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CHAPTER

15

Investigative journalism and ethics—a slippery slide rule

→ SUELLEN TAPSALL AND GAIL PHILLIPS

> *Much of my industry is an ethics-free zone. There is no morality, no decency here other than that which the market demands . . . There are all kinds of weasel arguments that journalists use to justify doing to others that you would not want done to you.*
> *Aaronvitch 2001*

INVESTIGATIVE JOURNALISM REPRESENTS AT ONE AND the same time both the pinnacle of journalistic achievement and the most problematic of news genres. If news is 'what somebody somewhere wants to suppress. Everything else is advertising' (Lord Northcliffe, in Masterton & Patching 1997: 12), then investigative journalism is news in its truest sense—not the daily grind of common-or-garden reporting, but a striving to tell the public something it does not know, something it needs to know and something someone does not want it to know. Yet in pursuit of this *real* news, investigative journalists may have to break the rules, including many of the ethical principles on which journalism practice is supposed to be based. If, as Tapsall and Varley argue (2001: 3–4), any discussion of journalism ethics must first begin by defining the role of the journalist, then any discussion of the ethics of investigative journalism must have as its starting point an understanding of what differentiates investigative journalism from the more mundane world of daily reporting.

According to some, there is no distinction

> *There's no such thing as good investigative journalism—only good journalism. Regardless of whether you work for the Melbourne* Age *or the Bridgetown* Bugle*, whether you are earning $150 000 a year in a major metropolitan newspaper or $150 a week in a country monthly, whether you interview prime ministers or the people who drive prime movers, the equation remains the same—the job of the journalist, the reporter, is to inquire, examine and question (Barrass 2001).*

While it is true that *all* journalism demands that its practitioners inquire, investigate and report and that investigative journalism has at its heart the same skills and objectives

as daily journalism, in reality the everyday reporter is the GP to the investigative journalist's neurosurgeon. Investigative journalism can topple governments, shake the foundations of big business, expose medical malpractice, bring justice to those treated unjustly and put under the spotlight the cancers eating at the fabric of society. Investigative journalists become our modern-day heroes, and their stories our epics—hence the legendary status of Bob Woodward and Carl Bernstein, whose Watergate investigation brought down an American president; and of Phil Dickie and Chris Masters, whose exposure of the then Queensland Premier Joh Bjelke-Petersen's 'Moonlight State' sparked a Royal Commission, exposed massive corruption in the police force, and eventually toppled the premier.

So what makes investigative journalism different? Here the two key drivers for all journalists, the search for 'truth' and the idea of serving the public interest, are present at an almost obsessional level. Yet this obsessiveness can have a darker side. The search for truth, while a lofty goal, may involve some questionable practices. As for public interest, the ultimate judge of how far a story serves the public interest is not the journalist but the public itself. It will be the public through its response that will deliver the final verdict on whether the ends justify whatever means the journalist used to get the story.

TRUTH

What is this 'truth' that is investigative journalism's holy grail? It is by definition a truth that someone wants to hide, and uncovering it may require unconventional and possibly questionable, if not downright illegal tactics:

> *Investigative reporters strive to go beyond the press release, news conference or meeting. We dig beneath the surface. We try to uncover secrets, presumably ones of some public significance. I like to call it public service reporting. I also don't mind the tag 'muckraker', although in today's climate that sounds pretty pejorative (Wilson, in Itule & Anderson 2000: 339).*

Even after uncovering the 'truth', it will not be an incontrovertible truth but merely the reporter's estimate of what the truth might be.

The issue of truth is one that sparks considerable argument among academics and theoreticians, who contest whether it is possible ever to identify one 'truth' that is uncoloured by personal impression and experience, and who postulate that an individual's view of the world and approach to life will frame their understanding of truth (e.g. see Tickle 2001). News reporters covering the normal run of daily stories are rarely challenged over the 'truth' of a story (although they might be questioned about the accuracy of their recounting): stores are robbed, people die in accidents, large pumpkins win their categories in fetes, scouts hold jamborees and married couples celebrate their 60th anniversaries.

When a reporter is restricted to telling the immediate story of an event—what happened, when, where, why and how—his or her task, as Day suggests (2000: 81), is to deliver on the 'three concepts (that) appear to underlie the notion of truth in reporting'—that is, to be accurate, to promote understanding, and to be fair and balanced. In the immediate aftermath of a news event, the first stage of the news cycle, when we want to know where the fire was or what happened to cause today's traffic jam, reporters and audience both understand that they are being given the news 'for

now', that they are being told the story as it is understood at the time the paper is printed or the radio/TV broadcast goes to air (see Chapter 13; also see Bowman & McIlwaine 2001: 104; Mencher 2000: 304). At this stage, as Mencher argues, 'Truth = Story + X', where X is a series of smaller Xs which represent all the obstacles that the reporter faces in gathering the facts of their story—obstacles of deadlines, missing sources, questions not asked, appointments missed and so on (2000: 304).

For the investigative journalist, truth is even more problematic. When they go to air or into print with a story, they are expected to have uncovered the *whole* truth. The investigative journalist is usually not reporting in the immediate aftermath of an event, but often weeks, months, years or decades later, so time pressures are not the same. Of course time pressures still exist: sources might have moved on or passed away, journalists might have three months or seven years to uncover the 'truth' of an event that unfolded over similar, or more extended, time frames. For the investigative journalist, the obstacles increase exponentially, meaning that Truth = Story + X^n (with apologies to Mencher). As Ettema and Glasser (1998) point out, truth is at best a variable:

> *Investigative reporters, in one way or another, affirm their commitment to the idea that they can and must find out what really happened. But like historians and judges, they must rely on documents, records, artefacts, and memories in an effort to do so. Under these conditions the process for establishing the truth cannot entail the examination of what really happened, followed by the production of a single correct account that corresponds to what really happened. Rather, the process must entail the location and examination of existing accounts and the production of still another account that can be accepted as authoritative (1998: 137).*

Despite the journalist's best intentions, the account is not likely to be totally objective. While the daily news reporter will always try to present a truthful record of events, this usually involves reporting the truth as others see it (the 'he said/she said' method of reporting). The reporter does not necessarily agree that a new federal government scheme will solve the unemployment crisis, but will report that the minister said that it would—and that the Opposition spokesperson said that it wouldn't!

For investigative journalists, truth can suffer from an added distortion when the potential bias of their subject's accounts is compounded by an inevitable bias of their own. This is because investigative journalists tend to become far more personally involved with their stories, and at some stage are compelled to commit to a preferred reading of the event or issue that for them becomes its 'truth'. Having devoted months or years to the investigation and recounting of a story, few investigative journalists can avoid making their own judgements about who is guilty and who is innocent, whose account is credible and whose is untrustworthy. Many become close to the 'victims' and become the primary advocates for their version of the story to be accepted as the 'truth of the matter'. Would Estelle Blackburn (see Chapter 18) have worked for 10 years, at great cost to her personal and professional life, if she had not believed in the innocence of John Button and the guilt of Eric Edgar Cooke? Would British newspaper editor Don Hale have been willing to suffer the death threats and smear campaigns if he had not believed Stephen Downing's allegation that he did not commit the murder for which he had served 27 years in an English jail (Rowan 2002)? And would an international network of investigative journalists have been prepared to

devote a year of their time and energy investigating the link between tobacco companies and organised crime if they were not already convinced that this link existed (see 'Working in an international team', pages 288 to 297)?

This investment and involvement is not confined to the story but extends to its outcome, because most often these sorts of stories are aimed at a specific result: free the convicted murderer; topple the corrupt government; expose the wrongdoer; bring to public attention the corporate malpractice. This need to deliver an outcome can further compromise the search for the 'truth' of the story. As Ettema and Glasser (1998: 180) argue: '. . . the actual work of investigative reporting is to compel the facts to speak—and, what's more, to speak in a way that urges a public decision about right and wrong'.

Truth in presentation

Given that journalism is a process consisting of both news gathering and story-telling, it is not surprising that questions of truthfulness extend beyond the truth-seeking stage to the truth-telling stage. As Hilary Putnam points out, 'every fact is value loaded' (1981: 49), so 'what is said' is very much defined by 'how it is said'. The quotes and facts that are included will be those that tell the story that the journalist wants told—and will inevitably have their own moral dimension. What is left out will be no less significant than what has been included, and could paint a totally different picture. Estelle Blackburn (see Chapter 18) makes this quite explicit in discussing her presentation of the John Button case in *Broken Lives*:

> *It's impossible to be entirely objective—the book title, like a newspaper headline, already gives a slant to a story before the reader gets into it. Quite naturally I'm colouring the writing with descriptions and choice of words and layout as I see it. I write Button in terms of being small, frightened, wimpy, cowering, innocent, naive, traumatised, grief-stricken. Cooke is criminal, malevolent, creeping, sneaking, murderous, cold, angry, hateful, vengeful. Though I take his life through from birth to death, I start with a precis of his execution—I do so for the drama, including the dramatic gallows confession. But it also immediately puts into the reader's mind that he is criminal, violent, a murderer. The police are big, blinkered, biased, pressured, cold-hearted, stand-over merchants. The judges are just cut-out figures, just parts of the huge juggernaut that rides roughshod over little people unable to stand up for themselves. While not putting myself in the script like Ludovic Kennedy and David Yallop do, I am in there because my views are an integral part of the way I have written it and the language I have used. I am, after all, trying to persuade the reader to a particular point of view.*

The techniques of story-telling and creative reconstruction through words, pictures, sound and film present myriad opportunities for journalistic enhancement of the 'truth' as they see it. This is why the genre of literary journalism has been the subject of some controversy. When story-tellers insert new players into a real-life drama, when they put words in the mouths of characters long dead, or when they fragment one person into many (see, for example, the analysis of the *The First Stone* in Ricketson 2001), they break their contract with the public to present the truth. In so doing they jeopardise the right of that piece to be regarded as journalism (and accorded the appropriate status).

THE PUBLIC INTEREST

Just as truth has a rather slippery definition in relation to investigative journalism, so has the concept of service to the public interest. While in daily reporting it might be difficult to see the public interest benefit in covering the latest scout jamboree or school fete, 'the public interest' takes on almost a palpable shape for investigative journalists, who by definition are expected to grapple with issues of major public significance and import. Yet while investigative journalists might be, in Ettema and Glasser's words, 'custodians of public conscience' (1998: 3), they are not 'the guardians of some superior moral knowledge' (1998: 4)—their impact on public opinion is more subtle than that:

> *investigative journalism does not stand as the final arbiter of moral standards, but it does locate, select, interpret, and apply standards for assessing the performance of officials and institutions. In these ways it contributes to the crafting of the moral order (1998: 185).*

Investigative journalists are therefore delegated with a solemn task by the public, a task that by definition will require them to break some rules as a means to an all-important end, which will require them, in the words of US journalism ethicist Louis Hodges, to employ 'role-defined' ethics:

> *The journalist is 'supposed' to snoop around and find out, on the public's behalf, information that is of vital interest . . . that kind of snooping would be inappropriate for a common, ordinary citizen (as reported on NPR 1997).*

However, journalists are left to themselves to determine how to exercise that delegation, not only in terms of what they will investigate but in terms of how they will go about their investigation. They will be on a perpetual moral see-saw as they balance potentially virtuous ends against possibly nefarious means. The public may put them on a pedestal at the end, but is just as likely to pillory them if it decides they have overstepped the mark. The control the journalists have over how the story is told helps to load the dice in their favour:

> *Investigative reporters do indeed usually stop short of making explicit pronouncements of right and wrong. However, in the application of (presumably) established standards to the conduct of officials and institutions, they certainly do make judgments. They locate and select, simplify and interpret the standards that the public is then invited to use in making its judgment (Ettema & Glasser 1998: 12).*

THE ETHICAL SLIDE RULE

> *Very often, successfully investigating hidden scandals or corruption requires journalists to misrepresent themselves, deceive, lie, intrude into privacy and in extreme cases even break the law, all actions we normally presume are wrong. If investigative journalists were required to be morally good they would be unable to penetrate the murky world they need to investigate and thus would be unable to do their job . . . getting one's hands dirty is something that comes with the territory (Kieran 2000: 158).*

The 2001 Tehelka scandal in India illustrates the kind of hot public debate that investigative journalism can provoke. The crusading journalism website www.tehelka.com uncovered a web of corruption in the defence establishment, which ultimately resulted in the resignation of the defence minister himself. However, its reporters got their story by using bribes, employing concealed cameras and hiring prostitutes to entrap the politicians involved. If, as Kieran states, 'getting one's hands dirty is something that comes with the territory', how far can investigative journalists go? In the Tehelka case, opinion was divided. One commentator was totally uncompromising, questioning whether journalists as the 'conscience-keepers of a democratic society . . . must be allowed a certain ethical licence which is not allowed to ordinary mortals' (Daga 2001). His answer was a resounding 'no'—the same rules should apply to journalists as to society as a whole.

Another commentator took a more lenient view, suggesting three main principles that might make such deception publicly acceptable:

> *First, any resort to deception must be directly linked to the larger purpose of the investigation. Second, the information acquired . . . must far outweigh the damage or injury caused by it. Third, deception must be resorted to only when the information required can't be obtained by other and less offensive means (Padmanabhan 2001).*

When trying to answer questions like those above, journalists most often turn to the standards of acceptable behaviour in news gathering and presentation as articulated in the various ethical codes and guiding principles that apply to the industry. The codes run along similar lines, and while they are a useful statement of the expectations of appropriate journalistic behaviour, putting them into practice is not straightforward. They present a black-and-white binary of good and bad, while many journalists operate in an indistinct grey zone in between. For this reason it is imperative for each person to establish the parameters they will set themselves for their conduct in any given situation.

For Australian journalists, expected behaviour is outlined in the Media Entertainment and Arts Alliance's (MEAA) AJA Code of Ethics, the Australian Press Council's (APC) Statement of Principles (for the print media), the Australian Broadcasting Authority's codes of practice (broadcasting) and various in-house codes and guidelines. SBS and ABC have their own codes, and are not governed by the ABA.

The AJA code (see Figure 15.1) begins with a preamble which accepts as fundamental a respect for truth and the public's right to information, and calls on journalists to commit to honesty, fairness, independence and respect for the rights of others (MEAA). It then goes on to provide a list of more specific ways in which journalists should conduct themselves. Similarly, the APC commits to freedom of the press and the right for people to be informed, before articulating a set of guiding principles for acceptable publication behaviour (see 'Tehelka' box). Principle 3 states the rights of readers to 'have news and comment presented to them honestly and fairly, and with respect for the privacy and sensibilities of individuals' (APC).

A closer examination of the MEAA code, the APC principles and other codes and guidelines demonstrate the difficulty for the investigative journalist. The AJA code exhorts the journalist to use fair, responsible and honest means to obtain a story and also to identify themselves and their employer before obtaining any interview for

Figure 15.1 AJA Code of Ethics

Respect for truth and the public's right to information are fundamental principles of journalism. Journalists describe society to itself. They convey information, ideas and opinions, a privileged role. They search, disclose, record, question, entertain, suggest and remember. They inform citizens and animate democracy. They give a practical form to freedom of expression. Many journalists work in private enterprise, but all have these public responsibilities. They scrutinise power, but also exercise it, and should be accountable. Accountability engenders trust. Without trust, journalists do not fulfil their public responsibilities. MEAA members engaged in journalism commit themselves to

- Honesty
- Fairness
- Independence
- Respect for the rights of others

1. Report and interpret honestly, striving for accuracy, fairness and disclosure of all essential facts. Do not suppress relevant available facts, or give distorting emphasis. Do your utmost to give a fair opportunity for reply.
2. Do not place unnecessary emphasis on personal characteristics, including race, ethnicity, nationality, gender, age, sexual orientation, family relationships, religious belief, or physical or intellectual disability.
3. Aim to attribute information to its source. Where a source seeks anonymity, do not agree without first considering the source's motives and any alternative attributable source. Where confidences are accepted, respect them in all circumstances.
4. Do not allow personal interest, or any belief, commitment, payment, gift or benefit, to undermine your accuracy, fairness or independence.
5. Disclose conflicts of interest that affect, or could be seen to affect, the accuracy, fairness or independence of your journalism. Do not improperly use a journalistic position for personal gain.
6. Do not allow advertising or other commercial considerations to undermine accuracy, fairness or independence.
7. Do your utmost to ensure disclosure of any direct or indirect payment made for interviews, pictures, information or stories.
8. Use fair, responsible and honest means to obtain material. Identify yourself and your employer before obtaining any interview for publication or broadcast. Never exploit a person's vulnerability or ignorance of media practice.
9. Present pictures and sound which are true and accurate. Any manipulation likely to mislead should be disclosed.
10. Do not plagiarise.
11. Respect private grief and personal privacy. Journalists have the right to resist compulsion to intrude.
12. Do your utmost to achieve fair correction of errors.

Guidance Clause

Basic values often need interpretation and sometimes come into conflict. Ethical journalism requires conscientious decision-making in context. Only substantial advancement of the public interest or risk of substantial harm to people allows any standard to be overridden.

publication or broadcast. The APC's principle 4 states unambiguously that 'news obtained by dishonest or unfair means should not be published unless there is an overriding public interest'.

This leaves little room for the journalist to move, yet when investigative journalists themselves talk about their work it is clear that they are continually weighing up the means against the ends they hope to achieve and having to apply a moral slide rule to their activities. Is it possible to give some concrete form to such a slide rule? Would this sort of moral ready reckoner help journalists decide just how dirty they want their hands to get?

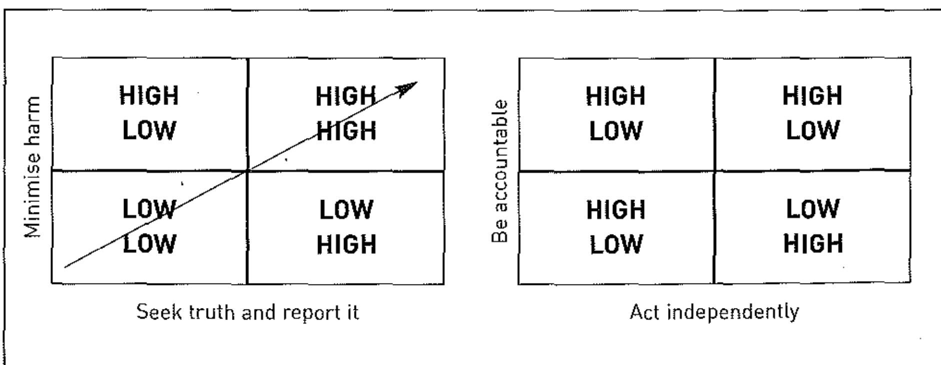
In their book *Doing Ethics in Journalism* (1997), Black, Steele and Barney sum up the dilemma as follows: 'How much harm is necessary in order to tell how much important truth?' (1997: 29). They argue that 'ethical decision-making often involves choosing a course of action among several options, each of which carry negative consequences'. Black et al. suggest that the ethical quandaries inherent in journalism be reframed to avoid the unhealthy binary of black-and-white ethical decision-making. They use the Society of Professional Journalists' 'Four Guiding Principles' as the horizontal and vertical axes on a set of two matrices that allow us to balance them against each other (see Figure 15.2).

The first box presents a sliding scale, ranging from little harm being done for stories of little significance, to maximum harm being allowed for in stories of major significance. The second box presents an accountability/independence matrix that sets the standard of highest accountability for journalists acting most independently.

While Black et al.'s matrices go some way towards providing clearer pathways for the investigative journalist, their focus is the journalistic process. The addition of a third matrix (see Figure 15.3) allows us to extend their concept directly into the area of moral decision making by balancing the public interest ends against the ethical means.

This third matrix renders explicit the need that journalists have to balance the outcomes of their investigation (incorporating the all-important test of public opinion) against the method by which that information was both obtained and presented. Building as it does on Black et al.'s original model, this final matrix takes as a given the SPJ's (and the AJA's) guiding principles and accepts the inherent premise of the

Figure 15.2



Source: Black et al. 1997: 30.

Figure 15.3

Ethical means		
	HIGH LOW	HIGH HIGH
	LOW LOW	LOW HIGH
	Public interest ends	

model that journalism is not a victim-less activity and harm may result in the pursuit of important truth-telling. Just as Black et al. argue that stories which fall in the Low–Low band of the first matrix are those of less importance, and therefore should generate minimal harm, the third matrix is predicated on an expectation that 'ends' of less import should require similarly low-key 'means'. In the same way, the higher the public interest, the more likely it is that morality will be compromised (or the more we might justify the compromising of morality). Let's look at each box in turn.

High ethical means–High public interest ends

In the context of investigative journalism it is safe to say that a High–High grading is simply not attainable. Even though it represents the ideal (high ethical conduct/high public interest outcome), everything that has ever been written about investigative journalism indicates that getting one's hands dirty is something that comes with the territory (to repeat Kieran's quote from the beginning of this section). Investigative journalism means that by definition you are going to have to break rules. The question is: How far can you go?

Low ethical means–Low public interest ends

Nefarious ethical conduct with little or no public interest outcome would be hard to justify and would be unlikely to win public support.

High ethical means–Low public interest ends

Acting highly ethically for a low public interest outcome is essentially a no-risk situation and is unlikely to pose any real dilemma.

Low ethical means–High public interest ends

This is the most problematic area, where high public interest outcomes have been achieved through the use of ethically dubious methods, though the ultimate judgement will be in the court of public opinion—an after-the-fact assessment that is beyond the journalist's control.

Where Black et al.'s original two matrices apply to what the journalist does and how they do it, the third matrix provides a means by which to locate those actions in a

moral universe against the test of public opinion. Let's now apply the matrix to four different investigative journalism stories to see how effective it is as an ethical slide rule in explaining the public reaction to, and the relative success or failure of, each story.

TEHELKA

In March 2001 the crusading Indian website www.tehelka.com created a political storm by revealing a web of bribery and corruption within the upper echelons of government and the defence establishment. Tehelka reporters posing as arms dealers seeking a contract for a fictitious company used hidden cameras to film politicians and army officials accepting bribes. More controversially, the journalists used prostitutes as another lure, and sparked a wave of controversy over whether the journalists went too far and exceeded acceptable ethical boundaries.

In terms of journalistic process (Black and his colleagues' original model), this story ranked high in terms of seeking and reporting truth (political corruption), though it did so by greatly harming those involved (filming politicians in compromising situations). The journalists ranked high in relation to independence but low in terms of accountability.

Looked at in the context of the ethical slide rule, the story sits firmly in the Low–High quadrant: it has high public interest value, but the means used were ethically extremely questionable. It is not surprising therefore that public opinion was divided on the 'sleaze versus journalism' issue. The reason for such ambivalence becomes clear on closer inspection. Corruption is a matter the public has a legitimate interest in, while sexual morality is a more personal affair. While public opinion might be able to accept the dubious ethics of setting politicians up to accept bribes (Low–High), setting them up to have sex with prostitutes was seen as little more than gratuitous titillation, serving no obvious public interest (Low–Low). The use of the prostitutes, while intended as a means of uncovering the corruption story, became its own story in the end, and tainted both the perceived public worth of the coverage and the credibility of the journalists and publication involved.

SOPHIEGATE

When, early in 2001, Queen Elizabeth's daughter-in-law Sophie, Countess of Wessex, set out to convince a sheik from Dubai to employ her PR firm, she did not know that he was part of a 'sting' operation, set up by England's *News of the World* newspaper. The undercover reporter tricked Prince Edward's wife into commenting on everything from Prince Charles' companion to the current and former prime ministers. The room was bugged, and the transcripts of the conversation were eventually published in full—but not before the paper had further 'persuaded' Sophie to give them an 'exclusive interview' in exchange for *not* publishing her hotel room comments.

The 'Sophiegate' story provides an interesting comparison, because it shares some of the methods of the Tehelka investigation but to a totally different end. And the

public verdict is much less ambivalent, with public opinion strongly against the journalists and news organisation involved in setting up the sting, maybe because the nepotism it exposed wasn't quite on the scale of the major act of political corruption behind the Tehelka scandal. While there was no question that the views expressed belonged to Sophie (high on the truth scale), the story ranked lowly in terms of minimising harm and accountability.

Against the third matrix, it is clear that the story rated low in terms of public interest end and as low or lower in relation to ethical means—the least desirable outcome. The 'truth' did not justify the set-up, the ends did not justify the means. Given the low public interest (does it matter what a minor royal thinks of the prime minister?), recourse to subterfuge was even less justified in the public eye.

THE BUTTON CASE

In 1963 at the height of the panic in Perth over the serial killings committed by Eric Edgar Cooke, 19-year-old John Button was convicted of the hit–run murder of his girlfriend, Rosemary Anderson. Although Cooke confessed to the killing before he was hanged in 1964, Button wasn't able to make headway with an appeal either during his five years in prison or after his release in 1967. Perth journalist Estelle Blackburn heard of the case in February 1992 and spent the next 10 years sifting through all the available evidence, speaking to witnesses, discovering new evidence overlooked in the initial police investigation, and putting together an argument in her book *Broken Lives*, which convinced the government to allow an appeal against the original guilty verdict. Blackburn embarked on a true crusade during which she put her professional and personal life on hold, made use of her multiple personal and journalistic networks, and persuaded, cajoled and pestered those whose cooperation was essential to revealing the whole story.

Like many crusaders for justice, the challenge for Blackburn was to get the public's attention and then convince it that there was a public interest end in the reinvestigation of the John Button case. That she was successful is a matter of record, with her book generating enough public interest and debate to pressure the Western Australian government to take the unprecedented step of reopening the case and in 2002 upholding the appeal, to overwhelming public acclaim. Applying the ethical slide rule, it appears from the success of Blackburn's book and the subsequent public acclaim and reopening of the case that public opinion here was prepared to endorse the journalist's judgement concerning the merit of the case, and found acceptable the ethical licence Blackburn admits she had to take from time to time in order to gain access to material, or to present the story.

FOOD LION AND THE ABC

When a US supermarket chain was awarded $5.5 million in punitive damages (later substantially reduced) following a hidden-camera story allegedly showing unsanitary food practices, the money was not compensation for defamation or libel. Instead, Food Lion sued the ABC in 1996 for fraud, trespass and breach of loyalty. The judge directed the jury in the case to assume the story was correct, but to consider the supermarket's allegations that the journalists who went undercover, posing as employees with fake

application/employment forms, spent their time doing journalistic work, perhaps even creating the bad conditions they were exposing instead of doing the work they were hired to do. The story aired in 1992 and has been the subject of controversy ever since. Debate has focused on the use of hidden cameras, worn in wigs by the fake employees, and whether it was appropriate for journalists to use dishonest means to obtain a story. In 1999 a US academic argued that the initial controversy had missed the point. After analysing substantial amounts of tape that was not aired by ABC (including 45 hours' worth provided to the supermarket chain during the court case), the academic reported that the presentation of the story had involved selective editing in order to support the preconceptions of the journalists involved (Meyer 1999). The unused tape provided evidence that, on several occasions, the camera apparently *had* lied.

The public interest end in the Food Lion story was substantial. The story broadcast in 1992 showed 'rat-gnawed cheese and spoiled meat and chicken being washed with bleach and redated for sale' (Black et al. 1997: 164). But the ethical means were questionable—involving hidden cameras, fake resumes, lies and deception. It is not surprising that the court of public opinion was divided. The story already satisfied the Low–High category (low ethical means for a high public interest end). The revelations that the producers apparently were less than truthful in their presentation of the story—by selectively editing some pieces of tape to create a different understanding from that which might be garnered from viewing all relevant footage—puts even more pressure on the delicate balance between ends and means, arguably weighing the balance further against the journalists in this case.

The above four cases demonstrate how the third matrix can be a useful ethical slide rule that helps investigative journalists to locate their efforts in the ends-versus-means debate. It provides an explanation for the controversy that surrounded the Tehelka scandal, exposes the fatal flaw in the Sophiegate case, justifies the public acclaim for the John Button case and others like it, as well as the revulsion against the practices exposed in the Food Lion scandal. While these analyses have been conducted retrospectively, a similar proactive or pre-emptive activation of the matrix might help the investigative journalist resolve ethical dilemmas as they arise. What is important is to make the dilemmas explicit and to have a vocabulary and framework through which to articulate and evaluate the moral conundra that arise.

CONCLUSION

Elsewhere in this book readers have been presented with the useful and practical tools of the trade to help them find the information, uncover the truth and tell the tale. They have read inspirational stories about the impact investigative journalists have had on individuals, organisations and society as a whole. However, there is a darker side to this courageous journalism and in this chapter we have focused on the moral dilemmas that can often make the practice of investigative journalism problematic.

We have tried to explain why moral values are necessarily fluid in a context where the journalist is telling a story that someone somewhere may not want to be told. We have described the delicate balancing act involved in weighing up positive ends against possibly dubious means. While the idea of the ethical slide rule may appear overly simplistic, it does at least provide us with some sort of ready reckoner to test cost

against benefit. It provides a vocabulary, defines the parameters and marks out the boundaries to help journalists locate themselves in a moral context. It is an essential part of the journalism toolkit because it deals with the no-man's-land between private and public values. In this sort of journalism ethical decision making may start as a private activity, but it is one that ultimately will have to pass the strictest test of all—that of public opinion.

Questions to consider

1. As a journalist, how would you determine the boundaries for your own conduct?
2. What core values would you see as defining your role as a journalist?
3. To what degree would these values shift in the context of investigative journalism compared with daily news reporting?
4. For what stories would you be prepared to move beyond the MEAA/APC guidelines?
5. Select one of the case studies in this book (excluding Chapter 18) and analyse it in terms of the ethical standards of news gathering and presentation as expounded in MEAA code of ethics and the APC statement of principles. Does the ethical slide rule help to explain its success?

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