

## From image to icon? Ethics and taste in photographic portrayals of the death of Pym Fortuyn

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### Abstract

Moral reasoning based on deontology frames much of the debate in the scholarly literature and the journalism texts about ethics in journalism. Yet when the ethics of journalists and editors are called into question, a variety of forms of moral reasoning seem to appear. This article is a case study of the various forms of moral reasoning that were applied in the public debate which followed publication on May 8, 2002, in *The Australian* newspaper, of a full colour, front page photograph of assassinated Dutch politician Pym Fortuyn lying dead and uncovered at the crime scene with the accompanying headline: **Death of a gay, anti-Muslim maverick**. Specifically, this article canvasses the relationship between taste and ethics, the limits of deontological arguments and codes, and the use of casuistry by the newspaper's editor in defending publication of the photograph.

### What did Pym Fortuyn represent?

Dutch politician Pym Fortuyn was assassinated at Hilversum, 16 km south of Amsterdam on May 7, 2002. The following day, *The Australian*, the News Ltd national daily broadsheet newspaper in Australia, published a full colour, front-page photograph of the assassinated politician lying dead in the radio station car park. It was the only major Australian newspaper to publish this photograph on the front page, and in colour, and one of the few quality newspapers around the world to do so. Readers complained. The paper received more than fifty emails of complaint, and at least three formal complaints were lodged with the Australian Press Council (Dodd, 2002, p.7), although there is no record of any Press Council adjudications on such complaints.

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Fortuyn attracted increasing international media attention following the first round of the French presidential elections in April 2002 which saw the perennial right wing candidate Jean-Marie Le Pen secure more votes than incumbent socialist Prime Minister Leon Jospin. Fortuyn's party, Pym's List, was the latest in a line of neo-rightist parties in Europe which included Italy's Northern League, Jorg Haider's Austrian Freedom Party and the Danish People's Party. In a world in which the free movement of goods and services across national boundaries is promoted as one of the highest forms of public good, but the free movement of people is not, Fortuyn sought to capture the votes of those anxious and insecure about increased people flows from the third world. This is how he was profiled in *The Times* (London) a month before his assassination:

A flamboyant, homosexual academic with a shaven head and taste for luxury emerged as Europe's newest anti-establishment, anti-immigrant scourge yesterday after his fledgling organisation routed the main parties in Rotterdam's municipal elections. ... in a country that prides itself on its tolerance, political correctness and multiculturalism... Mr Fortuyn, 54, is an author, television personality and former sociology professor who employs a butler, dresses foppishly and travels in a black, chauffeur-driven Daimler with his two small dogs... (Fletcher, 2002).

A month later, Fortuyn was dead. Case studies of controversial death photographs are not new (Wischmann, 1987; Parsons & Smith, 1988; O'Brien, 1993). What distinguishes this study is the attempt to translate the public discussion about such photographs - and in particular the editor's defence of his decision to publish - into the language of ethical theory in the hope of seeing more clearly the nature of the moral reasoning applied. While much of the work on the nature of moral understanding and ethical decision-making by Lawrence Kohlberg and others focuses on what people say they would do (Kohlberg, 1984)), case studies such as this examine what actually occurred. Krebs et al. (1997, p.132) have drawn attention to 'real life' moral reasoning, as distinct from the Kohlbergian approach to moral understanding with its focus on the most just solution to moral dilemmas. Krebs et al. find that "...people adapt the structure of

their moral reasoning to their audiences,” (Krebs, 1997, p.134). This case study attempts to find such ‘real life’ moral reasoning at work.

### **The picture and its headline(s)**

Rupert Murdoch’s News Ltd owns *The Australian*, a quality broadsheet. Readers expressed surprise and disgust at finding such a confronting photograph in a publication which has devoted – in its own way - considerable space to public journalism, and which, since its establishment in 1964, has been repeatedly cited as a symbol of Murdoch’s commitment to quality journalism, a shining light amid the sea of tits and bums on which the Murdoch empire floated for so long (Schultz, 1998, p.177; Shawcross, 1993, p. 115, p. 121, p.144).

At the outset, *The Australian’s* editors recognised the controversial nature of the photograph, or perhaps more exactly, the headlines that ran above it. In the early editions of the paper **Death of a gay, anti-Muslim maverick** was the headline. In later editions this was changed to: **Killing of far-Right hero rocks Europe**. Such was reader reaction to the photograph that Editor Michael Stutchbury took the unusual steps of appearing on ABC morning radio to defend the publication of the photograph, and, the following day of publishing an explanation, not an apology, acknowledging under a headline reading: **From The Editor** that “Many readers were taken aback by our page one photograph yesterday...” (Stutchbury, 2002, p.2). In neither an extended interview with presenter Susan Mitchell on ABC Radio, nor in his *mea culpa* the following day, did Stutchbury acknowledge the change of headline.

### **Confusing taste and ethics**

Published material can be both ethical and in good taste and it can be both unethical and in bad taste. It may also be unethical, yet in good taste (naughty but nice). Finally, published material can be highly ethical in its content, yet lacking in good taste. The suggestion that published material can be highly ethical in its content, yet lacking in

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good taste is supported by some of the material used in social marketing campaigns. The Grim Reaper television advertisements used to raise public awareness of HIV- Aids were considered by many to be in poor taste, but it was this very lack of taste – and the shock factor associated with that lack of taste - which contributed to the heightening of public awareness of the issue (Tulloch, 1989; Lupton, 1991, pp.71-72). Similarly, anti-smoking campaigns, which show the amount of fat in the aorta and tar in the liver of smokers, are hardly the epitome of good taste. From the deontological perspective of government health authorities performing their duty to inform the public, and from a consequentialist perspective, with respect to the outcomes achieved by such campaigns, such social marketing programs can be said to be ethical but hardly tasteful (Hafstad et al., 1997; Montazeri & McEwen, 1997; Hafstad et al., 1996).

Questions of ethics and taste are often confused in the public mind when controversial visual subject matter – either advertising or editorial – is published. There is an extensive literature on the notion of taste, most of it to do with art and aesthetics (Cornford, 1968) and very little of it concerned with what constitutes bad taste in journalism and advertising. Taste deals with the perception, discernment and judgement of an object and the extent to which it evokes sensations, and then judgements, of pleasure or displeasure. If the sensation and judgement are disposed towards pleasure, then the object is in good taste, and bad taste if the sensation and judgement incline towards displeasure.

Since the eighteenth century, ethical judgement and aesthetic judgement – that is judgements about taste - have been held to be separate. Kant, while applying the principle of universalisability to both ethics and aesthetics, argued that good and bad taste could be determined, as Shusterman (1989, p.211) put it, “by appeal to notions of natural uniformity of feeling based universal human nature...”

According to one of the more prolific contemporary writers on taste, Theodore Gracyk (1990, p.159), the Kantian view of taste is that: “Judgments of taste involve a sequence of judgments, in which *feeling* provides the non-conceptual aesthetic judgment

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concerning the representation of the object, followed by a conceptually determinate judgment concerning the empirical object". Gracyk explains the apparent paradox in Kant's position by saying that "Kant asserts both that *feeling* is the basis of aesthetic judgment and that judgment is the basis of *feeling*" (p.159. My emphases).

There have been a number of attempts to resolve this central paradox in Kant's thinking. Some have argued for more subtlety (Zangwell, 1988), others have dismissed both Kant and Hume as imposing class and hierarchy as universal standards (Shusterman, 1989). Nevertheless, the Kantian paradox does focus attention on the relationship between sentiments and formal judgments in both ethics and aesthetics. One approach to morality has been to attempt to systematize moral intuitions or feelings. That is to say, if human beings tend generally to experience repugnance at certain acts, a moral rule may be derived from this, which then becomes prescriptive. Thus, there is a movement from the descriptive (moral sentiments) to the prescriptive or normative (moral rules). These moral rules, when internalised, come to influence sentiments. So the process is circular, but not viciously so. This was the essential proposition of the British tradition of moral reasoning of which David Hume was part. Hume (1975, p.170) observed:

There has been a controversy started of late, much better worth examination, concerning the general foundation of MORALS; whether they be derived from REASON, or from SENTIMENT; whether we attain the knowledge of them by a chain of argument and induction, or by an immediate feeling and finer internal.

So when readers accuse a newspaper of publishing an item which is in 'bad taste' are they making an aesthetic judgement, or an ethical one? Is the argument that the offending item is 'wrong' and 'ought not' be published, or that it departs from the aesthetic standards which are universally held to be good, the traditional Kantian approach to aesthetics which, in the absence of a viable post-modern theory of taste and aesthetics, still holds sway.

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In the case of the Fortuyn photograph, it depends on whether the offence created by publication arises from any genuine moral sentiment, or from some false sense or notion of 'taste'. It is more likely that this offence does have some genuine basis in moral principle arising out of respect for persons, including respect for the dead rather than being a 'mere' judgement of taste. This is the deontological locus of the issue. However, there is the additional consequentialist consideration, that inasmuch as the publication was sufficiently tasteless so as to cause caused offence, it was immoral or unethical anyway, simply on account of its consequences. So examining whether there were any moral grounds for the offence provides the link between the two approaches. If so, then the deontological analysis can prevail as well, and publication of the photograph is damned on both accounts.

Thus, an act of bad taste, inasmuch as its causes offence, can be immoral. For example, to tell a joke which is in 'bad taste' becomes an immoral act precisely because it offends people, by being racist, sexist, or in some other way offensive. It is the immorality which is primary, and which is what makes the telling of the joke to be 'in bad taste'. Publication of the Fortuyn photograph clearly caused offence. It did so not because it was in bad taste as such, that is to say poorly composed, or ugly. Indeed Stutchbury praised its composition. Rather the photograph outraged people's sense of respect for persons (or perhaps for some other reason), though these may not have been consciously articulated at the time. It was the causing of moral offence, which placed the act in the category of 'bad taste'. On this account, the issue is not to do with aesthetic judgments at all, but fundamental moral principles, and the resort to the issue of 'taste' disguises this. This resort to the category of 'bad taste' may be because of individuals' inability adequately to formulate the grounds of moral offence.

This difficulty about distinguishing between ethics and aesthetics, between the 'good' and the 'beautiful', separated since the Enlightenment, and implicit in reader complaints about the Fortuyn photograph, might be solved if we were to consider 'taste' as a moral virtue in the Aristotelian sense, as an acquired habit, an excellence of character, the middle way between an excess and a deficit. As Aristotle (1955, p.107) put

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it, "...Moral virtue is a mean... a mean between two vices, one of excess and the other of deficiency ...and...it aims at hitting the mean point in feelings and actions". What those excesses and deficits might be is the challenging question. Might excesses of good taste be found in kitsch and sentimentality, in themselves bad taste (Solomon, 1991; Feibleman, 1971)? And might deficits of taste be those things that create feelings of revulsion and disgust, lacking in balance, respect, and even integrity?

### **Consequentialism masquerading as deontology?**

Despite the revitalisation of virtue ethics over the past two decades, journalism and media ethics has not engaged substantially with the MacIntyrean project, while fields such as diverse as psychology, political philosophy, and medical ethics and animal ethics have (Statman 1997, p.25). Much of the scholarly discussion about journalism ethics over this same period has continued to be framed principally in deontological terms (Hafez, 2002; Elsaka, 2001; Cohen & Elliott, 1997; Merrill, 1997; Borden, 1997; Cronin & McPherson, 1995; Johannesen, 1987; Skaggs, 1985; Elliott-Boyle, 1985; Christians, 1985; Bukro, 1985). Little appears to have changed since Mills found in 1983, (p.592) that "the dominant motif ...was a concern was for a tough professional code of ethics". Even when scholars such as Black (1979) and Elliott (1991) argue for the application of moral development theory to the study of ethics in journalism, the discussion is focused on Kohlberg, whose framework, to the extent that it can be said to have any basis in ethical theory, is best described as Kantian (Crittenden, p.173). Others such as Meyers (1990), for example, merely quote Aristotle, note MacIntyre (p.26), and revert to a discussion about the principle of privacy. Lambeth (1990) is one of the few scholars to engage with virtue ethics. His account of how MacIntyre's neo-Aristotelian ethic might be applied to journalism seemed to have been greeted with a resounding silence by media scholars

In Australia, the focus on deontology seems to be particularly the case, with almost all the literature on ethics in journalism focused on codes, (Richards, 1998; Josephi, 1998; Hirst, 1997; Borden, 1997; MEAA, 1997; Varley, 1997; Hippocrates,



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1996; Chadwick & Mullaly, 1997; Chadwick, 1996, 1994; Sheridan-Burns, 1996; Sheridan-Burns, 1995; Anderson, 1995; Flint, 1995; Rood, 1985; Hurst & White, 1994; Turner, 1994; Apps, 1986; Bowman, 1983; Avieson, 1978). Even some of the most recent work, such as Richards (2001), frames journalism ethics in terms of ‘public interest, private lives.’

The literature on the ethical use of images, whether on moving or still, also reflects the deontological frame (Griffin, 1995; Smith, 1994; Putnis, 1992; Coleman, 1987; Wischmann, 1987; Brown, 1987; Padgett, 1985). It focuses on conflicts of duty: the duty of the photographer or editor to the subject, to the audience, to the publication or program, to the profession. Even texts, such as Lester (1991) which canvass a variety of ethical frameworks still frame their discussions around duties, rights and responsibilities. Other work such as Gross, Katz and Ruby’s *Image Ethics: The Moral Rights of Subjects in Photographs, Film and Television* (1988) is explicitly about rights. The US National Press Photographers Association Code speaks strongly of duty Lester, (1991,p.163). Griffin (1998), in theorizing photojournalism, writes in an ill-defined fashion of ‘new ethics’ and ‘meta-ethics’ (p.307) by which he appears to mean some notion of journalistic social responsibility towards the ‘subjects’ of photojournalism.

Stutchbury, in his defence of the decision to publish the photograph, argued that,

The judgment on where to draw the line in such matters depends on the importance of the story and the information in the image. ... (I)t was part of a genuine effort to accurately portray the reality of the human experience, from the joyous to the horrific (Stutchbury 2002, p.2).

‘Yes,’ this argument runs, ‘it might be in bad taste, but we have a higher duty as journalists to show you the full horror of the human condition. Day after day, night after night’. That journalists have overloaded our sensory system with ‘the horrific’ for the ultimate end of pushing circulation and ratings seems to have escaped the proponents of this position.

The argument seems on the face of it to be an argument between two competing principles: the duty to respect privacy (and the right of individuals to have their privacy respected) against what is construed as ‘the public’s right to know’. This second ‘principle’ is arguably not a principle at all, but a justification for, or a statement of, a utilitarian, and thus consequentialist, position: that the greater good is served by the invasion of this individual’s privacy. Also implicit in the argument is the self-interested, and thus also consequentialist, proposition that voiding of the individual’s right to privacy contributes to circulation and ratings. Thus the conflict between the individual’s ‘right to privacy’ and the public ‘right to know’ is in fact a deontological argument against a consequentialist argument, not an argument within a deontological framework.

Stutchbury’s argument, of course, is not a new argument. In a study of the use and placement in 57 US and Canadian newspapers of Gregory Marinovich’s 1991 Pulitzer Prize winning photographs of the stoning, bludgeoning, stabbing and incineration in Soweto of a Zulu man by ANC supporters, Sue O’Brien (1993) found, “a great range of ethical theories figured in the editors’ choices”. These ranged from application of “proscriptive guidelines such as the traditional ‘breakfast’ and ‘dead body’ tests,” to the argument that, “the pictures offered an invaluable insight into inhumanity that outweighed whatever offence to taste they might also carry” (p.71). The consequentialist, outcome-focused, commercial imperatives of competition and circulation impinge on, and influence, the editorial decision-making process, but remain unacknowledged. So while editors opt for a consequentialist approach, and give lip service to deontological frameworks, their readers and critics employ deontology as their principal form of moral reasoning. Which brings us to media self-regulation regimes, ethics codes and their limits.

Journalists and publications in Australia are subject to several ethical compliance regimes. The two major regimes are the Code of Ethics of the journalists’ union, the Media Entertainment and Arts Alliance (MEAA), and the Australian Press Council. To argue that publication of the Fortuyn photograph was unethical, in terms of either the

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MEAA Code or the Press Council Principles overstates the issue. Publication of the photograph does however raise the ethical principle of respect for persons, made explicit by Kant in his Categorical Imperative, and carried forward from there into the codes to which journalists subscribe to today. So, for example, the Australian journalists' code is preambled by the statement that, "members engaged in journalism commit themselves to honesty, fairness, independence and respect for the rights of others," while Clause 11 of the 12 clause code says, "Respect private grief and personal privacy. Journalists have the right to resist compulsion to intrude," (MEAA 1997,p.122).

The Australian Press Council is the self-regulatory body of the print media. It was established in 1976 with two main aims: to help preserve the traditional freedom of the press within Australia and ensure that the free press acts responsibly and ethically. To this end, the Council will adjudicate on any complaint made by a reader who feels a publication has violated the Council's principles in a specific instance. The relevant clauses of the Press Council's statement of (ethical) principles are that:

Clause 3. Readers ...are entitled to have news and comment presented to them honestly and fairly, and with respect for the privacy and sensibilities of individuals. However, the right to privacy should not prevent publication of matters of public record or obvious or significant public interest.

Clause 6. A publication has a wide discretion in matters of taste, but this does not justify lapses of taste so repugnant as to be extremely offensive to its readership.

Clause 7. Publications should not place any gratuitous emphasis on the race, religion, nationality, colour, country of origin, gender, sexual orientation, marital status, disability, illness, or age of an individual or group. Nevertheless, where it is relevant and in the public interest, publications may report and express opinions in these areas (Australian Press Council, 1996).

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These principles tend to be dichotomous. Privacy and sensibility are respected, unless there is an overriding public interest, as are ‘gratuitous’ references to matters such as sexual orientation. Publications have discretion on taste, so long as any lack of taste is not ‘extremely offensive’. There is no guidance as to how taste might be defined, or what constitutes bad taste in a pluralistic, secular, democratic society. Implicit in this principle is the notion that, ‘we can’t define bad taste, but you know it when you see it’. This is also an issue for other media regulatory bodies such as the Australian Advertising Standards Bureau, a self-regulatory industry body funded by large advertisers. The Australian Association of National Advertisers code provides that (inter alia):

Advertisements shall not portray people in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief. Advertisements shall not present or portray violence unless it is justifiable in the context of the product or service advertised (Advertising Standards Bureau, 2002).

Such bodies are left to their own devices to determine what they consider community standards to be, and are left reliant on their previous decisions in the form of precedents, which is ultimately a form of casuistry, a form of moral reasoning discussed in more detail below. As the use of ethics codes in media organisations has proliferated over the past decade, there has been an emerging counter-view in the wider field of applied ethics that codes are not especially useful instruments for promoting integrity, and are in fact regressive instruments of social control (Schwartz, 2000; De Maria, 1999; Maguire, 1999; Laufer & Robertson, 1997; Kjonstad & Wilmott, 1995). This counter-view offers a radical critique of codes and goes much further than the discussion on the limits of codes by Black and others (Black, Steele & Barney, 1995; Longstaff, 1994; Black, 1985).

While the ethical appropriateness of the photograph is open to debate, the reference to Fortuyn’s homosexuality in the headline appears to be a *prima facie* breach of the Australian journalists’ code which precludes “unnecessary emphasis on personal

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characteristics, including race, ethnicity, nationality, gender, age, sexual orientation, family relationships, religious belief, or physical or intellectual disability...” and the Australian Press Council Principles which preclude any “any gratuitous emphasis on the ...sexual orientation... of an individual or group.” However, as the Press Council principles continue, reportage and comment “where it is relevant and in the public interest” is permissible. The headline also clearly breaches Clause 2 of the MEAA Code of Ethics, which says:

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...(MEAA 1997, p.122).

In this case, the reference to Fortuyn’s sexual orientation in the headline is not demonstrated to be relevant nor in the public interest in the story below the photograph. O’Brien (1993) found that such photos are likely to generate less reader reaction if presented “thoughtfully and with context.” The irrelevance of Fortuyn’s sexuality was demonstrated by decision to change the headline, a headline which demonstrated little context and even less thought. Yet Fortuyn used his sexual orientation as a political weapon. His argument against immigration was that Muslims would restrict the civil rights of homosexuals, a position which could be characterised as ‘libertarian racism’. The day of his death *The New York Times* (Simons 2002, p.1) reported:

He said he found it shameful that foreign Islamic clergy here (in The Netherlands) used offensive language against gays in this country, and that Muslim men tried to impose medieval rural customs in the Netherlands. "How can you respect a culture if the woman has to walk several steps behind her man, has to stay in the kitchen and keep her mouth shut," he said.

Missing, of course, in all of this moralising, about publication of the photograph is any suggestion that the consent of the subject, or the subject's family, is necessary in the taking and use of the photograph. While family sensitivities are often cited as a reason not to use a photograph (Day 1991, p.235), codes are silent on this issue. Some photographers are aware of intruding into grief, and simply apply their technology to avoid the problem through use of telephoto lenses. The perceptions of press photographers and their audiences as to what constitutes ethical conduct differ widely (Hartley, 1983; Griffin, 1995). In using the photograph did Stutchbury and his fellow editors see Fortuyn as something of a political freak show, albeit one far enough away to avoid the censure that often accompanies inappropriate depictions of difference, and portrayed him as a curiosity? Given their initial headline describing Fortuyn as a gay, anti-Muslim maverick, this is certainly one possible interpretation.

### **Iconic status: casuistry and case based reasoning**

Stutchbury's final point in defence drew on the argument that such photographs had 'iconic' status, an argument he expanded on in *The Australian* the following day:

Newspapers are an essential part of the historical record. Confronting and shocking at first, this historical record includes film showing the assassination of John F. Kennedy, newspaper front pages showing his brother Robert dying from a killer's bullet and iconic photographs of war such as a naked Vietnamese girl screaming from the pain of napalm (Stutchbury 2002, p.2).

This argument is worthy of further analysis. First, to edit a newspaper with one eye towards the role of newspapers as a first draft of history has its risks. Certainly the role of handmaiden to the historians was not top of mind for many of Stutchbury's fellow Murdoch editors that day. Surely, as commercial media, their primary role is to sell newspapers, and within that constraint, to report the news accurately and fairly. Secondly, is it not the subsequent publication principally by historians, and not newspaper editors,

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which give iconic status to images? It is the repeated re-publication, appropriation and re-contextualisation (Edwards & Winkler, p.305) of the classic Associated Press photograph by Joe Rosenthal of the raising of Old Glory at Iwo Jima in World War II that makes it iconic, not its original publication, at a time when its meaning, while present, was not as clearly defined as it subsequently became.

Similarly, with photos of the dead Kennedys. Symbolic of a number of things: the end of Camelot, the foreshortening of a promising, fresh, youthful, American political dynasty who may have avoided the tragedy of Vietnam, and the cancer of violence in American culture, such meanings only became clearer with the passing of time. Likewise, Associated Press photographer Huynh Cong (Nick) Ut's 1972 picture of a naked, nine year old Phan Thi Kim Phuc running, screaming with pain from napalm burns, came to symbolise much that was wrong with the Vietnam War. Both 'Iwo Jima' and 'Vietnam Napalm' subsequently went on to win the Pulitzer Prize, an award which no doubt assisted their transition from powerful image to icon.

Stutchbury's argument about the photograph's iconic status is a form of casuistry, a mode of moral reasoning with a long history. Casuistry was used by Cicero and the Stoics, and was widely used in the medieval Church, but its usage became corrupted and it was attacked by the Protestant Reformers, as well Catholic Jansenists such as Blaise Pascal. Until recently it was largely discredited as a form of moral reasoning. It has been revived, largely in the field of bioethics, through the work of Stephen Toulmin and Albert Jonsen (1988) but not without some trenchant criticism (Boyle, 1997; Tomlinson, 1994).

Casuistry seeks to work inductively from cases, (Jonsen & Toulmin, 1988, pp.106-107), comparing like with like, whereas deontological moral reasoning is deductive. The advantage of using such a method is that people who hold different principles can often come to agreement on the solution to a particular problem without the necessity to compromise on the principles they hold. However, casuistry is an explicitly non-principled form of moral reasoning, and still has some way to go before it is rehabilitated as a universally acceptable form of moral reasoning. Boeyink (1992)

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makes a case for the use of casuistry in journalism ethics, but not a convincing one. Skating over casuistry's problematic past in one paragraph (p.112), Boeyink posits casuistry as a middle way between a situation ethics which sees each case as unique and an 'absolutism' in which cases are "the passive raw material to which moral principles are applied" (p.111), a sort of systematized situationalism. It would seem that a newsroom culture that defined its ethical values on evolving precedents was at greater risk of unethical conduct than one based on a shared and agreed set of principles (deontology) or on dispositions of character (virtue).

### **Conclusion**

The admixture of moral reasoning in Stutchbury's defence; the consequentialist argument that publication of the photograph was "part of a genuine effort to accurately portray the reality of the human experience," (Stutchbury 2002, p.2), an outcome to be constantly pursued, followed by his deontological argument that newspapers of record have a duty to publish such photographs, mixed up with some casuistry about the iconic status of the photograph, is not unusual, nor surprising once one recognises Krebs notion of 'real life' moral reasoning. Stutchbury's apparently dichotomous defence is an example of this.

So while the photograph, on its own, raised questions of taste, which may also be construed as questions of ethics, the initial headline certainly did breach current Australian ethical standards, or did it? That there was a possible breach of the standards was implicitly acknowledged by the newspaper in changing the headline in subsequent editions and in low-key approach to the disclosure of the change. The photograph was graphic, confronting and distasteful to secure, middle class antipodeans eating breakfast. It was of a dead white man in a suit, when *The Australian's* readers have been habituated over the past decade to only seeing dead African children amid drought, necklaced black South Africans, suicided Palestinians, and drowned Middle Eastern asylum seekers.

### **REFERENCES**



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Advertising Standards Bureau (2002) *AANA Code of Ethics*. Retrieved June 1, 2002,  
from

[http://www.advertisingstandardsbureau.com.au/industry/aana\\_code\\_ethics.html](http://www.advertisingstandardsbureau.com.au/industry/aana_code_ethics.html)

Anderson, Michael (1995) "Journalists' attitudes and views on the Media Entertainment and Arts Alliance Code of Ethics", *Australian Journalism Review* 17 (2), pp. 32-50.

Apps, Lawrence (1986) "Deathknocks: the code of the ethics", *Australian Journalism Review* 8 (1-2), pp. 10-13.

Aristotle (1955) *The ethics of Aristotle: The Nicomachean Ethics*. Translated by J.A.K. Thomson. Harmondsworth: Penguin.

Australian Press Council (1996) *Statement of Principles*. Retrieved June 1, 2002, from  
<http://www.presscouncil.org.au/pcsite/complaints/sop.html>

Avieson, John (1978) "The code of ethics: problems and dilemmas", *Australian Journalism Review* 1, pp. 1-5.

Black, Jay, Barney, Ralph and Van Tubergen, Norman (1979) "Moral development and belief systems of journalists", *Mass Communications Review* 6, pp. 4-16.

Black, Jay, Steele, Bob and Barney, Ralph (1995) *Doing Ethics in Journalism*. Boston: Allyn & Bacon.

Black, Jay (1985) "The Case Against Mass Media Codes of Ethics", *Journal of Mass Media Ethics* 1(1), pp. 27-36.

- 
- Boeyink, David (1992) "Casuistry: A case-based method for journalists", *Journal of Mass Media Ethics* 7, pp. 107-120.
- Borden, Sandra (1997) "Choice processes in a newspaper ethics case", *Communication Monographs*, 64(1), pp. 65-81.
- Boyle, Joseph (1997) "'Just and Unjust Wars': Casuistry and the boundaries of the moral world", *Ethics and International Affairs* 11, pp. 83-98.
- Bowman, David (1983) "Ethics in journalism", *Australian Journalism Review* 5(2), pp. 36-48.
- Brown, Jennifer (1987) "News Photographs and the Pornography of Grief", *Journal of Mass Media Ethics* 2(2), pp. 75-81.
- Bukro, Casey (1985) "The SPJ Code's Double-Edged Sword: Accountability, Credibility", *Journal of Mass Media Ethics* 1(1), pp. 10-13.
- Chadwick, Paul and Mullaly, Jennifer (1997) "Not just the paparazzi: media invasions of privacy. The media need to be particularly sensitive to privacy issues when reporting on tragic and traumatic events", *Communications Update* 137, pp. 4-5.
- Chadwick, Paul (1996) "Ethics and journalism", in: Margaret Coady and Sidney Bloch (Eds), *Codes of Ethics and the Professions*. Melbourne: Melbourne University Press, pp. 244- 265.
- Chadwick, Paul (1994) "Creating codes: journalism self-regulation", in: Julianne Schultz (Ed), *Not Just Another Business: Journalists, Citizens and the Media*. Leichardt, NSW: Pluto Press, pp. 167-187.

- 
- Cohen, Elliott and Elliott, Deni (1997) *Journalism Ethics. A Reference Handbook*. Santa Barbara, CA: ABC-CLIO.
- Christians, Clifford (1985) "Enforcing Media Codes", *Journal of Mass Media Ethics* 1(1), pp. 14-21.
- Coleman, A.D. (1987) "Private Lives, Public Places: Street Photography Ethics", *Journal of Mass Media Ethics* 2(2), pp. 60-66.
- Cornford, C.F. (1968) "The question of bad taste", *British Journal of Aesthetics* 8, pp. 215-226.
- Crittenden, Paul (1999) "Justice, care and other virtues. A critique of Kohlberg's theory of moral development", in David Carr and Jan Steutel (Eds), *Virtue Ethics and Moral Education*. London: Routledge, pp.169-183.
- Cronin, Mary and McPherson, James (1995). "Pronouncements and denunciations: An analysis of state press association ethics codes from the 1920s" *Journalism & Mass Communication Quarterly* 72, pp. 890-901.
- Day, Louis (1991) *Ethics in Media Communications. Cases and Controversies*. Belmont, CA: Wadsworth.
- De Maria, William (1999) *Deadly Disclosures: Whistleblowing and the ethical meltdown of Australia*. Kent Town, SA: Wakefield Press.
- Dodd, Andrew (2002) "Readers snipe at paper over maverick murder shot", *The Australian*, Media Section, 16 May, p.7.

- 
- Elsaka, Nadia (2001) "The politics of voluntary restraint: The development of self-regulatory codes by the British and New Zealand print media", *Australian Journalism Review* 23(2), pp. 149-166.
- Edwards, Janis and Winkler, Carol (1997) "Representative form and the visual ideograph: the Iwo Jima image in editorial cartoons", *The Quarterly Journal of Speech* 83, pp. 289-310.
- Elliott, Deni (1991) "Moral Development Theories and the Teaching of Ethics", *Journalism Educator* 46(3), pp. 18-24.
- Elliott-Boyle, Deni (1985) "A Conceptual Analysis of Ethics Codes", *Journal of Mass Media Ethics* 1(1), pp. 22-26.
- Feibleman, James (1971) "Bad art", *Tulane Studies in Philosophy* 20, pp. 59-73.
- Fletcher, Martin (2002) "Rising power is scourge of Dutch parties", *The Times*, 8 March. Retrieved June 1, 2002, from Lexus Nexus database.
- Flint, David (1995) "A Media Commission: the Press Council replies", *Australian Journalism Review* 17(1), pp. 40-46.
- Gracyk, Theodore (1990) "Having bad taste", *British Journal of Aesthetics* 30, pp. 117-131.
- Griffin, Grahame (1998) "Theorising photojournalism", in Myles Breen (Ed), *Journalism: Theory & Practice*. Paddington NSW: Macleay Press, pp. 301-329.
- Griffin, Grahame (1995) "Shoot first: the ethics of Australian press photographers", *Australian Studies in Journalism* 4, pp. 3-28.

- 
- Gross, Larry, John Katz, and Jay Ruby, eds. (1988). *Image Ethics. The Moral Rights of Subjects in Photographs, Film and Television*. New York: Oxford University Press.
- Hafez, Kai (2002) "Journalism ethics revisited: A comparison of ethics codes in Europe, North Africa, the Middle East, and Muslim Asia", *Political Communication* 19(2), pp. 225-250.
- Hafstad A., L. Aaro, A. Engeland, A. Andersen, F. Langmark, and B. Stray Pedersen (1997) "Provocative appeals in anti-smoking mass media campaigns targeting adolescents: The accumulated effect of multiple exposures", *Health Education Research* 12(2), pp. 227-236.
- Hafstad A., L.Aaro and F. Langmark (1996) "Evaluation of an anti-smoking mass media campaign targeting adolescents: The role of affective responses and interpersonal communication", *Health Education Research* 11(1), pp. 29-38.
- Hartley, Craig (1983) "Ethical newsgathering: Values of the public and press photographers", *Journalism Quarterly* 60, pp. 310-304.
- Hippocrates, Cratis (1996) "The problems with monitoring journalism ethics in Australia", *Australian Journalism Review* 18(1) pp. 67-85.
- Hirst, Martin (1997) "MEAA Code of Ethics for journalists: an historical and theoretical overview", *Media International Australia* 83, pp. 63-77.
- Hume, David (1975) *Enquiries concerning human understanding and concerning the principles of morals*. 3d ed. Edited by L.A. Selby-Bigge. Text revised and notes by P.H. Nidditch. Oxford: Clarendon Press.

---

Hurst, John and Sally White (1994) *Ethics and the Australian News Media*. Melbourne: Macmillan.

Johannesen, Richard (1987) "What Should We Teach About Formal Codes of Communication Ethics?" *Journal of Mass Media Ethics* 3(1), pp. 59-64.

Josephi, Beate (1998) "The Australian journalistic code of ethics: an international comparative framework", *Australian Journalism Review* 20(1), pp. 58-71.

Kjonstad, Bjorn and Hugh Wilmott (1995) "Business Ethics: Restrictive or empowering?" *Journal of Business Ethics* 14, pp. 445-465.

Kohlberg, Lawrence (1984) *Essays in Moral Development: Vol 2. The Psychology of Moral Development*. New York: Harper & Row.

Krebs, Dennis, Kathy Denton and Gillian Wark (1997) "The forms and functions of real-life moral decision-making", *Journal of Moral Education* 26(2), pp. 131-145.

Lambeth, Edmund (1990) "Waiting for the new St Benedict: Alasdair MacIntyre and the theory and practice of journalism", *Business and Professional Ethics Journal* 9, pp. 97-108.

Laufer, William and Diana Robertson (1997) "Corporate ethics initiatives as social control", *Journal of Business Ethics* 16, pp. 1029-1049.

Lester, Paul (1991) *Photojournalism: an ethical approach*. Hillsdale, NJ: Lawrence Erlbaum Associates.

Longstaff, Simon (1994) "Why codes fail", in: Noel Preston (Ed), *Ethics for the public sector*. Sydney: Federation Press, pp. 237-246.

- 
- Lupton, Deborah (1991) "Apocalypse to banality: changes in metaphors about AIDS in the Australian press", *Australian Journal of Communication* 18(2), pp. 66- 74.
- Maguire, Stephen (1999) "The discourse of control", *Journal of Business Ethics* 19, pp. 109-115.
- Media Entertainment and Arts Alliance (1997) *Ethics in Journalism. Report of the Ethics Review Committee*. Melbourne: Melbourne University Press.
- Merrill, John C. (1997) *Journalism Ethics. Philosophical Foundations for News Media*. New York: St Martin's Press.
- Meyers, Christopher (1990) "Blueprint of skills, concepts for media ethics course", *Journalism Educator* 45, pp. 25-31.
- Mills, Rilla Dean (1983) "Newspaper ethics: A qualitative study", *Journalism Quarterly* 60, pp. 589-594, 602.
- Montazeri, A. and J. McEwen (1997) "Effective communication: Perception of two anti-smoking advertisements", *Patient Education and Counselling* 30(1), pp. 29-35.
- O'Brien, Sue (1993) "Eye on Soweto: A study of factors in news photo use", *Journal of Mass Media Ethics* 8(2), pp. 69-87.
- Padgett, George (1985) "Codes Should Address Exploitation of Grief by Photographers", *Journal of Mass Media Ethics* 1(1), pp. 50-56.
- Parsons, Patrick and William Smith (1988) "R. Budd Dwyer: A case study in news room decision-making", *Journal of Mass Media Ethics* 3(1), pp. 84-94.

- 
- Putnis, Peter (1992) "Television journalism and image ethics", *Australian Journalism Review* 14(2), pp. 1-17.
- Richards, Ian (2001) "Public interest, private lives", in: Suellen Tapsall and Carolyn Varley (Eds), *Journalism Theory in Practice*. Melbourne: Oxford University Press, pp. 187-197.
- Richards, Ian (1998) "Searching for a way out: The imbroglio in journalism ethics", *Australian Journalism Review* 20(1), pp. 72-81.
- Rood, Tom (1985) "The ethical values of US and Australian journalists", *Australian Journalism Review* 7(1-2), pp. 19-21.
- Schultz, Julianne (1998) *Reviving the Fourth Estate. Democracy, accountability & the media*. Melbourne: Cambridge University Press.
- Schwartz, Michael (2000) "Why ethical codes constitute an unconscionable regression", *Journal of Business Ethics* 23(2), pp. 173-185.
- Shawcross, William (1993) *Rupert Murdoch. Ringmaster of the information circus*. London: Pan.
- Sheridan-Burns, Lynette (1995) "Philosophy or Frontline? A study of journalism educators about teaching ethics", *Australian Journalism Review* 17(2), pp. 1-9.
- Sheridan-Burns, Lynette (1996) "Blocking the exits: focus on the decision in ethical decision-making", *Australian Journalism Review* 18(1), pp. 87-97.
- Shusterman, Richard (1989) "Of the scandal of taste: Social privilege as nature in the aesthetic theories of Hume and Kant", *Philosophical Forum* 20, pp. 211-229.



- 
- Simons, Marlise (2002) "Rightist Candidate in Netherlands Is Slain, and the Nation Is Stunned", *New York Times*, 7 May, p. 1.
- Skaggs, Albert (1985) "Today's Codes Mirror Credo of Benjamin Harris", *Journal of Mass Media Ethics* 1(1), pp. 37-42.
- Smith, Jonathan (1994) "Eyewitness ethics: The moral meaning of watching suffering while reporting famine and war", *Australian Journalism Review* 16(2), pp. 31-45.
- Solomon, Robert (1991) "On Kitsch and Sentimentality", *Journal of Aesthetics and Art Criticism* 49(1), pp. 1-14.
- Statman, Daniel, (ed) (1997) *Virtue Ethics*. Washington, DC: Georgetown University Press.
- Stutchbury, Michael (2002) "From The Editor", *The Australian*, 9 May, p. 2.
- Tomlinson, Tom (1994) "Casuistry in medical ethics: Rehabilitated, or repeat offender?" *Theoretical Medicine* 15(1), pp. 5-20.
- Toulmin, Stephen and Albert Jonsen (1988) *The abuse of casuistry: A history of moral reasoning*. Berkeley, CA: University of California Press.
- Tulloch, John (1989) "Australian television and the representation of AIDS", *Australian Journal of Communication* 16, pp. 101-124.
- Turner, Geoff (1994) "Journalistic ethics in Australia: raising the standards", *Australian Journalism Review* 16(1), pp. 1-12.
- Varley, Carolyn (1997) "Legislating from within", *Australian Journalism Review* 19(1), pp. 105- 118.

---

Wischmann, Lesley (1987) "Dying on the Front Page. Kent State and the Pulitzer Prize", *Journal of Mass Media Ethics* 2(2), pp. 67-74.

Zangwill, Nick (1990) "Two dogmas of Kantian aesthetics", In *Proceedings of XIth International Congress in Aesthetics*, Nottingham 1988. Nottingham Polytech: Kingdom.