

# Ethics in journalism and the Cheryl Kernot affair: A colloquium

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Ethics asks the “ought” question. Ought Laurie Oakes have disclosed Cheryl Kernot’s affair with Gareth Evans? Ought the affair be taken into account in any assessment of Kernot’s motives for defecting to the ALP? Ought Kernot have disclosed the affair to ALP leaders before her defection? Ought Kernot have omitted the affair from her memoir? Ought politicians’ private lives be paraded in public? Ought journalists re-consider their treatment of high-profile women in public life? All these issues and more are discussed in the colloquium below.

## **Just the facts**

Cheryl Kernot was elected as an Australian Democrat Senator for Queensland in 1990, and was leader of the party from 1993 until 1997, when she defected to the Australian Labor Party – cast into Opposition at the 1996 general election after thirteen years in government. Kernot gave as her motivation that she wanted to be in a position to have greater influence on politics and public policy, and in particular to contribute to the defeat of the Howard Liberal government. Kernot resigned from the Senate and successfully contested the marginal House of Representatives seat of Dickson in the 1998 general election and was appointed Shadow Minister for Regional Development, Infrastructure Transport and Regional Services and Shadow Minister for Employment. Recontesting the seat at the 2001 general election Kernot was defeated. Conceding defeat, Kernot announced she would write a book about her experiences in politics.

Upon release of Kernot’s memoir, *Speaking for Myself Again* in July 2002, Laurie Oakes, the political editor for the Nine television network, wrote in his weekly column for the *Bulletin* magazine that the book omitted Kernot’s biggest secret, which Oakes argued, “would cause a lot of people to view her defection ... in a different light” (Oakes 2002a, p.16). Oakes did not reveal the secret, but acknowledged that, “for a long time now, some members of the Fourth Estate have been aware of the biggest secret in Kernot’s life”. The secret – that Kernot had conducted a five-year affair with former ALP parliamentarian, Gareth Evans - was revealed by Stephen Mayne to subscribers of his crikey.com website the day Oakes’ *Bulletin* column was published. Evans, who had left Parliament in 1999 and was now based in Europe, released a statement acknowledging the affair, having vigorously denied it in Parliament when it was raised in March 1998. Kernot went to ground, her publisher cancelling the remainder of her book publicity tour. The ongoing public debate ranged across a number of issues, including the materiality of the Evans-Kernot affair to Kernot’s decision to defect, the public interest justification for disclosing

the affair, the timing of the disclosure, Evans' misleading of Parliament over the affair, the treatment of high-profile women in politics and Kernot's contribution to public life. The Canberra Press Gallery was split over Oakes' action. Talkback callers were reported as 80% against Oakes. Oakes himself in the *Bulletin* the following week wrote of his decision to write the story saying, "The privacy versus public interest debate is an important one. I made a judgement which I and many others believe was right. But it is not a matter of black and white..." (Oakes 2002b, p.19).

### **Methodological issues**

Michelle Grattan, now of *The Age* newspaper, regards this case as generating the most substantial debate about journalism ethics in Australia in recent memory. In this colloquium, five scholars from the University of Queensland School of Journalism & Communication reflect on the case from a range of perspectives. All the contributors have taught ethics – albeit in a wide variety of contexts. The literature on learning about ethics suggests that peer-led discussion is the most effective context for the development of ethical insight (Nelson & Obremski 1990). For the contributors, this colloquium represented such an opportunity and, to some extent, this piece has parallels with the work Lou Hodges has been doing regularly in the *Journal of Mass Media Ethics*, although the United States is normally the context for the cases Hodges presents (Hodges 1992).

There are of course risks in the use of case-based moral reasoning, or casuistry as it is known. Until recently casuistry 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, based on codes, is deductive. The advantage of using a method such as casuistry is that people who hold different principles can often come to agreement on the solution to a particular ethical 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) 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 systematised situationalism.

There has been no attempt to synchronise the views of the contributors, each has selected an aspect of the issue and the ensuing debate to discuss. Rhonda Breit opens with a discussion of 'lying' and legitimacy of keeping information secret; Trina McLellan assesses possible motives for placing such a story into the public domain; Martin Hirst looks at the media portrayal of Cheryl Kernot as a high-profile woman in Australian politics; John Harrison contributed the introduction and analyses the moral framing of the

issue by the public as represented in Letters to the Editor, and Desley Bartlett relates the issue to the current MEAA Code of Ethics.

## 1. Sex, secrecy & lying: can it be ethical?

### **Rhonda Breit**

The revelations about the Kernot/Evans “affair” raise many ethical issues, some of which are discussed by my colleagues. However, this discussion focuses on three issues:

- The complicity of journalists in perpetrating a public deception.
- The nature of that deception. Was it a lie?
- Was “the affair” reported in a manner that satisfies the public interest?

Oakes claims to have revealed “the affair” between Kernot and Evans because it involved public interest issues, not just privacy considerations. According to Oakes, he was not aware of it at the time of Kernot’s defection to Labor and Evans’s misleading parliament over his relationship with Kernot. While defending the delay in revealing the “biggest secret in Kernot’s life”, Oakes claims (2002b, p.19) that at least one journalist knew of the affair at the time of Kernot’s defection. But he “was not convinced there was a relationship until the second half of 1999, and ... did not have email proof until two months ago”. In defending his decision, Oakes admits to difficulties balancing the concepts of privacy and public interest. This discussion seeks to unpack these concepts, taking up Oakes’s theme (2002a, p.16) of secrets and lies.

### **Secrecy and lies**

Sissela Bok (1982, p.14) defines secrecy as “intentional concealment”, commonly linked with privacy and those things humans hold sacred. Secrets involve insiders, who are party to the secret and “outsiders”, who are not. Every secret involves conflict between what the insiders already know and what the outsiders want to know (Bok 1982, p.6). Even where an individual is the only person who knows the secret, he/she faces a constant dilemma: reveal or maintain the secret? According to Bok (1982, p.19), this conflict is over power “that comes through controlling the information flow”.

But how does this relate to Kernot’s secret? Who were the parties?

Obviously, Kernot and Evans were parties to “the secret”, but at least one journalist – and probably more – knew of the secret at the time of Kernot’s defection. According to Bok, this means Kernot (and Evans) had lost control of the information flow. Journalists had control because they could reveal the “big secret”: the affair!

That secret remained intact until July 2002, despite Kernot’s declaration that she was leaving the Democrats to help bring down the Coalition. At this time, the affair was “private”. Evans misled parliament by denying the affair and it was still a private matter. From late 1997 until now, the secret had been safe. Using Bok’s conception of secrecy, journalists’ silence could have reinforced to Kernot (and Evans) that the affair was a private matter. In effect, their silence legitimised the secret.

But did Kernot lie? Bok (1989, pp.13-14) defines lying as “any intentionally deceptive message, which is stated”. According to this definition, Kernot did not lie about the reasons for her defection, nor did she lie in her book. But she did deceive the public and others by keeping the affair secret. Bok identifies (1984, p.15) three filters that affect how a deceptive message is received, regardless of whether it is a lie. She identifies these as:

- The level of self-deception;
- Error; and
- Variations in the actual intention to deceive.

Bok notes (1989, p. 249) journalists are perceived as having a public mandate to probe into and expose secrets. If journalists ignore a secret for five years because it is essentially a private matter, then their silence may legitimise the public deceptions used to protect the secret. The primary parties may be more vulnerable to self-deception and could start believing the public excuses. The truth becomes fractured into a private truth, shared by Kernot, Evans and some journalists, and a public truth served to those who are not privy to the secret. The public truth gains credibility because journalists maintain the secret.

Bok’s analysis of secrecy and lying also may make sense of Kernot’s feeling of abandonment and vulnerability during her Labor years and beyond: she had forfeited to journalists control over the flow of information about her relationship with Evans. Their silence about the secret signalled they would protect her. When challenged by journalists during that time, she could feel betrayed because they were her confidantes. The confrontation with journalists would heighten her feeling of vulnerability about her “biggest secret”.

But despite her spats with the media, no one revealed her big secret. Kernot wrote a book *Speaking for Myself Again*, where she presented her account of the Labor years. Oakes warned in the July 9 edition of *The Bulletin*, that many journalists had been aware of the biggest secret in Kernot’s life:

While it is one thing for journalists to stay away from such matters, however, it is quite another for Kernot herself to pretend it does not exist when she pens what purports to be the true story of her ill-fated change of party allegiance. An honest book would have included it. If Kernot felt the subject was too private to be broached, there should have been no book, because the secret was pivotal to what happened to her. (2002a, p.16)

If members of “the Fourth Estate” (Oakes 2002a, p. 16) had known about the secret for five years, and not disclosed it, was Kernot justified in presuming the matter really was not of public interest? Using Bok’s analysis, their silence fostered an environment conducive to self-deception. In turn, self-deception is relevant to the formation of an intention to deceive, where the conduct of journalists is instrumental in fracturing the truth.

However, there are alternative views on secrets and lying. Oral historians frequently deal with secrets and lies as they seek to make sense of what is included and left out of individual accounts of past events. Luise White (2000, p.11) suggests that secrets and lies are a way of “valorizing” information. She claims (2000, p.15) secrets and lies are negotiated explanations which conceal some things and reveal others: “Secrets and lies signal that what has been declared secret, what has been deemed worthy of a lie or a cover story, is more significant than other stories.” This conception of secrecy and lies suggests that “the affair” between Kernot and Evans (the private truth) was of greater value than the information revealed at the time of Kernot’s defection (the public truth). The question, which cannot be answered in this discussion, is whether that information derived its value because it was politically (publicly) harmful or whether it was harmful in a private sense.

But why did Oakes wait until Kernot’s book release to reveal the secret? Why didn’t he do this when he was in a position to prove the affair some months earlier?

White (2000, p.22) believes all secrets must be continually renegotiated. Kernot’s decision to write a personal account of her Labor years meant renegotiating her pact with those journalists who knew about the affair and had kept it secret. The book made the affair more newsworthy. It gave the story currency and focus, which it would not have had a few months earlier. Just as the secret gave the information about the affair “value”, Kernot’s repeating of a version of history, which again concealed the full account of what happened, boosted the value of the information left out. Her failure to disclose the secret also devalued the information contained in her book, which has recorded fairly poor sales.

This analysis does not attempt to level blame at any party nor is it designed to excuse the behavior of Kernot, Evans or Oakes. Rather, it seeks to illustrate how the decision by some journalists not to reveal relevant information could have fed a public deception. The journalists were party to the Kernot-Evans secret and, by their silence, helped to circulate stories that prevented the public from learning at least one account of the facts surrounding Kernot’s defection. According to White, the fact that it was not reported at the time means that account had more value in July 2002 than when the affair took place. But the decision not to reveal that account was not taken by Kernot and Evans alone; journalists also decided not to reveal it. Therefore, the conduct of Evans and Kernot in deciding not to reveal their secret cannot be examined in isolation from those journalists who failed to report rumours of the affair at the time of Kernot’s defection or, more importantly, when Evans misled parliament.

Oakes’s justification for publishing the story was that he had a public duty to reveal the information to dispel the deception presented in Kernot’s book. He did so because it was a matter of public interest. Opinion is divided on whether it was a matter of public interest. This contribution does not seek to analyse this issue in detail. Rather, it examines whether the media have reported “the affair” in a way that satisfies the public interest.

## Public interest

Public interest is a term often used by journalists to justify publication of stories likely to offend or upset some or all sectors of the public. Public interest presumes the value of certain types of information. Before determining what is in the public interest, it may be helpful to ask why the public needs information. When that question is answered, journalists are in a better position to do two things:

- Evaluate whether information is a matter of public interest; and
- Understand how to deliver that information to give effect to public interest.

In the revelations about “the affair”, much comment has focused on the line between public and private interest. Few have questioned whether the media has presented that information in a way to give effect to the public interest.

In contemporary liberal societies, the public has become increasingly dependent on the mass media to receive information. The mass media, including journalism, have helped developed what Taylor (1995, p. 190) describes as “the public sphere”, which is “the locus of a discussion potentially engaging everyone ... in which the society can come to a common mind about important matters”. It is a “locus in which rational views are elaborated which should guide government” (Taylor 1995, p.191). He concludes (Taylor 1995, p.216) that the “public sphere is a medium of democratic politics itself”. Therefore, information pertinent to democratic politics is a matter of public interest because it is essential to formation of a common rather than popular view, which this article describes as public opinion.

In this case, the information about a relationship between the leader of the Democrats and a high-ranking Labor politician is relevant to the public’s forming a view on the defection. But did journalists, including Oakes, report the matter in a way that gave effect to that public interest?

Many journalists used the “affair” to explain away all of the unexplained. Kernot had deceived the public by not revealing the “affair”; therefore everything she said in the book was a lie. For some, it explained her failure as a Labor politician. In Kernot’s words, journalists sensationalised the affair. But the decision by Kernot and Evans to “negotiate” (albeit implicitly) with journalists to keep the secret provided the environment in which they could sensationalise.

If one role of journalism is to provide information for the public to form an opinion that guides government, then the information provided must assist the public in forming that opinion. Taylor (1995, p.190) points out that public opinion needs to be “a reflective view, emerging from critical debate and not just a summation of whatever views happen to be held in the population”. Information that facilitates the public interest should not reinforce existing prejudices. It should provide information that helps the public to challenge such prejudices and to form a reflective opinion.

When assessing the “ethics” of revealing an affair between two politicians, if it is a matter relevant to the formation of public opinion, then journalists reporting it must be careful not to reinforce stereotypical views that reduce the female politician to a person whose abilities are defined by what she wears, how she cooks and with whom she shares her bed. All issues are taken up later in this colloquium.

In summary, this discussion draws on various theoretical perspectives to found the analysis, inviting journalists to look beyond the code of ethics (and other industry rules) when dealing with complex ethical issues. In addition to looking at professional codes to decide whether conduct is professionally acceptable, journalists may find it helpful to take a more virtue-oriented approach to ethics and seek to balance between deficit and excess.

## 2. Absence of Malice?

### Trina McLellan

Gareth Evans was the subject of an authorised biography by former staffer Keith Scott, published in 1999. It did not mention Evans’s affair with Kernot (Scott 1999). Why was there no disclosure at that time by journalists with knowledge of the affair? As the *SMH* editorialised on July 5, 2002 at the height of the revelations of the Evans-Kernot affair: “If the Evans lies are worth highlighting now, why weren’t they at the time, given the media’s knowledge then of the love affair?”

In reviewing disclosure of the affair between Evans and Kernot, Australian journalists, and their readers, might ponder not only the motivation behind the actions of Laurie Oakes, but also the motivations of those who condoned his actions or followed up the story. Oakes himself has admitted publicly he struggled over whether or not to say anything about the affair: “There is no right thing to do, it's a difficult ethical problem that I faced. I hope I made the right decision but as I say I agonised, I worried and it's a very hard thing to make a decision about” (*The World Today* 2002). But whether or not what Oakes did was right, was this particular journalistic exposé, and the “gotcha” (Lumby 1999) or “drive-by” (Rowse 2000) journalism it spawned, without malice?

In the court of public opinion Oakes’s actions were condemned with the vast majority of talkback callers around the country concluding that what consenting adults did in their own time should not be the subject of media reports, regardless of their public responsibilities. ABC Radio National Breakfast noted that media monitoring company Rehome Australia had monitored some 500 talkback calls and assessed that 85 per cent of talkback callers were against Oakes (*Radio National* 2002). This reflects the findings of a 1998 poll of Canadians. Commenting on the poll in the Canadian Liberal Party publication *Liberal Times*, pollster Michael Marzolini (1998) observed:

...Canadians don’t really give a damn about the sex lives of their politicians. Only 4% of Canadians tell us that this information would interest them. Some 94% have no interest. They are actually more motivated in learning where politicians spend their vacations, or what their

favourite meal or drink is, than they are in their sex lives. Male, Female, French or English, Canadians from every region are unanimous in their disinterest.

Similarly, in their analysis of Canadian politics, Mancuso et al (1998) found that, "Politicians will find their reputations surprisingly resilient to lies and evasions that have to do strictly with their private life, but lying about public affairs is a very dangerous game."

Such well-documented analysis of the public response to news of politicians' peccadilloes may diminish enthusiasm for both 'the public interest' and the 'what interests the public' approaches to coverage of such issues. There was certainly little reticence to cover the affair and its ramifications in the Australian media. According to *Media Watch* presenter David Marr, only the "rather prissy SBS" decided not to join the fray (*Media Watch* 2002b), and the originating publication, the *Bulletin*, allegedly came to a parting of the ways with its film reviewer Susie Eisenhuth after she submitted a column that appeared to obliquely criticise Oakes's actions (*Media Watch* 2002a). Indeed, virtually every other media outlet not only reported every aspect of the salacious news, but also the debate that raged around Laurie Oakes and his actions. Yet those who claim coverage was justified because Kernot's private life must have impacted on her public actions and responsibilities are surprisingly quiet about the impact the affair needlessly had on Evans's abilities and actions.

US media commentator Jeff Cohen – who founded the US media analysis group Fairness and Accuracy in Reporting (FAIR), and then stepped down from the organisation to become a senior producer for *Donahue* – observed in 1999:

With a political press corps that seems to have grown bored covering politicians who aren't celebrities, personal gossip wins out over public issues and probes of 'the character issue' are reduced to sex, drugs and draft dodging. Pundits more readily find a character flaw when politicians partake of consensual sex than when they partake of policies that comfort the comfortable and afflict the afflicted.

Cohen singled out two common comebacks: "*The 'new media' made me do it*" excuse that sees journalists claim that if they do not publish what millions of people have already heard or read, they will be acting as censors or people will think they have missed the story; and the "*It's not about sex*" excuse that sees journalists claim what they are covering is not about the sex angle at all, but the lying and the cover-ups, issues of character – despite the highly sexualised nature of the headlines, interviews, expert commentary, images and footage.

Moreover, while journalists and media organisations, with whatever motives, continue to be fascinated with the titillating antics of those in the public spotlight, few journalists would be pleased to see the spotlight turned on themselves. Hickey (1998, p. 30) reported a *Columbia Journalism Review* survey that found 69 per cent of 125 editors and news

editors in the United States believed that the private lives of public officials should be investigated when it affects public performance, and half think that public officials should accept that their private lives are fair game for scrutiny by the media. Conducted in the wake of the Clinton-Lewinsky affair, this survey also found a slim majority of respondents (56 per cent) disagreed that “journalists’ personal lives – including their sexual behavior – should be held to a high a moral standard as the personal lives of political officials” (p. 31). A concerning fifteen percent were “not sure”. As Jeff Cohen (1999) put it:

Privacy limits might seem worthy again if media figures themselves had to answer questions now deemed so enlightening on "character" or "judgment" or "integrity."

If this proves to become the case in Australia, Laurie Oakes and others will have some much tougher ethical questions to think about. Not the least of these will be the question encountered every time intimacies between high-profile public figures are discovered or disclosed: “Unless we published the dirt about Cheryl and Gareth for malicious reasons, how can we *not* publish this time?”

### 3. The domestication of a “feral” Cheryl: How the media demonised a fallen darling

#### **Martin Hirst**

“She is about as honest as Christopher Skase and Nick Bolkus, she is about as loyal as Benedict Arnold, and she has the morals of an alley cat on heat.” So said Liberal backbencher Don Randall in Adjournment debate in Parliament on March 12, 1998.

In various guises this quote re-surfaced in just about every major newspaper in the country during the Kernot-Evans affair. That the media was quick to pounce on this quote and re-use it is not surprising. There is news in the fact that Gareth Evans lied to the Senate in denying the affair. But the gleeful way that the press pounced on this grab, particularly the last telling phrase, “she has the morals of an alley cat on heat”, is the perfect sexist put-down of the strong and sexually active woman. It is nowhere near as damaging when used about a man.

The Australian media crucified and vilified Cheryl Kernot over four weeks in June and July 2002. A Lexis-Nexis database search of Australia’s major metropolitan dailies shows that between June 22 and July 19 more than 500 news items about Cheryl Kernot appeared in the print media. Some 100 of these items were about the imminent launch of Kernot’s memoir and appeared prior to July 2 – the day of Laurie Oakes’ *Bulletin* column. More than 400 items appeared in the 16 days after the “big secret” was named on the crikey.com website and the end of the surveyed period.

Why was Kernot exposed so ruthlessly after July 3? The short answer, given by Laurie Oakes and those who defended his actions, is that the affair became public property when Kernot's memoir was published and did not mention the liaison. This is a version of the "public interest" argument and much of the ensuing media debate has focused on the pros and cons of this position. The most emphatic thing that one can say about this "he said, she said" commotion is that the justification for publication is arguable. There are no cut-and-dried answers when talking about media ethics. However, this contribution to the discussion argues that it was an attitude of sexism in the media that dictated the terms of Kernot's (and Evans') exposure over their love tryst.

In the ensuing hailstorm of columns and op-ed pieces, the predominant tone was harsh in its treatment of Ms Kernot, but interestingly, the coverage of her equally exposed lover, Gareth Evans was more muted. His predicament was framed as that of a "repentant cad" and personified rather jokingly as "Biggles Flies Undone". Cheryl Kernot was routinely portrayed as the "scarlet woman", the "villain" of the piece and basically deserving of the "come uppance" dished out by the press. Whether or not this treatment was "deserved" is not the issue here. Cheryl Kernot was traduced and her reputation shat upon by a moralistic media that saw its role as putting a sexually active and allegedly "promiscuous" woman back in her kitchen.

#### **"Don't ask. Don't tell": The gendered rule**

There can also be no doubt that the sexual secrets of Parliament House, if revealed, would be heavy enough to sink the proverbial battleship. In short, it's part of the "game" for those involved. The infamous "Don't ask Don't tell" rule is said to apply in Canberra. This rule is interpreted thusly: "We" (insiders) know and understand the pressures that build up in the political circus, but we leave it all ringside and we don't tell outsiders – though we are free to gossip among ourselves.

In relation to the Kernot-Evans affair, this rule has been broken. It's not the first time and it won't be the last. What is interesting this time is the vitriolic, unflattering and character-destroying language that has been used to describe Cheryl Kernot. It is significant because we haven't seen evidence of this moral outrage in relation to the prominent male politicians who might, but for the "Don't tell" rule, be caught in the media searchlight. The rivers of ink that poured into this story have been described by one commentator as a "tsunami" that "crashed over Cheryl Kernot and beached both her and her former lover Gareth Evans" (Murray 2002). The gendered "Don't tell" rule would indicate that such a tidal wave would not sweep away a male politician in the same way. This code of silence takes the form of a spurious "chivalry"; "a gentleman never tells" (Secombe & Millet 2002, p. 27).

The relationship between power and sex is complex and volatile. The emotional and intellectual excitement of politics is an arousing combination. No doubt the Kernot-Evans affair was an intellectually and emotionally complex liaison. Only the participants and their closest confidantes can have any real inside knowledge of the dynamics of their mutual attraction. However, this is not acknowledged by the media, which prefers to

reduce it to a tawdry “bonkfest”. In the process Cheryl Kernot is reduced to the sum of her sexual parts and the assumption made that she was “horizontally recruited” to Labor by Gareth’s sexual prowess, rather than the actual sex being the culmination of a process of political bonding over many months. In this version Evans “lured her to the Labor Party” (Harvey 2002,p. 1). This is the position adopted by many of Kernot’s detractors in the Press Gallery, including Margo Kingston who alluded to a “consuming passion” that clouded Kernot’s political judgment (Cited in Neill 2002, p.11). No one has suggested that the decision-making could be sexually “transmitted” *from* Kernot to Evans. The dictates of the news production process and adherence to formulaic news values of drama and conflict mean that the press could not deal with the depth of human emotions involved. Kernot is described as “increasingly erratic” (Bolt 2002, p. 21); her book damned as an “ill-moderated whine” (Angela Shannahan 2002, p.13); she is said to suffer violent “mood swings” (Ruehl 2002, p. 64) and as a result of the exposure deemed to be exhibiting “erratic and emotional behaviour” (Milne 2002, p. 11). Miranda Devine even called her “self-obsessed and remorseless” (2002, p.15). This kind of emotive language is rarely, if ever-used to describe male politicians.

### **Scolding witches**

Was the uproar over Kernot a media witch hunt? It certainly appears to have been. She is described as a “flawed political figure”, who “brought a lot of her trials upon herself” and had her private life “stripped absolutely bare”. (Warhurst 2002, p.11) Even Kernot’s supporters concede she “has often been her own worst enemy” (Neill 2002, p.11) John Warhurst does acknowledge the “special” treatment meted out to Kernot: “women’s sexual lives in general are treated by the media differently from men’s sexual lives” (2002, p.11).

In 1994, when Kernot’s star was rising, she was sympathetically profiled on Channel Nine’s *A Current Affair*, but the program placed her squarely in the domestic, rather than the political sphere of public life and the *ACA* reporter, Janet Gibson, framed this with the line: “Cheryl Kernot’s idea of a personal victory is to be a good mother to 10-year-old daughter Sian.” Ray Martin’s saccharine closing comment neatly encapsulates this sentiment: “Mmmm, Janet Gibson reporting there on a good woman” (*ACA*, March 2, 1994, cited in Hirst, White, Chaplin & Wilson 1995,p. 89).

How quickly the mighty fall (especially when thrown from a great height). We can continue to track Kernot’s “trial by media” through the *Sydney Morning Herald*’s revelations in December 1997 that she had conducted a relationship with a younger man some 20 years earlier (the source of the Randall quote above). Within a few short years of the *ACA* fluff piece, Kernot had become a “bad mother” and a “dummy-spitter” when she refused to indulge the media’s need for information about her personal life. (Cited in Ellis 2002,p.13) Again, the “Don’t tell” rule was broken, or at least significantly bent, for Kernot in a way that would not be done for a male politician.

It is evident that over the past few years Kernot’s public persona has moved between the two stereotypes allowed for women: “Madonna”, or “whore”. Women leaving their families behind to pursue a career in politics is “bad” enough, the media argues, but when

a woman takes the next step, to leave her family to be with a new lover, it is beyond the pale. Why is this never an issue for men?

Kernot's defenders are, I believe, on fairly solid ground when they level the charge of sexism and witch hunting against the media in this case. The Sydney Institute's Anne Henderson summed it up: "Why is [Kernot] the wicked one? My theory is that women are still not equal. The subtext is that she was sexually dazzled, that her judgement was impaired by passion." (Cited in Crisp & Margo 2002,p.24). In the same article Eva Cox makes a similar point: "[Kernot] got done by a very masculinist, anti-star culture. Surprise, surprise. I can't think of a male politician and there's been some really tacky ones where there's been such a consistent campaign to pull them into line." (Cited in Crisp and Margo 2002,p.24). Quite so.

This tells us more about the culture of the media today – the sexism, the hypocrisy and the thirst for salacious gossip – than it does about Cheryl Kernot's morals, or her "fitness" for public office.

## 4. What interests the public? Moral framing of the Oakes-Evans-Kernot affair in 'Letters to the Editor'

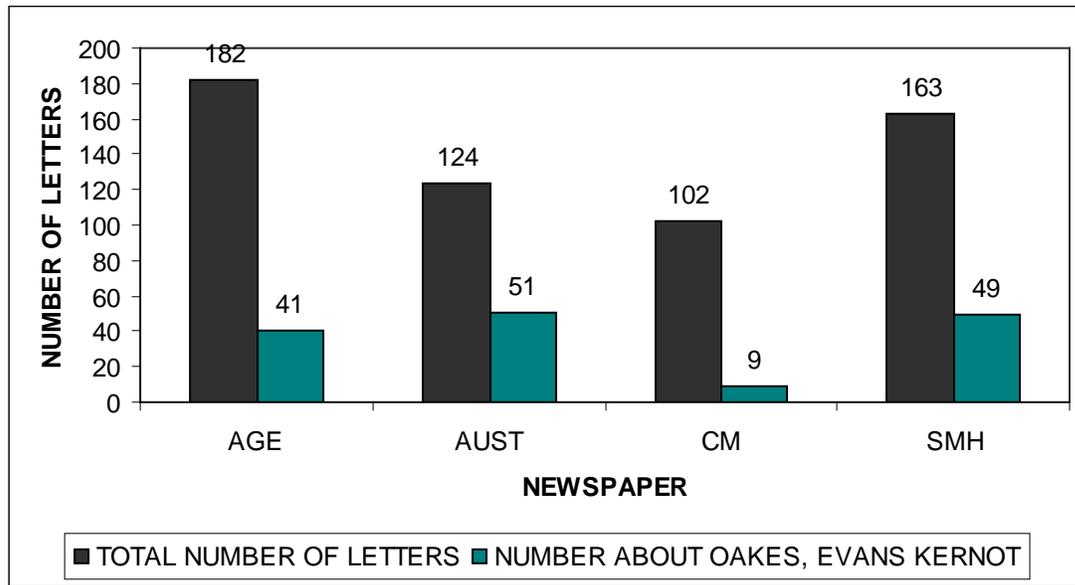
### **John Harrison**

While notions of "the public interest" are canvassed by other contributors to this colloquium, this piece asks the question: What interested the public in the Oakes-Evans-Kernot affair? In particular, how was that public interest expressed in the Letters to the Editor in the major daily newspapers: *The Age*, *The Sydney Morning Herald*, *The Courier-Mail* and *The Australian*. This analysis is predicated on the assumption that the letters published are a broadly representative sample of the views put to the letters editor, who then publishes those which are brief, well written and witty. The concept of framing is well developing in the literature on communication, media and journalism. (Entman 1993, p.52) defines framing in terms of "selection" and "salience" in order to define problems, diagnose causes, make moral judgements and suggest remedies. "Moral framing" is simply a way of describing and analysing frameworks of moral or ethical understanding that underlie moral reasoning, and in this brief case study, the moral reasoning expressed in the Letters to the Editor.

### **Analysis**

The total number of letters published in each paper and the number published on the Oakes-Evans-Kernot affair for the seven days July 4 to July 10 are tabulated as follows:

**FIGURE 1: LETTERS to the EDITOR July 4-July 10**



The themes covered in letters ranged from the morality of Evans’ lying to Parliament, and the wisdom, not necessarily the morality, of Kernot’s non-disclosure of the affair in her memoir, through to castigation of Oakes’ salacious (and thereby apparently unethical) headline hunting in disclosing a matter of private morality with no bearing on the public interest. So it was the *SMH* Weekend edition (July 6-7) that gave the headline to this piece: “This is not public interest, it just interests the public”. Counter-pointing this view was *The Age* on July 4, headlining its letters “Private morality impinges on public morality”. Here then is an overview of the moral framing of the issues in the published letters.

**Journalistic ethics.** The ethics of the disclosure, as well as the timing of the disclosure, were widely canvassed. Typical was this contribution, dripping with irony, from Garry Bickley (Elizabeth Downs, SA):

Laurie Oakes, senior media pigeon striking a papal pose, moral chest fully extended to do battle for truth, justice and good, while boosting the circulation of a struggling magazine and the ratings of a faltering television network (*Australian* July 5).

Some correspondents were critical of the Canberra Press Gallery coterie who decided what secrets should be revealed and what not. “Journalists have no right to pose as the moral guardians of our political life” (*Australian* July 8); “Laurie Oakes and *The Australian* are just gossips, nothing more” (*Australian* July 6) and “*The Age* should be above such gossip. Leave that to the tabloids,” (*Age* July 5) were three such comments. There was muted support for Oakes: “Thank you, Laurie Oakes, for keeping the bastards honest”, (*Australian* July 8). Oakes’ use of the adjective “steamy” to describe the affair was questioned. One correspondent wanted to know how Oakes knew the affair was “steamy” (*SMH* July 6). Another said the term “introduces a salacious note which nudges

him off the high moral ground” (*SMH* July 6). This debate led into an argument about the nature of the public interest.

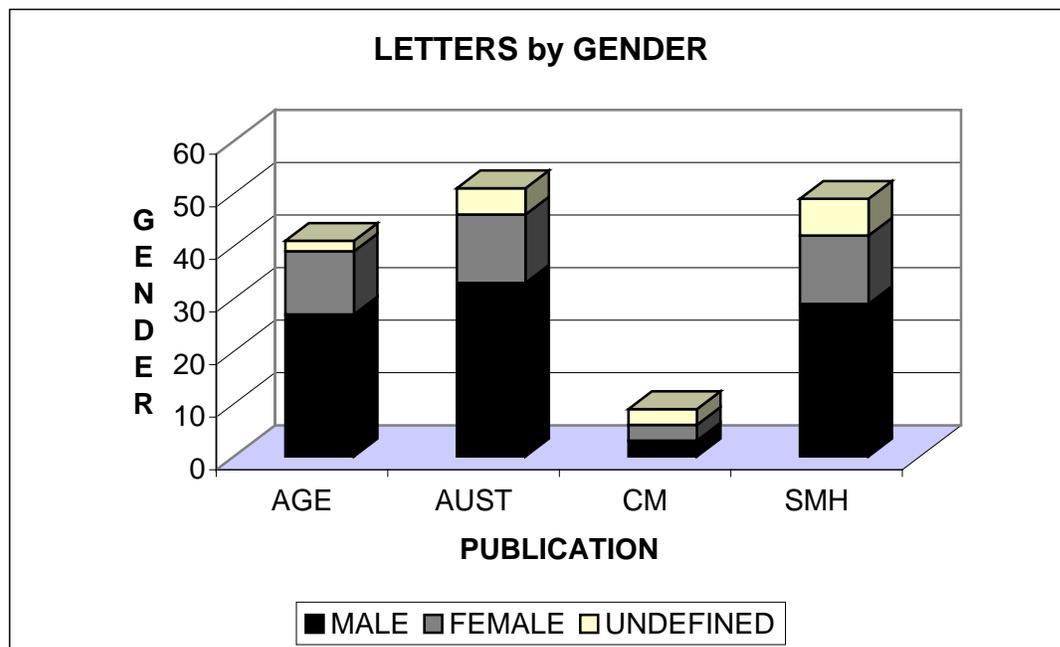
**Truth and lies.** The principal argument about the public interest focussed on Evans’s lie to Parliament that he was not having an affair with Kernot. Evans’s justification was that he lied to protect his family. However, as one *SMH* correspondent responded: “Surely a better way (to protect his family) would have been to stay out of Cheryl Kernot’s bed” (*SMH* July 6). “The relationship had no bearing on national security or political probity,” according to Les Lomsky (*Age* July 5). Beasley’s subsequent comment that had he known about the affair he would have reconsidered Kernot’s translation to the ALP largely put paid to the argument that the affair had no public interest consequences.

The (im)morality of the affair was the subject of some comment. “What a ghastly pair Gareth and Cheryl are ... An ill-judged quickie is one thing. Carrying on a five year affair that betrayed ... is nothing short of shameful”( *SMH* July 6). Others were more measured, raising the issue of character, the foundation stone of virtue ethics:

What a person does in private tells us a lot about what that person will be like in public. If a person is willing to cheat on his or her spouse, is it not possible that he or she will also cheat on the electorate (*The Age* July 5).

**Sexual politics and the gender agenda.** As others in this colloquium have observed, the question of different treatment for men and women in the public arena was hotly debated in the Opinion pages. So too on the Letters pages. However, the letters published reveal a significant gender bias: 62 per cent of all letters published were by males; 27 per cent were written by females and 11 per cent could not be defined.

Figure 2: LETTERS by GENDER



“Not the Lady in Red but a Scarlet Woman,” asserted John Z. Smith from Warwick, Queensland (*Courier-Mail* July 10). Other correspondents railed against the treatment of women in politics: “More evidence that we support prominent women in principle but not in practice” (*Age* July 6), and “... she represents an intelligent, alternative way of seeing and communicating, that could have led us out of the closed male aggressiveness that is our present parliament” (*Australian* July 8).

**Biggles flies undone.** While Kernot had her supporters and detractors, Evans was seen as a principally as a figure of fun with some delightful references to his nickname, “Biggles”. “Time was, Biggles would never have told a lie,” wrote Nick Hendel (*SMH* July 6). Other correspondents were not so subtle: “Gareth, you devil. You lucky devil,” wrote Monroe Reimers (*SMH* July 6) and from Steve Meltzer in *The Age*: “I’m looking forward to Gareth’s side of the story ... *Biggles Flies Undone*” (July 5).

**The end of the affair.** The letters reflected the debate in the news pages, the editorials, the Opinion pages, the talkback calls and the cartoons. Given the extent to which the ethics of the affair particularly engaged the writers of Opinion pieces, perhaps the last word should go to *Age* cartoonist Michael Leunig who, on July 10, drew a child asking: “Father, what’s the difference between a column and a shaft?” The father, sitting reading a newspaper replies: “A column supports something and a shaft is a regular piece of writing in a newspaper”.

## 5. Breaking the Code?

### Desley Bartlett

The debate about journalist Laurie Oakes’ exposure of Cheryl Kernot’s “biggest secret” has, for the first time in almost a decade, brought the esoteric discussion of journalism ethics into the popular vernacular. But the discourse has focussed on a narrow and general examination of journalism “ethics” and lacked any meaningful assessment of the philosophy that grounds ethical decision-making.

Commentators, members of the public and journalists have been so fixated on the central issues – public v private matters and the timing of the disclosure of the Kernot-Evans affair – that there has been a paucity of real discussion about what Donald Horne says is the mass media’s duty to provide “a marketplace of ideas about what is going on, why it is going on, and what should be going on” (Horne 1994, p.9).

One spectacular exception is Laurie Oakes himself.

The fact is, Oakes is a free agent in terms of journalism ethics. He is not a member of the Media Entertainment and Arts Alliance (MEAA) and, therefore, is not subject to the MEAA (AJA) Code of Ethics that contains 12 prescriptive clauses about journalists’ conduct (MEAA1997). The Canberra Press Gallery does not have a separate code of professional behaviour for members. Australian Consolidated Press (publishers of the

*Bulletin* magazine) does not have a journalists' ethical code nor does the Nine television network.

Nine Network news director Paul Fenn says although some Nine news journalists are not members of the MEAA, "Nine does endorse the MEAA code and in a general sense it was a consideration in our deliberation about disclosing the Kernot secret" (Fenn 2002). But it is in the ethos of the AJA Code, embodied in its preamble and guidance clause, that provides the *raison d'être* for journalists' search for professional moral virtue.

The MEAA Report of the Ethics Review Committee (1997, p.16) says the aim of the preamble is to "express as simply as possible the elements of journalism that matter most". That is, truth-seeking journalism as a public service, a lubricant of democracy and a friend of freedom of expression. Elsewhere, the committee's report endorses the notion of a "green light" approach to ethical dilemmas and "leaving the judgement to individual journalists" (MEAA 1997, p.21).

So whether they are subject to the sanctions of the code or not, the code provides journalists with a foundation upon which to make ethical decisions. Journalist Errol Simper (1995, p.17) summed up journalistic reality in a discussion of the proposed (now adopted) Code of Ethics:

How many journalists, confronted with a difficult decision, will scan the new code, desperately seeking an answer to their dilemma? Is that lady too distressed to interview? Is he/she sufficient enough of a public figure to warrant extra tough examination ...?

Simper's prediction was probably right but wrong in the case of Laurie Oakes. Few, if any, journalists consult the code on a clause-by-clause basis when faced with an ethical dilemma, but it is clear Oakes struggled with the moral reasoning behind his disclosure of the Kernot-Evans affair and its timing. Whether that struggle was more about commercial considerations, payback or legal issues is impossible to determine but his July 16 *Bulletin* article in response to criticism (Oakes 2002b, p.19), goes some way to justify his apparent acceptance of journalists' public responsibilities and accountability as enshrined in the Code of Ethics:

I made a judgement I ... believe was right.

## REFERENCES

Bok, Sissela (1982), *Secrets: On the ethics of concealment and revelation*, New York: Pantheon Books.

Bok, Sissela (1989), *Lying: Moral choice in public and private life*, New York: Vintage Books.

Bolt, Andrew (2002), "Privacy depends on who you are", *Herald Sun*, 11 July: p.21.

Boeyink, David (1992), "Casuistry: A case-based method for journalists", *Journal of Mass Media Ethics*, 7: 107-120.

Boyle, Joseph (1997), "Just and unjust wars: Casuistry and the boundaries of the moral world", *Ethics and International Affairs*, 11: 83-98.

Cohen, Jeff (1999), "Covering the private lives of politicians", November (<http://www.fair.org/articles/private-lives.html>. Retrieved 1 August, 2002).

Crisp, Lyndall & Jill Margo (2002), "Sex and power", *Australian Financial Review*, 6 July: p.24.

Devine, Miranda (2002), "A man's best friend, but feminism's worst enemy", *Sun Herald*, 7 July: p.15.

Entman, Robert M. (1993), "Framing: Toward clarification of a fractured paradigm", *Journal of Communication*, 43(4): 51-58.

Ellis, Bob (2002), "What dark secrets motivate our political reporters?", *Canberra Times*, 10 July: p.13.

Fenn, Paul. (2002) personal communication, 31 July.

Grattan, Michelle (2002), "Sharp end of the ethics debate – The Kernot issue", Lecture, The University of Queensland School of Journalism & Communication, 5 August.

Harvey, Michael (2002), "The Cheryl Kernot bombshell; Secret lovers?", *Herald Sun*, July 4: p.1.

Hickey, Neil (1998), "After Monica what next?" *Columbia Journalism Review*, 37(4): 30-34.

Hirst, Martin, Tiffany White, David Chaplin & Justine Wilson (1995), "When too much entertainment is barely enough: Current affairs television in the 1990s", *Australian Journalism Review*, 17(1): 79-98.

Horne, Donald (1994), "A marketplace of ideas?" in Julieanne Schultz ( ed.) *Not just another business: journalists, citizens and the media*. Leichardt, NSW: Pluto Press pp.7-10.

Hodges, Lou, Jean Otto, Travis Linn, Thomas Schaffer & Campbell Cole (1992), "Case and commentaries: Brock Adams and the Seattle Times", *Journal of Mass Media Ethics*, 7 (4) 246 –256.

"Journalists' Code of Ethics" (1999), Media, Entertainment and Arts Alliance, Australian Journalists' Association, Australia.

Lumby, Catherine (1999), *Gotcha: Life in a tabloid world*, St Leonards, NSW: Allen & Unwin.

Mancuso, Maureen, Michael M. Atkinson, André Blais, Ian Greene & Neil Nevitte (1998), *A question of ethics: Canadians speak out*, Toronto: Oxford University Press.

Marzolini, Michael (1998), "Canadians Attitudes Towards the Personal Lives of Politicians", *Liberal Times*, November (www.pollara.ca/new/LIBRARY/surveys/LiberalTimesNov98.html. Retrieved 1 August, 2002).

Media Entertainment and Arts Alliance (1997), *Ethics in journalism- Report of the Ethics Review Committee*, Melbourne: Melbourne University Press.

*Media Watch* (2002a), "The Bulletin's grand tradition" ABC Television, 15 July (transcript ex [http://www.abc.net.au/mediawatch/transcripts/150702\\_s3.htm](http://www.abc.net.au/mediawatch/transcripts/150702_s3.htm). Retrieved 1 August, 2002).

*Media Watch* (2002b), "Personal and political", ABC Television, 7 July (transcript ex [http://www.abc.net.au/mediawatch/transcripts/080702\\_s3.htm](http://www.abc.net.au/mediawatch/transcripts/080702_s3.htm). Retrieved 1 August, 2002).

Milne, Glenn (2002), "There can be nothing to gain from the pain", *Australian*, 8 July: p.11.

Murray, Paul (2002), "Hypocrisy adds to torrid affair", *Sunday Times*, 7 July. (Retrieved 1 August, 2002 from Lexis-Nexis Database).

Neill, Rosemary (2002), "Affair exposes double standard", *Australian*, 5 July: p.11.

Nelson, D. & Obremski, T. (1990). "Promoting moral growth through intragroup participation", *Journal of Business Ethics*, 9: 731-739.

Oakes, Laurie (2002a), "Secrets and lies", *The Bulletin*, July 6: p.16.

Oakes, Laurie (2002b), "The hard call", *The Bulletin*, July 16: p.19.

*Radio National Breakfast* (2002), "Reputation & journalism" ABC Radio, 5 July (transcript ex [www.abc.net.au/rn/talks/brkfast/stories/s599256.htm](http://www.abc.net.au/rn/talks/brkfast/stories/s599256.htm). Retrieved 1 August, 2002).

Rowse, Arthur (2000), *Drive-by journalism: The assault on your need to know*, Monroe ME: Common Courage Press.

Ruehl, Peter (2002), "Car nuts and crazy prices to boot", *Australian Financial Review*, 9 July: p.64.

Scott, Keith (1999), *Gareth Evans*, St Leonards, NSW: Allen & Unwin.

Secombe, Mike & Michael Millett (2002), "Crowded house", *Sydney Morning Herald*, 6 July: p.27.

Shannahan, Angela (2002), "The role of victim will suit Kernot", *Australian*, 9 July: p.13.

Simper, E. (1995), "Culture of integrity sets media ethics", *The Australian*, 8 September: p.17.

Taylor, Charles (1995), "Liberal politics and the public sphere", in A. Etzioni (ed.) *New communitarian thinking: Persons, virtues, institutions and communities*. Charlottesville and London: University Press of Virginia.

Tomlinson, Tom (1994), "Casuistry in medical ethics: Rehabilitated, or repeat offender?" *Theoretical Medicine*, 15 (1): 5-20.

Toulmin, Stephen & Albert Jonsen (1988), *The abuse of casuistry: A history of moral reasoning*, Berkeley, CA: University of California Press.

Warhurst, John (2002), "Who has the right to know?", *Canberra Times*, 12 July: p.11.

Wenham, Margaret (2002), "A lot of hot air?", *Courier Mail*, 5 July: p.17.

White, Luise (2000), "Telling more: Lies, secrets and history", *History and Theory*, 39: 11-22.

*The World Today* (2002) "Australian media defends itself", ABC Radio, 4 July (transcript ex [www.abc.net.au/worldtoday/s598365.htm](http://www.abc.net.au/worldtoday/s598365.htm). Retrieved 1 August, 2002).