

Outing the Minister: In the public interest, or greenwashing dodgy ethics?

Reflecting on the ethics of care in a shape-shifting journalism environment.

Abstract

The questions addressed in this paper were sparked initially by the high profile Sydney story broadcast on Channel Seven on May 20, 2010, 'outing' a NSW Government minister as a homosexual. The issues raised by that tabloid television 'scoop' are considered here with reference to two other stories - all three coming together as a cautionary tale about ethics in journalism and the question of public interest. In particular the stories highlight the dilemmas that arise for journalism when the public and the deeply personal collide. Can journalists effectively apply a personal code of ethics when troubling stories come their way with the potential to damage their subjects, amid doubts over their claim to public interest? Should an ethic of care be deployed in such cases along with the ethics of justice more commonly referenced in relation to decision making in journalism? The three stories considered here been used by this author as productive case studies in discussions about ethics with postgraduate journalism students at the University of Technology, Sydney (UTS), and to some extent the issues canvassed in those sessions are reflected in this paper.

Introduction:

The debate over the outing of NSW government minister David Campbell put the familiar spotlight on media ethics. Yet there was something almost prehistoric about the protestations of public interest from Channel Seven, which had burned onto our retinas the image of a hard nosed investigative reporter lurking in the dark with a hidden camera outside a sex club, an image reminiscent of the sleazy private eye of yesteryear, hiding in the bushes, camera poised to capture evidence of illicit extra-marital sex, an odious process embedded in the divorce laws of long ago.

In many respects the story about the 'outing' of the David Campbell - where the 'scoop' about the Minister's sexuality had no discernible connection to his parliamentary responsibilities - felt like a time warp. The less than convincing public interest protestations of Channel Seven and the image of its reporters secretly photographing the patrons of a gay venue came across like a blast from an unreconstructed past, a sadly outdated image for an already embattled fourth estate. Somehow it seemed a world away from the urgency of the challenging task facing journalists working through seismic changes in their industry to find new ways to serve the public interest with integrity.

It was a story that felt especially out of place at a time when the mix of old, new and aggregated media platforms was encountering a confusion of demands. On the one hand, stepped up pressure to deliver eye-catching information ever faster in a desperate bid to claw back dwindling audiences was threatening traditional standards, and on the other, journalism at its most admirable was attempting to blend the best of the old with the shape-shifting new to preserve, whatever the platform, the kind of quality journalism that is anchored in accountability and trust.

The details of the shameful *News of the World* operations in the UK had not yet been rolled out, but the Leveson Inquiry's revelations of hurt inflicted via callous intrusions and breathtaking invasion of privacy would sound the same echoes of the ugly tabloid traditions one had hoped long past, delivering a body blow to the already reeling notion of trust in journalism. The image of photographers stalking people in the dark strikes an even more sinister note these days in the wake of the image supplied to Leveson by

Susie Eisenhuth

University of Technology, Sydney (UTS).

British actress Sienna Miller, recalling how she found herself ‘at the age of 21, at midnight, running down a dark street on my own with 10 men chasing me.’ (2011, Nov 24)

At the time the Campbell story appeared, the impact of the burgeoning online environment on journalistic practice was being widely debated. With traditional media outlets faltering and budgets shrinking around the world, collaborations were underway to seek alternative funding for public interest projects. In-depth stories otherwise priced out of a cash-strapped media were seeking sponsorships from independent foundations and centres.

The US public interest newsroom *ProRepublica*, for example, had won a 2010 Pulitzer Prize for a story pursued by journalist Sheri Finkel in collaboration with the *New York Times Magazine*. (Finkel, 2009) Similar cross-media and cross-platform collaborations have since continued, including complex projects coordinated by the International Consortium of Investigative Journalists in tandem with media outlets. The *Four Corners* report ‘The Body Snatchers’ (Keller & Luck, 2012) about the international trade in body parts, demonstrated how journalists across the world are working together on major public interest stories.

The issues abroad in the new environment are complex. Can the increasingly creaky ethical codes of yesteryear be sustained; can ethics seals (as in ‘seals of approval’) applied to online stories by individual reporters and bloggers fill the gap; is codifying options practicable anyway in a media landscape where expectations of immediacy are the enemy of reflection, where new sourcing issues arise with each technological advance, where twittersphere checks for the latest can come at the cost of layering substance into assertions? Is the best response perhaps for journalists – either working independently as many now are, or attached to media outlets - to fine tune their own ethical code, developing a personal professional code powered by the principles of justice and care, in order to monitor their own baseline of accountability and trust between writer and audience.

In journalism as elsewhere, ethical dilemmas arise when questions of right and wrong are not necessarily clear cut, when opinions vary about the probity of certain actions, where issues of context and nuance can be significant.

Well-intentioned ethical people may still disagree. Nevertheless, incorporation of some revised ethic of care would help revitalize a strong and more philosophically and politically defensible concept of justice and (human) rights.’ (Steiner & Okrusch, 2006, p 119)

It is arguable that while accuracy, clarity, fairness and balance serve well as a mantra for rigorous and ethical reporting, another valuable dimension emerges if it is paired with the notion of care ethics, which foregrounds a checklist of considerations such as attentiveness to implications, responsiveness to need, and attention to narrative nuance.

Held (2005) describes the ethics of care as prioritising questions of impact and consequence, and suggests it might effectively be blended with the ethics of justice more commonly referenced in relation to decision making in serious journalism. Considering ways in which the two might be combined, Held notes that:

an ethic of justice focuses on questions of fairness, equality, individual rights, abstract principles, and the consistent application of them. An ethic of care focuses on attentiveness, trust, responsiveness to need, narrative nuance, and cultivating caring relations....Whereas justice protects equality and freedom, care fosters social bonds and cooperation. (2005, p.15)

In the context of such deliberations, Channel Seven’s story and its threadbare public interest claims sound like a howl from a media dinosaur enmired in the mud of journalism prehistory, yet it touches on issues fundamental to ethical journalism, no matter the platform. And in this respect, the response of other journalists to the story at the time was revealing, with many launching spirited attacks on the ethics of the story and its damaging intrusion into the lives of David Campbell and his beleaguered family. Above all, what was widely disputed was the story’s claim to be in the public interest.

On the morning after Seven’s dubious ‘scoop’, the national daily newspaper the *Australian* headlined ‘Disgrace for the man, *and* the media’, the *Sydney Morning Herald* ‘Outdated Seven fails on public interest’. Many senior journalists questioned the so-called public interest of the gay outing story,

pointing to its failure to link its revelations about Campbell's sexuality to any wrongdoing in relation to his Ministerial responsibilities. The public were equally unimpressed. Citing the *Herald* poll on the Seven story, Andrew West's article 'Manufactured scandal leaves another political career in tatters', noted that 78 percent of more than 60,000 polled said the story and the secretly shot footage should not have been aired. (May 21, 2010)

This public response was not what Seven might have expected in response to a story delivered by reporter Adam Walters with the mix of gravitas and faux alarm tabloid television reserves for its naming and shaming stories, published 'in the public interest'. (The Seven team included producer Steve Barrett and news director Peter Meakin, who had featured over a decade before in a *Sixty Minutes* special highlighting concerns about ethics in tabloid style current affairs). (1993)

When the ABC's *Media Watch* weighed in a few days after the Campbell story was broadcast, it made the point that if indeed the Seven team had genuinely believed public interest was at issue, their approach was curiously lacking in urgency. It revealed that they had sat on their spy-cam footage for 48 hours while they attempted to contrive a suitable public interest excuse for running it. (May 24, 2010) That would prove difficult. With absolutely no link between the secretly shot footage and the Minister's portfolio responsibilities, what they wanted to put to air was little more than salacious gossip.

Whatever the Seven team were deliberating about during that 48 hours, it was certainly not the ethics of the story they proposed. Its potential for wreaking devastating personal havoc on the family involved was as blindingly obvious as its flouting of the MEAA Code of Ethics. The code's second principle requires that journalists 'Do not place unnecessary emphasis on personal characteristics', listing a range of specifics including race, ethnicity, nationality, gender, age, sexual orientation and family relationships. (2013)

In the end the public interest defence eluded the Seven team, though they tried several pretexts, starting with their initial claim that Minister Campbell had misused his 'taxpayer-funded car' to drive to and from the gay venue. The next day Seven's Meakin had to publicly concede that this claim was

false. Yet as reported by Matthew Moore in the *Herald*, Meakin used the occasion of that backdown to proffer another justification for the story, alluding to the opportunity homosexuality provided for blackmail. (May 22, 2010) Meakin conceded that there had been no suggestion whatever of attempted blackmail, yet he claimed the potential existed and that was sufficient grounds to run the story.

(Something the Seven team might have considered had they deliberated over the ethical implications of their story is that attempted blackmail over allegations of homosexuality can only continue to loom large as long as tabloid journalists, among others, frame the issue of homosexuality in sensational and stereotyped terms that fuel the fires of homophobia in the community.)

When Meakin failed to back down on Seven's other public interest justification (based on the Minister sending Christmas cards to constituents featuring photographs with his family), columnist Miranda Devine responded by slamming the claim that Campbell was hypocritically posing as a family man. Devine made the point that as a man with a wife of 30 years and two sons in their 20s he was perfectly entitled to send such cards. 'Surely he is a better family man for having stayed with his wife and sons and been the best father and husband he could be despite being perhaps unfulfilled in a sexual sense.' (May 22, 2010). No one knows, Devine noted, 'what personal temptations he has had to overcome in his life, and that is entirely his business.' His business, not ours.

When the broadcast regulator ACMA finally responded to complaints over the Campbell story, it agreed that Seven had 'clearly used material relating to Campbell's personal and private affairs when it showed the minister leaving a gay club'. (ACMA, 2011) But in a curiously circular argument it said that the invasion of privacy was justified because the program was entitled to explain why he had resigned. The ACMA finding met with considerable criticism in the media, with one commentator querying its logic: 'the fact that the imminent broadcast of the story was successful in hounding Campbell from office meant that we needed to have an explanation why he had gone, which in turn became the justification for Seven invading his privacy?'

(Dodd, 2011)

Asked by this author about the ethical implications of the Seven News scenario, philosopher and ethicist Dr Damien Grace commented that he had felt for a long time that using the public interest as a justification for exposes was 'self-serving'.

It's not just that media use the public interest - expressed variously as "the public's right to know", "our duty to serve the public" etc - to justify the invasion of people's lives, but that they claim *an obligation* to do so. In the Campbell case, Channel 7 seemed to make out that they had an *overriding* duty to out the man. The *overriding* part refers to the denial of the man's privacy, of consideration of his family's feelings, and really, to commonplace notions of decency.

So, in Channel 7's self-serving language, what is normally prurient and objectionable conduct becomes (regrettably) necessary by the requirements of public interest. Instead of being unprofessional, it [then] becomes professionally imperative. Instead of being intentional harm, it becomes a service to the democratic scrutiny of public officials. In truth all these justifications turn out to be bunkum, as I think Seven partly admitted when their argument concerning ministerial cars fell over. (Grace, 2010)

According to Grace, the Campbell situation would have been markedly different if there were a genuine public interest issue.

It might have transpired that Campbell was jeopardising the public interest, and then the story might have been justified. But that would have been very different from the way Seven went about this. That would have been a story beginning with an anomaly in ministerial decision making and then tracking the source of that anomaly to the Minister's private behaviour. This story began in a bath house, not the betrayal of a public trust, and to their credit, the public saw right through Seven's weak justifications.

The Campbell case sounded echoes of a similar dispute about claims of public interest, which arose over another 'outing' story in 2002, when a media uproar was created by the expose of former Federal Labor Senator Cheryl Kernot's affair with the former Australian Foreign Minister Gareth Evans. The second of the three stories considered in this paper, written in response to that uproar, was a column written by this author for the national news magazine *The Bulletin*, which led to a dispute with the editor and her resignation, in protest, as one of the magazine's weekly columnists. (July 15, 2002)

The column was fuelled by distaste at the media treatment being meted out at the time to Kernot, by then, like Evans, out of politics, over the affair they had some years before. The Kernot revelations, like the Campbell story, had come to us as a scandalous 'scoop' about private behaviour, allegedly revealed in the public interest, flagged by Channel Nine's National Politics Editor Laurie Oakes as a teaser in *The Bulletin* magazine (July 3, 2002) and then reported in full on Nine news.

A heated public debate about journalistic ethics was underway in the wake of the story, which had left a devastated Kernot – never a favourite with the media - twisting in the wind. (*Media Watch* footage of reporters caught on video marauding Kernot's mailbox conveys a sense of the tactics in play at the time.) (July 8, 2002) Oakes had his supporters, but as with the Campbell story, there was robust debate within the journalistic fraternity about the so-called public interest of the story. And like the Campbell story, the damage inflicted on the private lives of the families involved was apparently deemed irrelevant as the purveyors of the story - in the best 'Gotcha' tradition - beat the public interest drum to justify the revelations.

At the time a number of senior journalists had criticised the media's handling of the Kernot story. The *Sydney Morning Herald's* senior political commentator Alan Ramsay, dismissed the story as tittle tattle, writing a scathing critique of the Oakes expose of the extra-marital affair from the past being put forward as significant news. Ramsay made the point that the affair had long been a well-worn item of gossip around the Canberra press gallery. (July 6, 2002)

The column by this author in *The Bulletin* used the platform of popular culture to question the ethics of the so-called scoop, describing it as a coup of cutting-edge journalism that had 'elevated gussied-up gossip to the status of fearless commentary in the public interest'. (July 15, 2002). It enlisted the wit of Oscar Wilde to bolster its case by wrapping the Kernot case into a review of the film version of Wilde's satire *The Importance of Being Earnest*, which had, coincidentally, just released in cinemas across the nation. The column began by suggesting that Wilde would have a field day if he were still around:

What a dream talk show guest. And what a surfeit of satirical material at his fingertips. All his favourites. Political platitudes on full throttle. Self-righteous politicians. Journalists on heat. A whiff of sulphur – or was it burning witches? – in the air.

Threats from the editor of *The Bulletin* that that last sentence and several other paragraphs of Eisenhuth's copy - and Wilde's quotes - would be cut before publication, led to her decision to resign.

A follow-up story on the ABC's *Media Watch* about the resignation and the editor's intervention pointed to the irony that in the same issue of *The Bulletin* in which both Eisenhuth and Wilde were censored, the editor had written a self-congratulatory opinion piece about how the Kernot expose upheld the magazine's grand tradition of challenging authority and exposing hypocrisy. (July 15, 2002)

In retrospect it is clear that while the revelations about the Kernot Evans liaison may have rated highly in terms of the Canberra gossip Ramsay deemed them to be, they were of minor import in terms of significant news, and the story soon faded away. One wonders how long it took to heal the scars inflicted on the two families dragged into the unseemly limelight before it too faded away.

Reflecting on her resignation from *The Bulletin*, Eisenhuth said she had thought hard about the competing claims of public interest and privacy at the heart of the debate.

It was about the public right to know versus ethical concerns about privacy and inflicting personal damage. And I wanted to keep my

job. But I disagreed with the editor's judgment that it was inappropriate to link the media on Kernot with Wilde on scandal mongering. Popular culture links to politics all the time. The fact that the Kernot scandal and the Wilde play cropped up together was an obvious link for any journalist, an obvious way to skewer the hypocrisy and the lousy ethics in play. That was my judgment. And I went with that. (2010)

The third of the stories considered for this paper was a very different sort of story, yet the sensitivity of the journalist's approach to the potential damage its telling might inflict on its subjects offers a stark contrast to the personal pillorying and carelessly triumphal tone that had characterised both the Campbell and Kernot stories.

The *Herald* story, 'Dying To Be Heard', which caused considerable public reaction, was published as a series by journalist Ruth Pollard, then Investigations Editor with the *Sydney Morning Herald* (now its Middle East Correspondent). The series raised serious questions about the State's failure to appropriately assess and record the numbers of domestic violence homicides and the urgent need for action to protect vulnerable women and children. It had startling revelations to make about the administration of justice, but its substantiation also required Pollard to pursue and document disturbing personal accounts of pain and terror from individual victims of domestic violence. And that posed serious problems.

There was no question that the story Pollard was pursuing was in the public interest. Her push for a Domestic Violence Homicide Review meant she was battling resistance from politicians, a 'highly critical' Family Court, and 'totally closed ranks' from the police. Even the NSW Bureau of Crime Statistics 'were dismissive of the idea of [the review] as they believed, though they did not say it as bluntly, that it was calling into question the veracity of their figures.' (Pollard, 2013)

It was a big story, and Pollard knew it would stand or fall on the personal stories of abuse she could gather. Yet despite the gravity of the issues in play, her priority was how her intervention might impact upon the lives of the sources who were willing, despite their fears and the real prospect of danger, to talk to her about the domestic violence that had blighted their lives.

Reflecting on the story recently, Pollard emphasised the concerns she had about the prospect of exposing those vulnerable sources – some hiding out in refuges and secret locations in fear of their lives – to the glare of media exposure. ‘I was acutely aware that I may “re-traumatise” the women during my interviews by asking them to relate details about their abuse to me,’ she said.

There is a deep silence around domestic violence, mixed with shame and lots of fear. The women I was speaking to had fled terrible situations, many of them were from non-English speaking backgrounds and facing having to leave their entire community and their family to escape the violence, not just their husbands. They were extremely vulnerable - both in terms of their actual physical risk and also their emotional and psychological health...

For many of the women I met, they did not even believe they were worth interviewing. Their self-worth was so, so low that the very idea that a journalist would want to speak to them was difficult to comprehend. Part of my job was convincing them that I was interested in their stories and that our readers would be too. Some of the refuge managers thought it was positive that I was able to convince them to share their stories, that it might help to reinforce the message that they are important and that their lives are worth something. (Pollard, op cit)

Well ahead of the interviews, she talked at length to potential sources and the refuge workers coordinating their care, anxious to ensure that they understood the implications of being interviewed, including what she feared may be the bruising aftermath of the story. Explaining the journalistic process was a top priority:

... first we do the interviews, then I write the stories, then I interview other experts like lawyers, counsellors, academics, police etc, then I write more stories, then I put questions to the authorities you believe let you down in your case (police, family court, DOCS, whoever), then I will come back to you with their response and allow you to respond to them etc. I did this to try and minimise the

unknowns for them, so they didn’t wonder what was happening after they took a big risk and spoke to a journalist.

Even so, I worried that when the story was published – if they saw it – even though they were not identified, they would know it was their story, and they may feel exposed, vulnerable, re-traumatised etc by the experience. So I kept in close contact with their refuge managers and case-workers to ensure everyone was prepared for pre-publishing, publishing and the aftermath of government response, criticism etc.

Pollard won a Human Rights Award for her story – and her description of her concerns about the story and the deeply considered strategies she put in place to address them offers an exemplar of the ethics of care in terms of addressing the dilemmas that arise for journalists when the public and the personal have the potential to collide in damaging ways.

By contrast, Channel Seven’s scoop about the ‘outing’ of the NSW Minister for Transport (Seven News, May 20, 2010) demonstrated how badly things can go wrong when the process of ethical decision making is sidelined and the claim of ‘public interest’ is brandished hand-on-heart as justification, as if the term itself - ‘in the public interest’ - is value free and context free, and the probity of those who invoke it beyond question.

Pollard said that over time she had developed an ethical code of her own, but conceded that despite the best of intentions, the pressure of time posed real difficulties for journalists.

I have developed my own personal code, as I believe most journalists do. As an investigative journalist (as I was when I did the domestic violence homicide stories) I had the luxury of time to ensure I could combine those principles [ethics of justice and care] in order to cultivate genuine relationships with contacts and interviewees. As a daily news journalist that is more difficult.

Since I have been a foreign correspondent I have interviewed people in very difficult situations – in refugee camps, under mortar fire, at funerals, following escape from prison where they were tortured – and I have yet to find an appropriate way to ensure those principles

are upheld as I am so often only in the place for a short period of time (often for my own safety reasons and for the safety of my local fixer or photographer). So I think the ethics of care really suffer in the field in both domestic and international daily reporting, despite what might be very strongly held and well developed personal codes of ethics.

As to the ethics of the Campbell story, Pollard was in no doubt.

I cannot see how outing Campbell was in the public interest. It *would* have been in the public interest if he as police minister was pursuing anti-gay legislation or pushing policies that would be detrimental to the human rights of gays and lesbians – then you could argue public interest, as his professional actions were being driven or clouded by his personal secret. But otherwise, no, I don't think it was in the public interest – it didn't protect anyone's safety or rights, and it didn't meet the "public's right to know" test as it had about zero impact on anyone's life but his. And his family's, of course.

That the public were interested in the revelations of the Campbell story (as opposed to them being in the public interest) can hardly be denied. We all like a bit of gossip. Asked on ABC's *Late Night Live* about the public's right to know, media writer Margaret Simons said: 'I don't think that necessarily means that we have the right to know about somebody's private life and more particularly to cause what must have been incredible distress to the family.' (May 25, 2010) She described as disingenuous the comment of Mark Day, longtime tabloid journalist turned commentator, that the urge to publish and be damned was 'written into the journalistic DNA'. (May 24, 2010) 'Your core purpose is to publish,' Simons said, but 'there are many occasions on which journalists decide to exercise discretion and not publish for a variety of reasons.'

Referring to professional judgment in relation to the Campbell story, Damian Grace said it was useful to imagine what would happen if the reporter, having viewed the secret footage, realised it showed nothing more than a man emerging from a meeting place for gay men. What if they refused to air the story. And what if the boss said it's going to be shown, no matter what,

and with the journalist under fire for intransigence, the story went to air. (Grace, op cit)

'You can imagine the public reaction if that television journalist went public – and said they had been bullied or demoted or even been sacked,' Dr Grace commented. A very public drubbing might have followed for Seven - and the journalist might have been seen as honorable, ethical, working 'in accord with standards of decency'. In the public interest.

Defending the Seven story, the *Daily Telegraph's* Piers Akerman said that 'The brouhaha over the so called outing', had done no less than highlight 'the moral decay prevalent across Western society.' (May 25, 2010) But adding a dash of irony to the Akerman article was a historical feature published in the *Telegraph* on the same day, which noted that 'On This Day', in London in 1895, playwright, poet and novelist Oscar Wilde had been sentenced to two years jail. Wilde, married with two children, had been tried in relation to his affair with Lord Alfred Douglas.

Ironically, here was Oscar Wilde again, with a reminder of the hypocrisy - and hurt - of which society and the media are capable when they go into moral crusader mode.

All three of these stories go to a consideration of the decisions individual journalists must frequently make about the right thing to do, whether they are working alone or for organisations, notwithstanding their own instincts, nor any directive they may receive. Pollard's story is just one exemplar of a journalism where trust is built on integrity, but thoughtful reflection on case studies where ethical decision making and the public interest is central must surely be built into any approach to journalism at a time when the public perception of ethics in journalism is at such a low.

Transforming technologies and multiple platforms in the online landscape notwithstanding, the need for quality journalism in a healthy democracy is still crucial, and only by embedding a rigorous approach to integrity can more trusted go-to sites emerge and strengthen, servicing not just the thirst for news but the need for in-depth context to be supplied for the news that is churned out in the voracious 24 hour cycle.

When the Human Rights Commission announced its award to Ruth Pollard it singled out the personal stories that had powered the compelling investigative articles which highlighted the need for a systemic change of laws and police action (and indeed key changes were implemented in the wake of the story). Responding to her award, Pollard focused again on her sources, saying that it was 'gratifying to be recognised for an investigation where so many women who were at such risk gave their time and their trust to help us tell the story.' (2009, December 11)

Trust was not on the agenda when Channel Seven reporter Adam Walters summed up the key issues in his story about David Campbell the morning after his story went to air. (Media Watch, op cit.) Inadvertently going to the heart of the matter when questioned on the ABC, he said 'This is about pretence. 'It's about integrity. It's about character.' Indeed.

Commenting on the Campbell episode, columnist Lisa Pryor noted that 'Journalists have their own mythology: democracy demands the powerful must be held to account, except for the media because that would curtail freedom of speech.' (2010, May 29) Pryor quoted former Supreme Court judge Ken Crispin, who had been asked on the *7.30 Report* in the same week how it felt to have power over the lives of others in the way a judge does. Wrote Pryor: 'The answer was unexpected, "I think judges should always be troubled by the exercise of power." The same should go for all professions.'

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Susie Eisenhuth lectures in journalism at the University of Technology, Sydney (UTS). She is the author of *The Writer's Reader, Understanding Journalism and Non-Fiction* (Cambridge University Press, 2007).