action - when the culture in which they work allows them to do so. British broadcasters have told us of the often intense discussions they have in the newsroom about how to cover a particular story - discussions involving all levels of seniority. But the British popular press is renowned for adopting a dictatorial model of editorship, more cult of the leader than a culture welcoming of open and critical dialogue (eg Chippendale and Horrie 1992: 88). and this culture is also manifest in some local and regional newspapers (eg Aldridge 1998: 121).

Journalism educators encourage dialogical exploration in students. They need to encourage students to carry this practice to the workplace. That is necessary, but not sufficient in journalism after Leveson. They also need to take into the newsroom a commitment to collective and mutual support to enable such discussion and reflection. This requires a major cultural shift within the workplace and the acceptance by British newspaper managements of the journalists' trade union, the National Union of Journalists. Harcup (2007: 122), Frost (2011: 237) and Keeble (2009: 70) among others point to occasions on which NUJ chapels (office branches) have collectively opposed their managements on specific points of unethical publication, or sought to moderate more general unethical practice, something which can be difficult for journalists acting individually.

If journalism education after Leveson is to assume the mantle of responsibility for devel-

oping a restorative and legitimatory role in a field of endeavour where malpractice has led to the current crisis of trust, it must set out on a (long) road to change the culture of, to better inform, to democratise that field. Codes, rules and regulations can take us so far, but when the codes are silent on an issue of concern, or when they demand interpretation, ethics come into play and journalists, as writers and broadcasters, or as managers, must rely on their critical understanding of the field, on discussion and practical wisdom.

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Black Saturday bushfires and the question of consent

Consent as it applies to the practice of journalism raises some peculiarly difficult ethical questions, involving the concepts of power, portrayal, harm, trust, betrayal, fairness and honesty, yet rarely is it referred to explicitly in journalists' codes of ethics. It is an especially acute problem in the aftermath of a disaster, when the potential subject's capacity may be impaired. Drawing on research conducted in the aftermath of the Black Saturday bushfires in Victoria, Australia, in February 2009, this paper finds that valid consent may be obtained, even though it does not meet the standards of either informed or simple consent

Keywords: bushfires, codes, consent, disasters, ethics, media

Introduction

Consent receives little explicit attention in journalists' codes of ethics. Analyses of codes across Western democracies (Keeble 2009; Grevisse 1999) reveal certain common values, among them fairness. In the Australian national code, that of the Media, Entertainment and Arts Alliance, this is augmented by other related values such as honesty and responsibility. It may be argued that the obtaining of consent inheres in these values, yet consent is foundational to any system of professional ethics, so the lack of explicit reference to it is a recurring weakness of the codes.

Moreover, in the field of journalism the issue of consent has a dimension that does not generally exist for other professions: there are circumstances in which a journalist will not be required to obtain it. As Bok (1984) has observed, it would be wrong to conclude that journalists ought to write only about people who have given their consent. Explicit consent is not required, for example, when politi-

cians or others in positions of power become involved in media encounters as part of their professional lives, or when people hold press conferences or speak at public meetings, or are participants in forums such as parliament and the courts (Richards 2010) nor when people are the object of disclosures about their criminality or wrongdoing (Richards 2009). Hence, in general, the requirement to obtain consent will vary according to the subject's familiarity with the media, position of power relative to the media's power, position as a participant in a public forum, or position as the object of disclosure of some matter that is in the public interest. This adds a layer of complexity to the issue which strengthens the case for including it as an explicit element in the codes.

For the most part, however, obtaining consent is a basic ethical requirement. Its foundational importance lies in its centrality to the exercising of personal autonomy. Autonomy, in the liberal tradition, is generally understood as self-determination, the essence of being human (Berlin 1969). It has also been characterised in libertarian terms as the freedom to pursue one's own ambitions and desires so long as in doing so we do not infringe the same freedom in others (Atkins 2000). This, of course, is close to the concept of individual liberty articulated by John Stuart Mill (1991 [1859]), whose refinements of utilitarian theory may clearly be seen as influencing journalists' codes of ethics, particularly insofar as they espouse independence, transparency and impartiality. Mill asserts that the only purpose for which power may be rightfully exercised over another person, against his will, is to prevent harm to others. This is an injunction against coercion.

The philosophical arguments of Immanuel Kant complement Mill in this context. Kant, whose thinking has also clearly influenced the codes, adds weight to the consideration of personal autonomy with his formulation of a categorical imperative (2012 [1785]) that people should never be treated as a means, but as an end only. This is an injunction against exploitation.

Injunctions against exploitation and coercion are to be found in many of the codes, but especially in those concerning respect for persons and for their interests, particularly privacy. It is in this way that a thread can be discerned connecting the codes, via the value of autonomy, to the requirement of consent, among others. However, it is left to the individual practitioner to infer these meanings from the codes' broad abstractions.

Autonomy and capacity

An understanding of the nature and importance of consent begins with consideration of what it means to be autonomous. Related to this is the question of whether a person has the capacity or the competence to make a decision. Such capacity or competence is the *sine qua non* of autonomy. (McLean 2010). It has been posited that competence consists of three contributory capacities: cognitive, emotional and valuational (Kluge 2005). Cognitive competence relates to a person's ability to make rational decisions. Emotional competence recognises that the decisions a person makes will be influenced by their feelings, about others as well as themselves, and by the psychosocial context in which they live. Valuational competence concerns the weight a person gives to the various values that might be relevant to a decision. All three were evident in the way Black Saturday survivors responded to approaches from the media.

Beyond this essentially individualistic account of the competence necessary to the exercise of personal autonomy lies what the literature refers to as a relational account. This account posits that in exercising autonomy, a person will have regard to the effect of her decision on others to whom she owes a duty or an obligation. This has been described as a concern to 'underscore the social embeddedness of selves' (Christman 2004) and is offered as the reason why people's exercising of their autonomy may reflect social values (Berg 2001), moral responsibility (Gauthier 2000) and a concern for the impact of their decision on others (Manson and O'Neill 2007). This essentially deontological element too was evident in the aftermath of Black Saturday.

The fact that the exercise of autonomy may be individualistic or deontological serves to illustrate the complexities that might lie behind a person's decisions concerning consent, while at the same time underscoring its importance by demonstrating how much might be at stake, not only for the potential subject but for others to whom she feels a duty, an obligation, loyalty or love.

Assessing the capacity to consent

There is only limited research into consent capacity and no widely accepted curricula for teaching how to assess it, even to medical practitioners (Kim 2010). As a result, it falls to the professional – in whatever field – to make this assessment. While the risks inherent in a journalistic intervention – which typically takes the

form of an interview, and perhaps the obtaining of a visual image – are clearly less serious than, say, a medical intervention, there is nonetheless a real risk of harm. Where there is risk of further harm to an already traumatised survivor or victim of a disaster, it cannot be written off as minimal. A widely accepted model for assessing the capacity of people to consent is the 'four abilities' model (Grisso and Appelbaum 1998). The four abilities are:

- (1) the ability to express a choice;
- (2) the ability to understand the meaning of what is proposed;
- (3) the ability to appreciate the implications and consequences, and
- (4) the ability, once equipped with the necessary facts, to arrive at a reasoned decision.

Thus, it may be seen that the ability merely to express a choice is a necessary but not sufficient condition to demonstrate capacity. Ethically, the onus is on the practitioner to make a judgment about the extent to which the potential subject exhibits these abilities and to respond accordingly. In the aftermath of Black Saturday, as will be seen, ability 1 did appear to be present among survivors generally; abilities 2 and 3 were present in some, at least to a degree, but absent in others; ability 4 was absent entirely in most cases. In these circumstances, the question arises: what is it reasonable to expect of the media practitioner who, after all, will generally not be trained in a relevant diagnostic discipline? A further question is, what type of consent is it appropriate to try to obtain?

Types of consent

For the purposes of elucidating these questions, ethical and legal developments in the field of medicine are used as an analogue. While the *legal* requirements upon medical practitioners are quite different from those upon media practitioners, the fundamental *ethical* requirement is the same: an intervention may not take place except with the consent of the subject. At the same time it has been argued that the requirements of explicitness and specificity commonly required for genuinely informed consent in medicine are unattainable (Manson and O'Neill 2007). They argue that it is time to fundamentally rethink informed consent so that it becomes feasible. They argue for an approach that would focus on the communicative transactions by which consent is sought, given and refused. Central to these communicative transactions are intelligibility, relevance, accuracy and honesty. Communicative transactions that would fail the test of informed con-

sent would be those that confused, baffled, misled or manipulated the potential subject. The qualities of ethical communicative transactions in the terms set out by Manson and O'Neill are applicable equally to journalism and medicine.

Applicable, yes, but feasible? The notion of informed consent is relatively recent, having developed out of medical litigation in the United States during the latter half of the twentieth century. In a landmark case (*Salgo v Leland Stanford Jr University Board of Trustees*, 1957) the court held that medical practitioners had a duty to inform the potential subject of 'any facts which are necessary to form the basis of an intelligent consent'. The types of facts needed to form the basis of this 'intelligent' consent were spelled out in subsequent cases as including the nature of the disorder, the details of the proposed treatment, the risks and benefits involved, and any alternative, including no treatment. The analogue in journalism is that a subject is told before the interview the subject-matter of the story the journalist intends to write; where, when and in what context it is likely to appear; how the subject will be portrayed, both in words and pictures, and the risks and benefits for the subject from this publicity.

These requirements present severe practical difficulties. It is often impossible for the media practitioner to know with any certainty how the story will turn out: new information, obtained after the encounter in question, may alter the story out of recognition. The form and timing of publication are commonly matters that are beyond the individual practitioner's control. Nor can it be predicted with any certainty what the risks and benefits to the subject might be. In reality, then, the informed-consent standard couched in these terms is infeasible in journalism except where the practitioner has full control over the use of the material.

However, consent obtained as a result of a communicative transaction that conformed to the Manson and O'Neill standards of intelligibility, relevance, accuracy and honesty may well be attainable, depending on how demanding it was of the practitioner's knowledge of how the material thus obtained might be used. It is here that honesty becomes the key element: did the practitioner place before the potential subject as full and truthful account as was then possible about the probable use of the material? A standard couched in these terms brings us closer to a less exacting standard, simple consent.

For this there is legal precedent dating back to the eighteenth century in English law (for instance, *Slater v Baker and Stapleton*, 1767). In a medical context, the consent required to meet this standard amounted to no more than an acceptance by the subject of the proposal that a procedure should be performed on her. It did not require the medical practitioner to provide any details of exactly what would be done, the risks and benefits involved, or a longer-term prognosis. The analogue in journalism is that a subject agrees to an interview without any prior knowledge of what questions will be asked or how the material from the interview will be used. This is a very low threshold, however. If the value of fairness, as promoted by the codes of ethics, has any meaning, more than this will be required. To achieve fairness, simple consent in the context of journalism requires three elements:

- conveying to the subject intelligible, relevant, accurate and honest information in possession of the practitioner at the time;
- raising with the subject any foreseeable risks to the subject where the practitioner discerns risks;
- undertaking to inform the subject of unexpected developments in the story that may adversely affect the way the subject will be portrayed.

However, even simple consent is problematic when media practitioners are dealing with traumatised persons in the aftermath of a tragedy or disaster. Evidence from research among survivors of the Black Saturday bushfires showed that their state of mind was such as to make even simple consent impossible. Yet here was a large and important news story, coverage of which would have been seriously incomplete without the voices of survivors being heard. What standard of consent is reasonable in these circumstances?

The Black Saturday case

On Saturday 7 February 2009, 173 people died when bushfires engulfed a number of rural communities, mainly in the Great Dividing Range and the Dandenong Ranges, north-east of Melbourne. The fires broke out at the end of a week-long heatwave in which shade temperatures in Melbourne reached 47 degrees Celsius. The heatwave itself was the finale to a 12-year drought.

The Black Saturday research consisted of in-depth semi-structured interviews carried out in person among 28 media practitioners and

27 'ordinary' survivors – that is, people who were not members of the emergency services or in positions of authority of holders of public offices. Methodological details may be found at www.caj.unimelb.edu.au/research/bushfire_project.

Broadly speaking, the media practitioners agreed that:

- prior consent was required for interviews and for images where it was likely the subject would be able to identify themselves, even if others may not be able to identify them;
- refusal of consent for an interview was implicitly also refusal of consent for the use of an image where the subject was identifiable on the same terms;
- people should be asked once only, and a refusal should be accepted.
- traumatised people could, and did, give or withhold consent.

Broadly speaking, the survivors stated:

- they were in no fit state of mind to give informed or simple consent;
- they were, nonetheless, able to give or withhold consent of a kind that turned out to be sufficient for the purposes in the great majority of cases.
- Many had specific reasons for wanting to speak to the media.
- In all cases but four, they subsequently stated that their decision concerning consent had been vindicated inasmuch as their reasons for speaking had been fulfilled in the media coverage, or other, unforeseen, benefits had been obtained.
- The media encounters had done them more good than harm.

Beneath these broad findings, however, lay many nuances. One media practitioner reported that several survivors changed their minds part-way through the interview and withdrew. From the evidence of other respondents, this experience was unusual, but the practitioner's response was to accept the withdrawal and destroy her notes. However, several other practitioners said that they had approached a survivor with the intention of asking for an interview, but after a short time it had become evident that a request would not be appropriate – just would not feel right – and instead a conversation had taken place.

Another practitioner recounted an experience in which he and his colleague felt it necessary to obtain consent on three separate occasions from a survivor whom they took in their car through the ruins of his town at the survivor's own desperate insistence. First, having told the survivor that they were media people when he jumped uninvited into their car, they asked if he would agree to their putting on an audio recorder while they drove so that they might record what he said as they went. He agreed to this. When they arrived at the ruins of his home, he unleashed an awful howl. While the audio equipment remained on, they switched off their camera while he composed himself and then asked his permission to turn it on again, to which he agreed. When they came to do a broadcast, they asked if they might use the howling. He once again agreed.

More commonly, once the initial consent had been obtained, it held for the duration of the encounter. How that initial consent was obtained was instructive, and was a topic on which media practitioners and survivors gave very similar evidence. The characteristics of what both groups considered to be ethically correct conduct were:

- a quiet approach which did not pre-suppose that the survivor would agree to talk and which gave an opportunity to decline;
- an honest introduction, in which the media practitioner gave his name and said whom he worked for;
- a manner that was unhurried and which conveyed to the survivor that her welfare was more important than a story;
- the treatment of the survivor as an equal socially and intellectually;
- the use of open questions, which allowed the survivor to decide what to talk about and how much to tell;
- allowing the survivor to tell the story in her own way without probing and prompting or putting words in her mouth;
- a tone of voice that was even and steady, not pitying, condescending or impatient;
- body language that was not aggressive or intrusive, and
- an effort by the media practitioner to place as much control of the encounter as possible in the hands of the survivor.

Much of this was summed up in the words of three survivors:

I spoke to a woman from [newspaper]. She was very good. The questions she asked were

all sensible, all relevant. I was pleased with the questions because I felt I had a chance to say what I wanted to say.

They asked just a couple of basic questions and let us tell the story.

People will open up if they want. They will tell you what they want to tell you. Leave it at that.

One respondent who had multiple dealings with the media gave an insight into why her control over the content of the interview was a large factor in her assessment of how the various media people she encountered behaved. In this response can also be seen the concern for others which demonstrated the emotional competence of the survivor, even in these extreme circumstances, and her capacity to appreciate the implications of her decision to give consent, one of the 'four abilities' of Grisso and Appelbaum.

I didn't want to say anything that might have made it for one moment difficult for someone who had lost someone dear. I didn't want to say anything that would set back those people.

Q: Did the media people respect that?

I made them respect it. Otherwise I wouldn't talk at all. I did refuse a number of interviews where the approach was a bit brash.

Some survivors already had experience in dealing with the media in their professional lives. These people had a good understanding of how the media worked, knew how to turn media exposure to advantage – often for their communities rather than themselves – and understood the sometimes complex power dynamics that exist between journalist and subject. It is clear that this strengthened their competence to consent.

Why we may have had positive interaction with the media is because in both our jobs we had interaction with the media. So we weren't as intimidated by them as perhaps other people would have been. We felt comfortable setting the boundaries of what we thought was acceptable.

Another survivor was a person with a substantial professional background in observing trauma, and whose assessment of the matter had an existentialist dimension. Asked whether, from his observations on the first morning, people would have been in a position to give a reasonably informed consent, he replied:

I wouldn't have thought so. They all seemed to be behaving comparatively rationally, but then I'm saying that through a lens of quite suspect rationality. For all my professional experience, I was obviously deeply affected by what had just happened.

People with this kind of expertise or experience in dealing with the media or trauma were in a minority among the survivors, however. Most were people who had no prior experience of dealing with the media or coping with trauma. Their state of mind in the aftermath of the disaster raised large questions about their capacity to consent.

Many said they were aware of *believing* they were functioning normally – making decisions, taking stock, trying to think about what to do next. In retrospect, however, they came to realise how abnormally they were functioning:

- many could not remember any details at all of their early dealings with the media, sometimes not even the approximate date of the encounter – whether it was a day or a week after the fires;
- many could not remember anything much about the content of the earliest interviews – questions or answers;
- some did not make the connection between giving an interview and appearing in the newspaper or on television;
- some gave away information that surprised them when they read it or were told by others what they had been reported as saying;
- some were in a state of post-traumatic euphoria, especially in the immediate aftermath.

We were actually surprised that we ended up being in the paper. Even though it seems ridiculous that you are talking to a reporter, but you don't make the connection at the time. You've got three million other things in your head.

I look back now and I know I was in quite severe shock. I was in a weird space. The best way I could describe it is a light-hearted hysteria. And very lucky about being safe, being found. I wasn't grounded at all.

A couple of days later, I realised – I had no grasp of reality, really – that our pictures would be in every major newspaper across the country, that my niece [overseas] would see me on YouTube.

It is clear from these comments that many survivors, while capable of communicating a choice, were at least to some extent deficient in the abilities to fully understand what was being proposed by the media practitioner, appreciate the implications, and reason their way to a decision. In these circumstances the nature of the consent given was neither informed nor simple, but instinctual. This instinctual consent was grounded in the survivor's assessment of the media practitioner's approach. The characteristics of an acceptable approach have been enumerated above. Taken together they may be summed up as recognising and respecting the survivor's autonomy. In the aftermath of a disaster, and in the context of dealing with media, this autonomy may be expressed as the power to decide whether to speak, to whom to speak, and what to speak about.

Three survivors said there were occasions when they had not given consent, or had been tricked or ambushed by the media, or felt they were dealt with in a way that suggested the reporter had a preconceived idea of what their story should be.

In the first case, a reporter had approached a survivor who was sitting in the shade of a tree having a sandwich, taking a break from sifting through the ashes of her home. The reporter had not sought to obtain consent but merely stated that the survivor and her husband were 'being defiant', in the sense that they were defying the overwhelming loss. 'No, we're not,' the survivor replied. 'We're just having lunch.' Nonetheless they appeared in the newspaper portrayed as defiant.

Another survivor said he felt deceived by a television crew who did not disclose fully what was going to be involved for him and his two mates when they agreed to an interview. The television crew had then taken them to a house where some friends had died, set them up in front of it and then asked: 'Do you know what happened here?'

The third survivor who said he did not consent also said he had been deceived. He said he was approached by a reporter who seemed to gamble on his knowing the name of a well-known local identity. By referring to this local identity by name, the reporter engaged the survivor in what looked like an informal conversation, walked with him to a café, went inside with him, sat down and only then disclosed that he was a reporter. The respondent said he did not at any stage consent to be interviewed, but

that the reporter published what he said anyway and misrepresented it.

These, however, were the exceptions. For the most part, consent was sought and obtained prior to any interview or visual image being taken. The consent was instinctual, as already described, but the evidence is that this was sufficient. This proposition rests on the fact that all but four survivors said they felt vindicated: that in hindsight their decision had been the right one, and overall the media encounter had done them more good than harm.

The fourth case was a survivor who was persuaded by the public relations staff of the hospital to which she had been admitted that it would be good for public morale but – more to the point – good for the hospital if she agreed to do a media conference, since hers was a "good news" story. She reluctantly agreed. She described the media experience as a disaster. Her room was filled with a jostling scrum of bodies, cameras and boom microphones; one television reporter arrived late, put on a temper tantrum and wanted her to go through it all again; worst of all, it led to unforeseen negative consequences for her husband, who had been severely burned and rescued, but who thought the stories portrayed him as having abandoned her. This had set back his recovery significantly.

Conclusion

The absence of explicit references to consent in media codes of ethics is a serious weakness because it deprives media practitioners of guidance on a complex matter which involves issues of power, portrayal, harm, trust, betrayal and fairness. It is further complicated by the fact that there are some circumstances in which consent is not required at all.

It is assumed that consent can be inferred simply from the fact that a person gave an interview, but while this might be taken as an indication of an ability to express a choice, this is insufficient as a basis on which to say that the person consented. Ability to understand what is being proposed, to appreciate the implications and to arrive at a reasoned decision are all necessary to the consent capability.

There is a hierarchy of types of consent: informed consent, simple consent, and instinctual consent. In journalism as in medicine, obtaining informed consent is problematic, and in journalism is generally infeasible. In most cases, the best that can be hoped for – and indeed

the required standard – is simple consent. The characteristics of ethically sound simple consent are that the subject is given as much accurate and honest information as the practitioner has, that the practitioner draws the subject's attention to any discernible risks, and that the subject will be advised if the story takes an unexpected turn, to the subject's detriment.

In the aftermath of a disaster, however, even simple consent will generally be infeasible. Subjects will possess few, if any, of the abilities needed. In these circumstances, instinctual consent will be ethically sufficient. However, there is a special onus here on the media practitioner. This may be expressed as recognising and respecting the survivor's autonomy. Where this duty is observed, the Black Saturday experiences suggest that instinctual consent will be given.

The level of consent thus varies with the circumstances. As a general statement, what is ethically required is *valid* consent, the validity being assessed by reference to the circumstances of the case. A requirement of this kind, supported by guidance notes, would materially improve the quality of journalistic codes. The explicit presence of consent and what it means in varying circumstances would materially assist practitioners make sound ethical decisions on a matter that can be complex and difficult.

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Aesthetics and power: From the perspective of communication ethics

People make conscious decisions-of an aesthetic nature-that are oriented toward quality, excellence and value. The intention is to transform one's life experience into a beautiful existence (Michel Foucault)

Communication is valued because it facilitates an increase in achieving desired outcomes for individuals, organisations and cultures. Technology plays a role in facilitating communication (this is especially true today with the impact of ICT). This paper argues that aesthetics and ethics are key to communicating in ways that increase the human ability to have more beneficial interactions. Ethics and aesthetics contribute to the inherent human desire to experience complementarity (meaning communicating to help humans to integrate better with each other and with the environment, technology designed to be ubiquitous and contiguous, plus communicating on the basis of the new global communication ethic).

Keywords: complementarity, panopticism, the Diderot Effect, ubiquitous computer technology, contiguity

Introduction

Communication is valued because when employed effectively it facilitates an increase in the desired outcome of individuals, organisations and cultures. Transforming communication into desired results is based on knowledge of how to increase value and meaning. Here 'value and meaning' are defined as characteristics that increase possibilities for experiencing an increase in desired benefits, communication that contributes to helping humanity be better integrated within the fabric of being, and increases the chances of experiencing pleasure

or some other rewarding outcome. Thus, communication is a way of shaping the message into an expression of increased value (social and economic), giving it heightened meaning and increasing its chance of receptiveness.

By communicating in a way that enhances value and meaning communication becomes more than just the mere transmittance of information. Communication achieves its desired outcome by motivating, captivating, and enchanting the receiver in a way that focuses the attention of the receiver on the desired outcome. The desired result is defined constructively as a mutually satisfying outcome that will entice the interlocutor into more beneficial interactions. This makes communication powerful – in an ethically good way – because it awakens in the receiver the ability to perceive and experience an increase in meaning, value, and more beneficial interactions (mutually rewarding interactions, and improved interactions with the environment); what Heidegger thought of as the experience of a type of harmonic well-being that he called 'attunement' (Heidegger 2000: 172).

Especially in today's interpersonal, intercultural, and global interactions (with the demand for increased transparency) success depends on the ability to communicate in ways that balance self-interest with actually being able to deliver quality and value thus, communicating persuasively and with power. This paper argues that to increase one's ability to communicate in ways displaying persuasiveness and power one must gain an understanding of certain principles that are connected with aesthetics and ethics. Usually the word 'aesthetic' applies to that which ennobles, enriches, elevates and enhances human existence. It is in this respect that aesthetics is used in the same way that ethical is used when referring to something that is good for human existence. We consider human actions that display beauty and power in an aesthetic way (or in other words in an ethically good way) as worth pursuing or as good because of what they contribute to the human experience.

In line with this more philosophical usage of the term aesthetics there is also its application in practical daily interactions where it refers to creating more value and meaning, a greater sense of well-being, and more satisfying interactions. 'By aesthetics, we refer to *sensory knowledge and the felt meaning* of experiences. Western dualism has often contrasted feeling and reason but what they both have in

common is that they are sources of knowledge and generate meanings we rely on for deciding action' (Hansen, Ropo and Sauer 2007: 545). In other words, aesthetics increase human well-being by appealing to or stimulating the whole person.

By adding aesthetics to communication efforts we do not just end up with 'the Art of Communication' although that is one feature achieved by mastering the aesthetic aspect of communications and ethics. By adding aesthetics and ethics we end up with what (the late) French critical and liberation philosopher Michel Foucault considered to be a type of empowerment for individuals in line with the most fundamental Western values/ethics (Habermas 1994: 150-155). We end up with more beauty, meaning and value in our lives, in our interactions and in our experience with nature – what Foucault believed would result in becoming truly enlightened human beings.

The paper is divided into three sections. The first analyses the role of communication in the human experience. This includes an inquiry into the relationship between effective communications, aesthetics, and ethics: principles connected with acting in ways that demonstrate a certain type of quality or excellence meaning, acting in ways to truly enrich the human experience. The second section analyses how the impact of technology influences the role of communication in the human experience. Digitisation – enabling the fusion of various media – requires regulations like all other media. As with all other media in democratic societies and their structures of regulation establishing statutes requires understanding the fundamental principles involved in assuring that the networks work effectively to protect the individual's rights (one's ability to achieve his or her chosen sense of the good life) and enhances social well-being (society's demand for justice and the concern to have the public's best interest safeguarded).

The third and concluding section analyses the role of communication in helping humanity be better integrated within the fabric of being. This includes a particular focus on the impact of the latest technologies on the *global landscape*. Technology has increasingly been altering the natural landscape in ways that demand ethical consideration. This section argues that with aesthetics and ethics as considerations in the planning and designing of new technologies they have a better chance of increasing those things that humanity finds meaningful and valuable,

increasing human well-being, and increasing the quality of the human experience.

The role of communication in the human experience

Communications – whether in the form of print, visual, commercial transactions, or digital – are always attempts at some type of purposeful interaction. John Dewey argues that effective communication is the means by which humanity is able to discern the difference between mere facts and the meaning (or essence) of existence. According to Dewey a proper understanding of communication is fundamental to conceiving of the connection between language, culture, the invention of utensils and the invention of technology (Dewey 1929: 167-168). Dewey asserted that communication is effective – in an ethically good way – when the communicator transforms messages into means by which individuals and culture find their life experiences more rewarding, meaningful and attractive.

It is the communicator's ability to achieve this that determines the measure or value of the interaction. Utensils, tools, artifacts commercial productions, and works of fine art have all, throughout history, potentially relieved the burden, anxiety and fears of humanity. In this respect communication is an art which is manifest as the creative ability to shape the symbolic items produced by individuals and cultures into well-being, flourishing, and the advancement of the culture. From it proceeds a liberating and uniting power (Dewey 1934: 349). However, Dewey asserted that without the normative prescription for intersubjective interactions we begin to see evidence of cultural decline.

The admonition for such a communication ethic becomes more convincing when it is made clear that adherence to such principles results in being empowered to accomplish objectives and sway decisions in favour of one's objectives. Harvard University's Business School's publication *Power, influence and persuasion* describes power this way: First, power is defined as having the available resources needed to accomplish one's objectives. Secondly, even with the resources available certain policy decisions also need to be in favour of the agent; thus, power is the persuasive ability to sway policy decisions in favour of one's objectives. The Harvard report states that:

Force, control, the authoritarian style and attempts to manipulate are all signs of insecurity (and a pursuit of power to compensate for that felt insecurity). In large organisa-

tions especially it is powerlessness that often creates ineffective, desultory management and petty, dictatorial, rules-minded managerial styles (Harvard Business School 2006: 5).

Harvard's fundamental principles of communication, persuasiveness and leadership are tied to the basics of communication theory in the sense that they support assertions stated by social psychologist Eric Bernes in his transactional analysis theory – the claim that people prefer authentic relationships (Bernes 1964: 18-20).

Harvard professor and Noble Prize winner in economics, Amartya Sen, explains in his book *Development as freedom* that to employ the power of communication in an ethically good way one uses it to empower individuals and cultures to live in accordance with their desired values (1999: 24). He quotes Aristotle to support his argument that when political, commercial and media systems act in alignment with this communication ethic development takes the form of freedom (1999: 14). Sen argues that the real problem of Eastern Europe during the Soviet era was not just a Soviet economic failure. It was the fact that people were not happy with their quality of life: people were not empowered to freely express themselves and develop their creativity in ways leading to self-actualization, self-fulfilment and personal satisfaction.

The issue – existing in all command economy oriented socio-economic systems – is a matter of whether or not the fundamental ethical principles of the system empower people in their daily transactions or in the 'market place' (the historic center of social and economic transactions). In other words, do transactions between the various levels of society engender the development of individual capabilities and potentials and do they empower individuals to experience their notion of the good life? According to Sen (1999: 144):

The type of success that East Asian economies have enjoyed (beginning with Japan but now more evident with China) has been premised on the belief that generating the social opportunities that are intended to improve quality of life and achieve economic growth (based on enhanced individual productivity) requires a balance of economics and human development.

Michel Foucault's work has been highly regarded in social psychological and philosophical

studies. Edited volumes have recently been devoted to studies on how his ideas influence theories of how communication patterns impact the human experience. Foucault is still mainly regarded as contributing to social theories of power, the social construction of power, and how constructivist communication ethics contribute to new ideas about empowerment. Foucault opened the way for a new notion of power in relationships by espousing the position that quality, efficiency, originality, creativity, and value are increased when we employ constructivist communication ethics as a basis of our interactions.

Constructivists assert that power is generated by agents in the process of communication and deliberation. The discursive process itself is a means of empowerment which enables agents to produce the knowledge of how to effectively manage the phenomena they are confronted with in ways that produce mutually satisfactory outcomes. For agents at all levels seeking to balance norms and principles with openness to new creative possibilities – for the purpose of enforcing policy in ways that foster sustainable development – there is much to be appreciated in Foucault's notion of communication practices that promote freedom in the context of disciplinary and normative power.

Foucault's idea was that without employing constructivist notions of communication organisational institutionalisation can seem to be juxtaposed to the individual which tends toward malfunctioning organisations (Foucault 1977: 191). For those interested in generating quality interactions in accordance with the interests of the individual agent, but in ways in line with concerns about rights of other individuals and increased benefits for all the stakeholders, it is worth exploring more of Foucault's ideas regarding communication ethics. Foucault's philosophy help individuals to understand new, progressive ways of thinking about communication and the role it plays in generating systems of knowledge relations, and knowledge creation – which includes virtual knowledge.

The need for a new assessment of how power is employed in transactions is also prompted by the realisation that the traditional values driving our interactions are resulting in development prospects that are not sustainable and, indeed, result in greater imminent problems threatening to destabilise the global community. The global public is now more or less unanimous and critically insistent that transaction ethics should contribute to sustainable devel-

opment in terms that not only produce prosperity for individuals but also produces prosperity in ways aligned with the most sustainable use of the earth's resources.

For private, commercial and governmental enterprises to be convinced of the necessity of such ethics there has to be an incentive for applying these principles to current practices. That incentive is power, persuasion and influence. One of the best methods for increasing the power, persuasiveness and influence of communication strategies is to emphasise the relationship between aesthetics, ethics, persuasion and practices connected with creating the most desired outcomes. As Foucault predicted, the increase in aesthetic aptitude opens up free space for progressive, liberating development. Foucault believed that the shaping of our personal spaces, our workplaces, our societies and of our world must be done constructively which would empower individuals and humanity as a whole to transform individual reality into a more aesthetically beautiful experience (Huijter 1999: 70).

Thus understanding the relationship between beauty (aesthetics) and its role in communicating more powerfully or persuasively is crucial for increasing effectiveness. Because today's communication expert is challenged with the necessity to possess a unique package of skills communication theorists argue that those skills must include a capacity for 'creativity and inspiration, alongside technical rationality, these will define effectiveness and leadership in years to come' (Hatch, Kostera and Kozminski 2005: 4). Communication experts add that this quality is a manifestation of certain leadership qualities or characteristics that are referred to as 'transformational leadership', 'value-centred leadership' or 'visionary leadership'. These leadership types all reflect a character that has achieved some degree of 'self actualisation' (in Maslow's terms), authentic being (in Eastern terms) or integrity (in terms of how one could interpret Aristotle) (Goble 1970: 67).

Jean Baudrillard recognised, as reflected in his early work, the role that aesthetics play in enduing objects with what he called 'sign-value'. Sign values are indications of style, prestige, luxury and power. He felt that much of the effort of art and aesthetics, especially in relationship to commercial communications, is an effort to enhance their communication appeal by endowing them with certain signals that increase their sign-value. Baudrillard critically pointed out that the construction of the great

simulacra has evolved today into digital and programmatic signs whose value is their tactical power (2011: 42). He, however, warns that if contemporary communication strategies are to be used in an ethically good way they must ground their appeals with sign functions that promote individual satisfaction (1998 [1970]: 74).

With the effectiveness of interactions measured in terms of an increase in quality and value acting more effectively is defined as being able to actually employ communication in a way that fulfills the human desire to experience increased well-being, an increase in individual satisfaction and improved interactions. The ability to enrich the human experience by communicating in ways that are more meaningful plus, offer an increase in value and quality are key factors for success in the contemporary communication atmosphere. This is, in part, because the concern of a more informed global public is that transactions not only increase private (individual) benefits but contribute to overall well-being. This value concern has been accentuated in the aftermath of the global financial crisis. Responding adequately to these public trends and public concerns is based on understanding the role that beauty, quality, value and power play in constructivist notions of communication ethics.

Communication technology and the changing perspective on human interactions

The quest of individual and institutional agents remains focused on gaining knowledge of what will create an increase in desired outcomes and an increase in benefits. This quest in the post-industrial reality (the fact that financial exchanges are increasingly digitised) has pressed individuals to increase their understanding of the new global discourse ethics and the current normative basis for discourse in the new globally networked society. Take for example technology's most recent entry-information technology, the ability to enjoy the wide-range of today's commercial opportunities (computer technology, the internet broadband, globalised markets and a reduction of boundaries) requires knowledge of the unique communication principles (both domestic and intercultural) connected with today's globally digitised personal and institutional networks.

In order to secure the desired results (increased satisfaction, increase in resources, or information transfer) in today's 'global information economy' a communications' specialist must be able to make a momentary encounter momen-

tous (capturing the attention of the receiver and motivating the actor's behaviour based on that initially aroused interest toward that which shapes initial interest into openness to something you would like to transmit). This persuasive talent is connected with one's ability to construct a means (aesthetic interaction) by which agents can experience intrinsic values (Dewey 1934: 197). According to communication experts the benefit of aesthetics in communications is that aesthetics highlight practical functions by enhancing them with more meaning, satisfaction, value and pleasure (O'Donnell 2005: 532).

Technology has always played the role in the human experience of mediating our relationship to each other and to the environment. In fact, throughout history changes in communication technology have accompanied revolutionary changes in the human experience – from writing, to print, and now electronic communications. The latest developments in information communication technology demands consideration for a new global communication ethic because new technologies alter the way we interact, how we structure organisations, how we work, how we produce artifacts, and it blurs the boundary between virtual and natural.

Whereas information technology in the past mainly focused on changing processes inside of organizations, today's revolution in information and communication technology potentially alter the way in which people in various institutions and systems across the globe carry on transactions plus produce and distribute what is considered vital to success in today's digitized networks. The ongoing paradigm shift towards knowledge-intensive information societies has brought about radical changes in our lives due to the fact that the necessity of accessibility to information flow has altered the way in which people live and work together. Making way for the new forms of technological interaction has demanded new forms of knowing, new forms of communication, and new strategies for planning the scope of societal infrastructures. This means that the principles believed to contribute to enhancing human communication and interactions need to be reevaluated in light of humanities technological leap.

Throughout history the introduction of new technologies has always been accompanied with ethical questions regarding how they shape our understanding of reality plus how they affect our understanding of who we are as human beings and as cultures. The ethical

concern regarding the technological contamination of a culture demands consideration of what they offer to improve a culture's economy, its interactions, the ability to communicate effectively, plus how they affect a culture's understanding of value and meaning. Aesthetics (an essential feature of any new artifact or new technology) eases the intrusion of new inventions on society by combining beauty and function in a way that makes a new invention more pleasing, appealing, satisfying and pleasurable in ways that contribute to leisure, wealth, enjoyment and cultural flourishing.

As societies become increasingly overwhelmed by technology the need to carefully and critically examine the ethical concerns of intrusion is even more crucial. Ethics is a serious consideration because new inventions throughout human history have always altered our interactions, our intercultural transactions and the human impact on the environment. The need for critical appraisal is especially important when you keep in mind the assumption of those who espouse realism—that increased material and technological capabilities promise an increase in the ability to exercise power. A critical evaluation of the use of technology as employed by realist is important because of the aspects of modernity that actually appear to betray the Enlightenment assumption that modern technology would free humanity from anxiety created by the nature-human relationship, reduce social problems, and in effect, make our lives better by offering a liberating enrichment to our experience.

Modern science has challenged scholars and philosophers of science to give serious consideration to the interface between humans and machines. The analysis of this relationship has been formulating for many years (throughout the industrial revolution in particular but there are aspects of this inquiry that date back to the earlier stages of human existence. However because technology is increasingly advancing and transforming more of our physical reality—which results in applying the virtual to everything possible to digitise—many people are now beginning to raise ethical questions about values in a reality that is increasingly less natural and increasingly more artificial (virtual). Technology is called into question not only because of the impact it has had on altering nature but also the impact it poses for altering the notion of what it means to be human.

Martin Heidegger recognised the need to address the impact of technology on the human

experience. He asserted that technology accentuates the need to consider the role that science (knowledge) plays in helping humanity to be better-integrated within the fabric of Being (the need to reflect on the unresolved tension resulting from humanity's unavoidable naturalness and a persistent human effort to transcend that naturalness). However, Heidegger also felt that human distinctiveness (the same way a flower is distinct from soil while at the same time both are essentially interconnected) does not reduce the fact that humanity is a part of the whole fabric of Being (1962: 102). Technology should contribute to, not take away from, humanity's ability to experience holistic well-being. This is true because, as Heidegger pointed out, intrinsic to being human is the necessity and predisposition to apprehend and form units and wholes, making it explicit that this actually could mean two things simultaneously 'belonging to or a part of while at the same time being distinctively human' (Fors 2010: 28).

Ethical questions concerning how digital technology influences the human-machine interface are reduced when planning and design are based on their potential aesthetic contribution to the human experience. The recognition of the significance of the aesthetic aspect of new communication technologies is a move away from viewing digitization as instances of objects aligned in networks, with certain features, qualities and properties, towards an understanding of digitisation as a relationship to the world and to what it means to be human. With aesthetics as a significant factor in the design of new inventions and the greater environment as a major factor in production in addition to the functional benefits there are appeals to our intellect, our senses, plus our deeper, intuitive, creative inner-nature.

The connection between aesthetics and ethics must be taken into consideration in order for new communication technologies to be employed in a way that has a liberating effect on the human experience. According to Foucault as humanity becomes better-integrated there is an increase in freedom thus, aesthetics is related to ethics in an ontological sense (Foucault 1997: 284). Ontology, in short, is defined as 'the nature of existence'. But as a consideration in the human-machine interface ontology refers to concerns over whether or not technological inventions contribute to and help to maintain human integrity. Foucault reminds us that due to our epistemological uncertainties and ontological insecurities we have decided to supplement human capabilities with tech-

nology. For Foucault, overcoming the dilemma that uncertainty and insecurity can produce in the individual life is achieved by 'shaping one's life into a work of art'. By this he meant that the study of ethics contributes to realising the aesthetic essence of existence that he referred to as 'the arts of existence' (1990: 10-11).

Foucault reminds us that the application of ethics and aesthetics is the practice of shaping one's life into the realisation of what one values most. Foucault would say that what sets great people apart from the masses is their achieving a disciplined expression of their unique, creative individuality. Foucault accentuates these ethical concerns by demanding that digital technology assists the individual in his or her aesthetic quest. Foucault believed that increasing aesthetic aptitude increases the possibility of innovative and liberating knowledge. 'Ethics is the considered form that freedom takes when it is informed by knowledge and self-reflection. In other words, you understand freedom as a reality that is already ethical in itself' (Foucault 1997: 284). The project of contributing to the individual's aesthetic awakening is a philosophical asceticism (an ethos of self-actualisation) or the promotion of directing the individual toward *se déprendre se soi-même* (going beyond the ego or superficial self in Eastern terms, or entering freedom in Western terms).

Foucault (in agreement with American pragmatists) equates aesthetics and ethics to a kind of logic that produces reliable knowledge (episteme). Foucault's ideas reflect those of pragmatist C. S. Peirce, for example, who believed that normative sciences must be inclusive of aesthetics, ethics and logic. Peirce claimed that ethics must appeal to aesthetics (aesthetics being that which is admirable for its own sake), in turn, logic (the study of how to make our ideas clear) must appeal to ethics for its principles (1995: 62). Foucault's acknowledgement of a connection between communication ethics, aesthetics and logic is evident in his statement which asserts that by episteme we mean that which unites or more fully integrates (1972: 211).

Foucault highlights the social value of art and creativity by asserting that by adding aesthetic value to our interactions we heighten the individual's appreciation for *Being* by activating a person's perceptive powers. This is, indeed, the challenge – to fully face (realise) oneself through the act of self-reflection. Foucault's critique of a digitised world centres around concerns about how telecommunication influences

human freedom, human interactions, communication, and power relationships between people. The social construction of knowledge, that Foucault advocated, implies discursive practices that promote the sovereignty of the individual (1997: 284).

Thus, for Foucault to accurately judge the impact of the systems of modern material culture one must not only measure their contributions to efficiency and productivity but as well their positive and negative environmental side effects plus the ways in which they can embody specific forms of power and authority. Digital technology for Foucault is the most advanced vehicle through which discourses about knowledge unfolds and through which power relationships between agents (individual and collective) are shaped. For him, digitised communication calls into question whether or not technology plays a role in informing the individual, or emancipating the individual or does it bind individuals to another form of consumption?

Communication technology and a better-integrated human experience

Global information ethics, understood as an ethics of world-wide communication, may be seen as a commendable effort to foster all those informational conditions that facilitate improved interactions, the ability to communicate more effectively, increases the experience of value and meaning, plus enables humanity to be better-integrated within the fabric of being (Floridi 2007: 8). The new systems of communication are not only becoming the primary means by which information is produced and distributed in the new globally networked society but they are increasingly re-ontologising the nature of our world (2007: 5). As a result technology is beginning to blur the difference between nature and the non-natural.

Information communication technology theorists believe that IT creates a paradigm shift in global discourse in regards to the role of power, discourse ethics and notions of how to achieve what is in the global public's best interest. This is because creating and maintaining the domestic, regional and the global common good given today's fast paced global information system requires familiarity with the connection between the way new global information networks operate and the principles shaping new global discourse ethics. From the Western perspective these principles are rooted in the founding principles of Liberalism (expressed best today as the Neo Kantian notion of global

communication ethics, mutuality, the common good, and Cosmopolitanism). At its best Liberalism (the free market and the Universal Declaration of Human Rights) serves as a normative framework for progression by providing a more flexible sense of power that reconciles the dichotomy between the local context (particularism) and global interdependence.

The fact that the world's core communication systems are globalised means that although not everything or everyone is globalised the global networks that structure the planet affect everything and everyone (Castells 2008: 81). For the features of this increasingly globally networked knowledge economy to work for the enhancement and enrichment of the human experience it must be based on foundational principles that are compatible with the interest of unique cultures and a globally interdependent world. It is in this respect that Neo Kantian Critical Philosophy has been especially relevant in proposing its Cosmopolitan approach to power, aesthetics and global communication ethics.

As technological forces push further into every sphere of public and private life, in every corner of the globe they create what Neo Kantian Critical Philosopher Jürgen Habermas calls the 'colonisation of the life-world' in which cultural, national and global landscapes are altered by 'mediatisation of the lifeworld' (the impact of market and technological forces) (Habermas 1987: 196). The future global landscape will most likely continue to develop to reflect an integration of information communication technologies, liberal international institutionalism, environmental awareness, and, last but not least, the role of values and meaning in the human experience. All of this must be communicated in a way that increases human integrity.

Global communication networks generate more than global, socio-economic codependency accelerated by expanding markets. Codependency (in terms of Eastern philosophy) means realising that the information exchange that people find most valuable and meaningful are communication strategies that increase the individuals sense of well-being by enriching the person's life experience. This can best be portrayed as achieving personal and social well-being as the result of experiencing seamless continuity (in a world where everything is closely interlinked, a world in which biological, psychological, social and environmental phenomena are interconnected). Human culture and human invention are not meant to distance humanity from the feeling of a fit between the

self and the overall nature of Being (complementarity). Human culture was devised as a system of communicating (or transmitting) what would provide humanity a better sense of fit within the human econiche. It is with this understanding of the human experience that technologists are finally beginning to move past the functional, mechanical view of production and offer invention that is unobtrusive to nature-human-culture complementarity.

By complementarity, I mean the potential that information has for contributing to fulfilling the inherent human desire to experience a well-integrated connection between the self and the other aspects of reality. The move in this direction represents a progression from emphasis on the functionality of communication systems toward communication systems that are an unobtrusive part of the environmental space we inhabit. Philosopher of Technology (also writing from the perspective of Critical Philosophy) Andrew Feenberg in *From essentialism to constructivism: Philosophy of technology at the crossroads* points out that the movement toward a more Holistic view of machine-human compatibility is promoted by a constructivist approach that transforms technology by reducing its tendency to *enframe Being* in a way that threatens humanity and nature (2000:296).

Baudrillard recognised that it is essential for humanity to exercise its aesthetic faculty if it is to be able to reconcile what is created by cognition (artifacts and technology) with what is given by the real or raw fabric of existence (2001: 112). He asserts that without properly making use of this aesthetic capacity slowly, almost without notice, the real diminishes (Baudrillard 1994: 1-2). Thus, because of technology's challenge to our conception of what natural means the machine-human interface requires the employment of an aesthetically influenced ethical stance informing what enriches the human experience (an aesthetic approach to planning, invention and designing).

In this respect researchers of communication technology increasingly assert that by neglecting to highlight the aesthetic dimension of the machine-human interface there are greater chances of creating what has become known as the Diderot Effect (a spiraling increase in consumption that is not resulting in satisfaction which motivates the consumer to attempt satisfaction with increased spending) (McCracken 1988: 118-129). On the other hand by increasing the aesthetic dimension public satisfaction is increased and there is greater acceptance

of the consequences of being instantaneously connected with ever larger segments of the global public (by means of text, audio and visual transmissions, plus increased surveillance). In order to proceed further into the technological revolution (as it progresses further into our personal, public and environmental spaces) while offsetting the Diderot Effect the progression of technology must be informed by an ethics that is compatible with the principle of complementarity (as defined in physics, biology, neurology and the psychology of perception).

Conclusion

Baudrillard asserted that the aesthetic features of communication potentially transform communication interactions (interpersonal, societal and global). Aesthetics generates a change, 'the Faustian, Promethean period of production and consumption give way to the era of networks, connections, contact, contiguity, feedback and generalized interface that goes with the universe of communication' (Baudrillard 1985: 127). Certainly aesthetics and design have always been a central concern of the knowledge producers of civilization. This paper argues that the aesthetic contribution to the invention and production of artifacts is the key to making them more pleasing and beneficial to the human experience. Given that the Western public is increasingly more informed as consumers production must be designed to satisfy the public value and aesthetic demands. Today the public hopes for communication appeals based on visions of sustainable development as the key aspect of an overall approach to a perspective on development that will result in prosperity, peace, and freedom in terms of the individual's ability to pursue what is believed to be in his or her best interest.

The primary argument of this paper is that aesthetics and ethics are essential aspects of planning and implementing new communication technologies. With this inclusion the future is more likely to increase complementarity in more aspects of the human experience. Neo-Kantian Liberalism provides the foundational ethical principles that inform global networks and technicians on how to increase prosperity and offer the world a better standard of living. However, technicians must also be responsive to the global public's heightened conviction that a sense of complementarity is the preferred perspective for shaping the future global landscape.

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REVIEWS

Intimate politics

James Stanyer, 2012

Cambridge: Polity pp 225

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This is a study of politicians' personal lives in the media spotlight. It examines 'intimisation' in a comparative context, looking at seven democracies: Australia, France, Germany, Italy, Spain, the UK and the US. Stanyer explains (p. 14) that 'intimisation' can be seen as a revelatory process which involves the publicising of information and imaginary reflections on a politician's personal life. It is a publicity process that takes place over time and involves flows of personal and imaginary information into the mediated public sphere. But it's unclear from this explanation whether the concept of 'intimisation' can be related to other, non-political, public figures.

Free speech and free media are essential underpinnings of democracy. With the advance of technology, the liberalisation of sexual norms and the fierce competition between tabloids, the media are eager to find information about the private lives of interesting people. Intimate information can have dramatic effect on sales on newspapers. Paparazzi journalism has become commonplace. One juicy photograph is valued far more than a thousand words. The boundaries of the public have broadened at the expense of the private.

The first chapter is about media coverage of leaders' personal lives; the second concerns politicians' sex lives; the third is about the uncovering of politicians' infidelity, while the fourth chapter relates to flows, access and control in the global news. The study shows that during the 1970-1979 period, publicised infidelity was hardly an issue. There were seven cases in all seven countries (four in the US; two in the UK; one in Australia, and none in the rest). Nothing dramatic had changed during 1980-1989. Then there were eight cases (four in the US; three in the UK; one in Australia, and none in the rest). Things changed rapidly during the 1990-1999 period. Then there were 14 cases in the US; 20 in the UK; five in Australia; two in France; one in Germany and none in the rest). This trend continued during 2000-2009 period: with 30 in the US; 14 in the UK; five in Australia; three in both Germany and Italy, and two in Spain.

Throughout the years, the US, the UK and Australia find more interest in infidelity stories than

the other countries. Stanyer argues (p. 61) that any explanation of these findings cannot be reduced to a single factor but rather is the result of an interplay between micro and macro factors relating to the political figures as well as the media and political environment of each country. Later (p. 79), however, Stanyer suggests a refined range of conditions that influence coverage of politicians' infidelity. These are weak legal privacy protections for public figures; a weak journalist/media consensus on privacy; an established tabloid media sector; highly partisan and adversarial media, and the presence of politicians with a socially conservative agenda, such as the Christian right.¹

In this context, Keeble (1998) argued that at the heart of the ethical malaise of the London-based mainstream newspapers lie the following crucial factors:

- the monopolistic ownership structures;
- the accompanying hyper-competitiveness between newspapers and with other expanding media such as television and the Internet;
- the decline in journalistic morale with the destruction of the trade unions and the introduction of individual contracts, serious staffing; cutbacks and growing casualisation;
- the narrowing of the consensus over news values;
- journalists' growing dependence on the PR industry;
- the tightening of links between Fleet Street journalists and the secret services.

Stanyer does not elaborate on the role of the internet which has made a significant impression. He does note, however (pp 149-150) that the ease of spreading rumours, uploading information and photographs and acting anonymously without accountability all drive sensationalism and help create and spread stories. Some of them are picked by the conventional media and become large stories. It is easy for gossip to spread unfounded speculations. There is a growing record of rumours about personal lives of the political figures in different democracies over which the politicians themselves have limited control. Facts and falsehoods are mixed together and it is not easy to discern one from another.

This succinct and well-written book (170 pages of text plus an appendix, notes, references and index) provides interesting empirical data gathered across seven countries from the 1970s

onwards. This is a considerable undertaking. Stanyer leaves it for readers to evaluate the ethical dimensions in the work of the media, whether their coverage was legitimate or not. Granted that the media are far more interested in politicians than they are interested in the lives of private citizens. But what should be the ethical boundaries to media intrusion? Is there a difference between media intrusion in the personal life of a politician who has made political gains by presenting himself as a loving family man, a devoted husband and father than media intrusion in the life of a politician who always insisted that private life should remain private and have no bearing on his political conduct? Should there be differences between media coverage of children of politicians who intentionally expose their families to the limelight and those who prefer to keep family affairs private? Should the confines of the bedroom remain intact when politicians' personal conduct has no bearing on their public responsibilities? Is there a difference between covering the private lives of present political leaders and former political leaders? Should sexual preferences be exposed against the will of politicians? Are there boundaries to paparazzi journalism? On these concerns, readers will be better off looking elsewhere (e.g. Jacquette 2007; Knowlton and Bill Reader 2009; Plaisance 2009; Smith 2008).

The strength of this attention-grabbing book lies in compiling a great deal of data on non-consensual revelations in a comparative historical context, examining trends in the exposure of politicians' infidelity between 1970 and 2009. Stanyer tries to find explanation to a different trends, highlighting the cultural, religious, political and media differences between the seven countries. These factors are significant in the demarcation of media intrusion.

The book has a thorough and informative Index, and an extensive reference list; these are valuable resources for a book that is rich with facts and condensed with information.

Note

¹ A study of parliamentary reporting in the British nationals between 1990 and 1995 found that 'scandal and personal misconduct' was the third most frequently reported topic, way ahead of major issues such as health (eighth), education (tenth), social services (35th) and race (38th). See Franklin (1997: 32)

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Gitta Sereny: The journalist who dared to grapple with evil

Gitta Sereny, who died recently aged 91, was a great writer who took on the ultimate challenge of the investigative journalist – grappling with issues of evil and the causes of great crimes. Professor John Tulloch, of the Lincoln School of Journalism, explores her work

George Steiner described Gitta Sereny a few years ago as ‘our stellar investigative journalist’ whose work is unified by a ‘fundamental theme’: exploring evil, and ‘the sources of pathological hatred and unreason’ (Steiner 2000). With characteristic perceptiveness, Steiner emphasises in her work a special quality of personal exposure:

When Sereny has cornered her quarry, be he politician, academic or sadistic butcher, she closes in with uncompromising acuity, but with a seriousness, an intimation of personal vulnerability which establish a revealing trust.

While Sereny’s presence in her work owed little to the somewhat hackneyed techniques of the New Journalists in its self-reflective use of the first person, it was central to her craft: only by placing herself *within the frame* of her narrative as a moral, historical being, could she establish the relationship with her subject, and the concomitant ethical dialogue, on which her work depended. She was consistent in this approach. At the core of her work – whether with Albert Speer (Sereny 1995b), Mary Bell (Sereny 1972; 1998) or Franz Stangl, the commandant of Auschwitz (Sereny 1974; 1995a) – was a dramatic dialogue with another human being.

Danger of working too close to subjects

One danger in this technique is that it opened her to regular attacks of being captured by her principal sources, and of working too close to her subjects as ‘not only a confessor but an apologist’ (Lyll 1998). It also raises a serious issue which might be described as ‘self-aggrandisement’. In particular, her second book on the child killer Mary Bell (1998) drew ferocious criticism, not only from the tabloid press, the inventors of ‘cheque-book journalism’, on the hypocritical grounds that a £50,000 payment was made to the subject, but from respected fellow-writers such as Andrew O’Hagan, who accused her of exploiting her subject:

She thinks all this [i.e. writing the book] would be good for Bell, good for society, and good for Sereny. It may be good for Sereny and it may help society see how wrong it is to simply punish brutalised children who become brutal. But when it comes to the broken girl herself, *Cries unheard* is a production which is deficient of hearing. The trouble with Sereny is that she has a sensationalist manner and takes pleasure in feeling personally close to the people she writes about. Here we find her messianic role in bringing Bell into the realm of truth (O’Hagan 1998).

This accusation – an intense pursuit of a ‘good’ story and a sensationalist self-aggrandising ‘messianic’ role – haunts Sereny’s work, as it haunts journalism, and has surfaced in a number of different guises. I will return to it.

Sereny’s career: the basic facts

The basic biographical facts of Sereny’s career are well-established and dramatic. Born in Vienna to a wealthy family of Hungarian background, Gitta Sereny left Austria after the Anschluss in 1938 and spent part of the war years working with refugee children in France. As she relates it, the genesis of *Into that Darkness* came when she was working as a child welfare officer for the UNRRA in post-war occupied Germany during the period of the Nuremberg trials (Sereny 2000; 2004). As she discovered what the children had experienced:

I felt more and more that we needed to find someone capable of explaining to us how presumably normal human beings had been brought to do what had been done. It was essential to before it would be too late, I felt, to penetrate the personality of at least one of the people who had been intimately associated with this total evil. If it could be achieved, an evaluation of such a person’s background, his childhood, and eventually his adult motivation and reactions, as he saw them, rather than as we wished or prejudged them to be, might teach us to understand better to what extent evil in human beings is created by their genes, and to what extent by their society and environment (Sereny 1995: 9-10).

Sereny attended the Nuremberg trials for four days in 1945 and saw a portion of the trial of Albert Speer. Twenty-two years later, as a naturalised British journalist, she was commissioned by the *Daily Telegraph* to write a series on West Germany and Nazi Crime trials. As a result, she attended dozens of trials across Germany in Hamburg, Dusseldorf and other cities (ibid: 11).

The German chief prosecutor suggested she interview Franz Stangl, the former Austrian policeman and SS man who rose from being head of security at a euthanasia unit to commandant of Treblinka, one of the four Nazi extermination camps in Poland. She interviewed Stangl over several months in repeated sessions in Dusseldorf remand prison and also interviewed his wife in Brazil and one of his daughters. Although this results in a powerful focus on Stangl as an individual moral being the purpose according to Sereny is to show how individual character can affect political life (ibid: 14) and a substantial part of the book is also devoted to exploring the hidden role of the Vatican in the Holocaust (ibid: 289-333).

Placed fully in the story as a moral, observing being

The main characteristic of Sereny's approach is to place herself fully in the story as a moral, observing being. In the case of such monstrous acts, it is arguable that classic journalistic objectivity is of course impossible. One cannot achieve a 'balance' between the Nazis and their victims and would be irredeemably corrupted by the effort. Instead, Sereny attempts to establish a direct relationship with the reader as a sort of moral guide or commentator who reports on her complex states of feeling as the narrative unwinds. This space allows Sereny to admit to feelings of shock and repugnance as she confronts the material but also to feelings of empathy for her subject.

While distancing herself from her own feelings and endeavouring to report accurately in minute detail she also self-consciously engages in building trust with the subject. Ostensibly she is transparent and honest about the terms of engagement. Central to this process is her interview technique: the book is dominated by extracts from the 70 hours of interviews, undertaken in two tranches in April and June 1971. These interviews frequently involve going over the same material many times, a repeated close observation and interrogation of the subject's body language, down to the smallest changes in facial expression and tone of voice. As she explains:

I wanted [Stangl] to really talk to me; to tell me about himself as a child, a boy, a youth, a man...I told him...that I would promise him to write down exactly what he said, whatever it would be, and that I would try – my own feelings notwithstanding – to understand without prejudice (ibid: 23).

After the first tranche of interviews in April 'I knew that in a curious way – and I say this with reflection – I had become his friend' (ibid: 253) she gets him to tell his 'story' – and persuades him to repeat it several times:

The deeper he went into his story, the clearer emerged the picture of the fatal fusion between his own character, and the sequence of events... (ibid: 34).

This testimony is intertwined with Sereny's acute observation of his body language – for example, when she asks him when he realised what Sobibor (the camp he controlled previous to Treblinka) was really for. Here he relates his discovery of a gas chamber:

But who had built this? How could you possibly not have noticed it before? Or seen it on the plans?

The Poles had built it – they didn't know what it was to be. Neither Michel nor I had any time yet to go for walks in the woods. We were very busy. Yes – it was on the plans, but so were lots of other building ...' the sentence trailed off.

All right, you hadn't known: but now you knew. What did you do?

His face had gone red. I didn't know whether because he had been caught out in a lie or because of what he was to say next; it was much more usual for him to blush in advance than in retrospect.

'I can't describe to you what it was like,' Stangl said; he spoke slowly now, in his more formal German, his face strained and grim. He passed his hand over his eyes and rubbed his forehead (ibid: 110-111).

Expanding the human interest story

She expands the human interest story into a basic philosophical position. This position, effectively elevating the interview into a form of secular confessional, runs the interviewer into clear risks. This is not Nixon (whatever his crimes, an elected politician) but a Nazi mass-murderer. Reflecting on the Stangl interviews thirty years later, Sereny observed:

I deliberately kept myself out as far as possible, hoping and believing that the personalities of the men and women in those pages, and the meaning of their words and acts, would best emerge not from my questions, or explanations, but from what they said and how they said it ... I asked questions only to the extent that would keep the conversations

flowing with increasing intensity. This requires faith in the capacity of your *vis-à-vis* to think, patience to give him or her the time to do so, and finally the determination to tempt them into responding not just with but to their own thoughts, which means bringing them to the point where they both ask and answer their own questions (Sereny 2004).

The same sharp concentration is devoted to the setting of a scene. Here is Sereny contemplating the memorial at the site of three gas chambers at Sobibor:

The air is clear and clean. There is the sound of birds, the occasional whistle and clatter of a train, the far-away clucking of chickens; familiar sounds which, thirty years ago, must have offered momentary illusions of reassurance. But the earth round the mound is terribly fine while the soil under the rest of Sobibor is a light brown sand which gives underfoot. And one is jolted out of any effort at detachment by the sickening shock at realizing that – even these three decades later – one must be walking on ashes (ibid: 116).

This pared away sketch with its slight, terrible details is a restrained exercise of imaginative sympathy – a passing into a historical moment – which is not overtly exploitative or journalistic. But what is rendered problematic by this *modus operandi* is precisely any ‘effort at detachment’ or objectivity – that bad faith at the core of the journalistic enterprise so memorably analysed by Janet Malcolm (Malcolm 1989) where the source is systematically deceived in the interests of the ‘story’ or the book. In what sense has Sereny ‘become [Stangl’s] friend’? The ‘friendship’ is, of course, necessary for Sereny’s purposes and – in her self-appointed confessional role – constructed on the rapport without which no cooperation would be forthcoming.

And although it can be argued that Sereny does not fully succeed in securing a clear confession of guilt from Franz Stangl, she does succeed in undermining the myth of a ‘Nazi monster’ in a more convincing way than Hannah Arendt’s classic account of the ‘banality of evil’ in Eichmann in Jerusalem (Arendt 1962; Cesarani 2004). On what turns out to be her final visit to Stangl, when she brings him a favourite Austrian soup that she has cooked herself, she presses him to face up to himself in the interests of ‘truth’:

‘I have never intentionally hurt anyone, myself,’ he said, with a different, less incisive emphasis, and waited again – for a long time. For the first time, in all these many days, I had

given him no help. There was no more time. He gripped the table with both hands as if he was holding on to it. ‘But I was there,’ he said then, in a curiously dry and tired tone of resignation. These few sentences had taken almost half an hour to pronounce. ‘So yes,’ he said finally, very quietly, ‘in reality I share the guilt...Because my guilt...my guilt...only now in these talks...now that I have talked about it all for the first time...’ He stopped...After more than a minute he started again, a half-hearted attempt in a dull voice. ‘My guilt,’ he said, ‘is that I am still here. That is my guilt.’ ‘Still here?’ ‘I should have died. That was my guilt.’

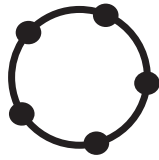
A convincing portrait of a human being? Up to a point, but as an admission of guilt, Stangl’s simple wish for death is deeply problematic and the dramatic structure of the episode tends to undermine our faith in the verisimilitude of the narrative, especially when Sereny reveals that Stangl dies of heart failure nineteen hours later. Although poetically satisfying, the suggestion that she has been the instrument by which he has ‘faced himself’ might also be interpreted as arrogating excessive influence to herself. Nevertheless, this remains an extraordinary, if flawed, exercise in the journalistic imagination, and part of the remarkable body of work that assures Sereny’s secure place in the journalistic canon.

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Correction

Apologies to Yeslam Al-Saggaf and Md Zahidul Islam: in their paper in the last issue of *Ethical Space*, Vol. 9, No. 4 (pp 32-40) on pages 38 and 40 the byline was given incorrectly as Luke Goode. Apologies to Luke Goode too.



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