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THE SHIFTING PRIVATE-PUBLIC AXIS AND THE REJUVENATION OF ETHICS

News International has attracted much opprobrium since the phone-hacking scandal broke, but I confess to an unfashionably small corner of sentiment in my journalistic heart. Back in 1998, as a starry-eyed postgraduate journalism student in London, the company granted me an internship. I was not posted to its now defunct red-top rag but its broadsheet sister, *The Times*. I hasten to add that in good intern tradition, I was on more familiar terms with the kettle than the telephones.

The News of the World spectacularly made the headlines instead of reporting them when Rupert Murdoch in July axed the 168-year-old paper from the News International stable. Much media commentary since has used the bad-apple argument in part to deflect calls for a regulatory review. Such reasoning is guilty of misplaced exceptionalism in a profession that holds others to account; the scandal is part of a deeper malaise with implications the media should acknowledge. The answer lies in rejuvenated ethics around the shifting public-private axis and not increased legislation.

For a sense of the broader context, one just has to peruse *Flat Earth News* (2008), written by the journalist who broke open the scandal in the first place, *The Guardian's* Nick Davies. He sketches a compelling picture



Caricature of Rupert Murdoch by Rodney Pike (<http://rwpike.blogspot.com/>)

of the developed world's media outlets that should be in the business of truth-telling. But he perceives journalists as trapped in a professional cage that "distorts their work and crushes their spirit", essentially from intensified commercialisation of news.

Related issues include inadequate staffing and front-line reporters, the news factory's pragmatic rules of production, and the influence of public relations and propaganda on the news agenda. It would be a fallacy to think South Africa is somehow exempt from such forces on news production.

And that is the continuum along which Davies positions the hacking story, before it became a scandal. In a chapter called "The Dark Arts", he recounts in detail how police officers, private investigators and civilians ("blaggers") were corrupted by *News of the World* journalists to get confidential bank and phone company information. Davies writes: "By the mid 1990s, Fleet Street was employing several dozen different agents to break the law on its behalf" (271).

It didn't stop at tabloids either: by the late 1990s, Davies cites similar infringements by newspapers including *The Sunday Times*. Lord Justice Leveson, chairman of the recently announced UK judicial inquiry into the scandal, said at its launch: "It may be tempting for a number of people to close ranks and suggest the problem is or was local to a small group of journalists then operating at *News of the World*. But I would encourage all to take a wider picture of the public good and help me grapple with the length, width and depth of the problem as it exists."

A 2006 report by the UK Information Commissioner's Office, *What Price Privacy?*, underscores a more pernicious problem. It found an extensive illegal trade in confidential personal information including data illegally supplied to 305 named journalists working for a range of newspapers. The *Daily Mail* topped the list with 952 transactions by 58 of its journalists. *News of the World* was only fifth with 228 cases among 23 journalists.

THE NEW TECHNOLOGY MOMENTUM IS INEXORABLY TOWARDS DISCLOSURE ... ESTABLISHED GATEKEEPERS ARE INCREASINGLY UNDERMINED AND DATA CAN BE ACCESSED, REPLICATED AND DISSEMINATED IN PREVIOUSLY UNFATHOMABLE WAYS.

The Information Commission also noted in a follow-up report the different approach – taken by some media commentators regarding breaches of the law by journalists and by others – that suggested journalists should be treated differently. "It is important to note that the Information Commissioner is not proposing to criminalise any conduct that is not already against the law," he wrote. "However, journalists ... who either directly or through middlemen obtain personal information from public and private sector organisations by bribery, impersonation and similar means are engaging in conduct which, unless they can clearly demonstrate a public interest, has quite rightly been illegal since 1994."

Journalists, as the fourth estate, rightly claim certain privileges in their quest to unearth facts in the public interest and speak truths to power. Even Davies says in a July *Guardian* video clip that it was the arrogance of the power elite that angered him in the hacking story. "It's about how they all spontaneously colluded together to make everybody's life easier, about the way in which they casually assumed that the law didn't apply to them and in which they equally casually assumed that it was perfectly alright to lie to the rest of us because we are little people, we wouldn't know that they were doing it," he said.

The telephone hacking allegations involve a breach of both privacy and legality with no public interest motivation. The law will run its course, as it should, and adequate legislation exists to sanction such acts. But the case is compromising for the journalism profession as a whole since its legitimacy is based upon the assumed balance of journalistic privilege with ethical responsibilities.

The onus is upon the media to self-correct by rejuvenating its ethical principles and restore public trust. At the heart of this challenge lies a broad renegotiation in society between the private and the public, which is playing itself out in the media in battles between the right to privacy and the public interest.

Social media is fuelling this dynamic. For instance, before the hacking scandal broke, various British celebrities took out injunctions against newspapers preventing them from disclosing certain stories. But in the case of a footballer, social media just ignored it. Journalist Titia Ketelaar, London correspondent for *NRC Handelsblad* in the Netherlands, writes in an email interview: "On Twitter nobody cared and tweeted the information anyway. That resulted in some really bizarre reporting: newspapers not being able to

name somebody while the entire country was talking about him."

The new technology momentum is inexorably towards disclosure – as the Arab Spring and WikiLeaks stories show, established gatekeepers are increasingly undermined and data can be accessed, replicated and disseminated in previously unfathomable ways. This encourages on the one hand an ethical levelling; on the other, it is also open to abuse. What interests the public and what is in the public interest will come under increasing scrutiny as the UK judicial inquiry in the first instance investigates the relationship between the press and the public.

This is welcome but in the short term, there are risks. Foremost is tougher regulation, a popular political response to scandal. In the UK, the Press Complaints Commission has been roundly criticised and self-regulation of the media appears under threat, sounding a warning bell for countries like South Africa that have modelled their media regulatory systems on the British version.

Only time will tell if such fears prove warranted but the hope is they are overstated. Ketelaar is not sure regulation will be tougher. She says regulation only works if people follow the rules and part of the problem is the shifting definition of journalism: "Is gossip about a footballer's love life journalism? Is it in the public interest? And where do you draw the line – is a blog still journalism? Is Perez Hilton a journalist? And will he have to abide by the same rules?"

In the meantime, newsrooms face increasing pressure. Ketelaar says it takes time and money to talk to people, look around, investigate, and soak up information for just an ordinary story and with facts being online within minutes and retweeted that becomes very difficult.

She says: "I applaud all newspaper editors and owners who give their staff room to breathe – speed isn't everything. Getting your facts straight, the original story or angle that nobody else has, is [everything] and that is what your readers pay for."

Ntone Edjabe, editor of literary journal *Chimurenga*, appreciates how hard that can be. When we speak, he is putting the finishing touches to a once-off "speculative" newspaper called *The Chronicle* that travels back in time, to the week of xenophobic violence in 2008, to re-imagine the past by re-creating it in the present. This disruption of time and place reproduces a newspaper aesthetically with subtle subversions. Part of the aim is to move away from the notion of South

African exceptionalism regarding the xenophobic attacks. Edjabe says: "Instead we chose the same moment and asked how do we write it away from our own anxieties. It's not only 'what is happening to us?' but 'what is happening?' ..."

Edjabe concedes it is very expensive to research and write in the present tense. "Anyone who can write can write but cannot necessarily become a journalist – there are questions of mobility and access and institutional power. But for a small literary magazine, this is a joke.

"We had to find a way to deal not so much with news in a classic sense of bringing new information into a public space but working with a library of news that is already accumulated into the reader's mind and dealing more with language: how do we write about this stuff? We get bombarded daily with information that in part from a creative standpoint it was [a question of] how do we process this? We focused on the language, the presentation, the layers and depth."

The process of "shaking off the prison of fact" has taken a year, constantly filtering information into the final product. Edjabe says it's been a confronting project for contributors also: "To create a vehicle that breaks these barriers down, to use their imagination to talk about reality, that has been very challenging."

It seems symbolic that as *News of the World* closes, a new experimental newspaper will appear on our stands – if only as a once-off. What insight might it offer us in a time of news crisis? Edjabe regards any opportunity to reinvestigate the meaning of journalism in the West is good.

But he is more interested in new media and who owns it – not in terms of corporate ownership but in terms of language. "Who is this thing for? Not necessarily the audience in terms of readers and so forth ... but the texture and the language used. That for me is the gap in the press here – in some way it feels so far from the people and the events it reports. How does one close that gap?"

It is a question the South African media might do well to consider, along with its own tendencies towards exceptionalism.