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Media accountability: Double binds and responsibility gaps

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Abstract

Following the phone hacking scandal in the UK, media reform was a hot topic of debate in Australia in the period preceding the 2013 Federal election. Despite there being no evidence of similar practices in Australia, the regulation of print media especially was put under unprecedented scrutiny. With the Independent Inquiry into Media and Media Regulation (known as the Finkelstein Inquiry) reporting to the Convergence Review in 2012, and ill-fated proposals put forth by Minister for Broadband, Communications, and the Digital Economy, Stephen Conroy in March 2013, the 'debate' became fractious, with politicians, media publishers and academics seemingly at odds with each other. This state of affairs has seen a great deal of commentary but less theoretical analysis, especially in relation to the key issue of media accountability. This essay is proposed as a contribution to that aspect of the debate. Adopting a metacommunicative analysis my focus is on Gregory Bateson's concept of the 'double bind', and another concept I propose to do with a 'responsibility gap'. A Batesonian perspective is chosen because it helps illuminate some of the 'knot' like aspects of accountability, but also because the concept of double bind provides a way to understand some aspects of the 'debate' itself.

Introduction

Any critical analysis of the 2013 Australian federal election would be incomplete without some engagement with the Labor government's response to the phone hacking scandal in the UK, which took concrete form as the Independent Inquiry into Media and Media Regulation (the Finkelstein Inquiry) in September 2011. Although media reform did not feature as a strong aspect of the final campaign, it formed an important dimension of the cultural and media landscape in the lead-up to the election.

As noted in the Finkelstein report itself, the push for media reform arose out of a response to events in the UK, but also perceived bias in News Limited papers (¶1.4-1.6). How and why the media reform debate and process became so dysfunctional will be important questions for future political and media historians to consider. This article will not provide a blow-by-blow post-mortem of the fractured discussion surrounding the Finkelstein Inquiry (see Ricketson, 2012a; Lidberg & Hirst, 2013), the Convergence Review, and the proposals for reform finally tabled in parliament by Minister Stephen Conroy in 2013 (see Fernandez, 2013). Nor will it look at the specific proposals for regulation put forward (see Simons, 2012a; 2012b). Rather, this piece steps back from policy analysis to look at the conceptual and communication dynamics surrounding calls for accountability, of the kind embodied in the media reform debate. Theoretically, I draw on the double-bind theory proposed by Gregory Bateson (1972), and a concept of 'responsibility gap', to offer an alternative analytical perspective on accountability.

Conceptual and communicative dimensions of accountability

Even though there is a strong sense of exhaustion now surrounding media reform discussions in Australia, there are, I suggest, important reasons why reflection on the conceptual and communicative dimensions of accountability could be important in the wake of the 2013 election. This suggestion may seem counter-intuitive since it can be argued that the debate has been highly conceptual, examining ideas of responsibility and freedom (Finkelstein 2012: ¶ 2.73), as well as engaging explicitly with the social responsibility theory of the press.

However, while a central concern of the media reform discussion has been accountability of the media, there has been a paucity of public discussion about the nature of accountability itself. In some respects this is endemic in the literature of accountability, which is highly focused on accountability as a problem of media performance and policy that can be solved in systemic terms (Bertrand 2000; McQuail 2003; Breit 2008). Accountability as a concept is often dealt with in passing. Typically, an account of accountability is provided through a mixture of discussion of roles, functions or purpose, an acknowledgement of the culturally unique status of the press in a democracy, and an analysis of regulation or self-regulation as well as complaints processes. This culminates in either a plea for the media to be accountable or accept accountability, or a reminder of some professional obligation, without any detailed analysis of what that accountability consists of, or demands (see, for example, Chadwick, 1999). There are exceptions, of course. In the study just cited, Paul Chadwick goes further to refresh the discussion of media accountability as a multi-levelled construct, and widen the debate on self-regulation through examination of methods of corporate government (1999). More recently he has analysed what is at stake (in communication terms) in 'calling to account' (Chadwick, 2013). Denis Muller has tackled the 'slippery' nature of accountability, and the way it 'has defied precise definition' (2005, p. 42). Rhonda Breit (2008) turns to dispute resolution methods to provide a new perspective. Despite these attempts to broaden our discourse on accountability, a dominant focus remains on operationalising accountability through regulatory means.

As a further example of an instrumental slant in accountability debates, one striking aspect of the Finkelstein report is the way it frames issues of accountability in terms of process, quantity, and goals. The focus is on the 'degree of accountability desirable in a democracy' (Finkelstein 2012: ¶6), not the quality of accountability. The goal is to 'make the news media properly accountable', and to find appropriate mechanisms for this, not to foster accountability as a thick and multi-faceted relationship. Put simply, the problem is 'To whom are the media accountable, and by what means is accountability achieved?' (Finkelstein 2012: ¶2.85). This is itself a truncated version of the source passage: 'To whom are the media accountable for carrying out a given role, and by what means is accountability achieved' (see Christians et al., 2009, p. 132). The assumption in Clifford Christians' work is that the roles are varied, and negotiated, each requiring particular normative criteria.

While media accountability has received consistent critical attention in recent years, one by-product of the 2011-2012 media reform discourse, I would argue, is that the parameters in which we engage with accountability have narrowed. This leaves us with a discussion in which the (necessary) deliberation over processes and mechanisms has overtaken reflection on the philosophical and ethical aspects, and on what accountability requires. Despite there being a strong view that accountability is best achieved through ethical, rather than legal, means (Bertrand, 2000; Chadwick, 1999), a regulatory discussion of accountability is more prevalent than an ethical one. While social responsibility theory has a prominent position in the Finkelstein report, this theory does not, as the report itself acknowledges (Finkelstein 2012: ¶2.78), provide an analysis of accountability. This is not to suggest that a deep reflection on accountability is entirely absent from the critical literature. Indeed, one does not have to look far to find a clear understanding of what is at stake when accountability is refused. As Paul Chadwick (1999) notes, 'unless accountable, media will fail in their purposes'. He goes on to quote the MEAA / Brennan Committee report:

> " Journalists have a special obligation to be accountable because it is they who claim to be one of the main methods for holding to account, on behalf of the public, others who wield power. If the public becomes convinced that journalism will not accept accountability, and is hypocritical as well, then gradually the media will be perceived as illegitimate, as lacking credibility, as being unworthy of trust. When people don't trust you, they can't rely on you. Journalists cannot fulfil their responsibilities to the Australian community unless it relies on them. Without that reliance, democracy suffers, and eventually freedom wanes (Media Entertainment and Arts Alliance 1997, p. 20). "

The consequences of a refusal to accept accountability is made clear here. However, despite the eloquence of this analysis, I want to suggest that attempts to explore the dynamics of accountability are still rare (Mulgan, 2003; Hodges, 1986; Chadwick, 2012). In response to an instrumental slant in the media reform discussions of 2011-2013, a renewed theoretical engagement with accountability represents, I suggest, an important next stage in the discussion. Not only might it help deepen our understanding of accountability, its complex nature, and its

relationship to responsibility, it also helps explain what happens when particular agents are unable to respond to demands for accountability, and fall victim to a double bind.

The 'pretzel' of accountability

That the pretzel, a humble baked biscuit, has connotations of reward (in Latin 'pretiola' or 'little rewards'), a prayer with two hands, a knot, or a stick, seems apposite in a discussion of multi-faceted nature of accountability. Dwelling on the more 'stick'-like aspects of media accountability, Onora O'Neill notes in her 2002 Reith Lecture, 'License to deceive':

> " Meanwhile, some powerful institutions and professions have managed to avoid not only the excessive but the sensible aspects of the revolutions in accountability and transparency. Most evidently, the media, in particular the print media – while deeply preoccupied with others' untrustworthiness – have escaped demands for accountability (that is, apart from the financial disciplines set by company law and accounting practices) (O'Neill, 2002: Chapter 5). "

This passage forms a useful stepping-off point for debates around media accountability. However, the issue and mechanics of who should be held accountable, to whom, and to what, quickly become more complex and 'knot'-like.

Let us consider the rationales for accountability put forward by Richard Mulgan (2003). He mentions two. The first has to do with rights of priority of ownership, which become the basis for a delegation of responsibility, as well as a right. He writes:

> " Because the account-holder grants authority to the agent or asks the agent to look after his or her property, the account-holder has the right to call the agent to account (2003, p. 12). "

This rationale is common in management, for example. A second rationale has to do with the 'principle of affected rights and interests', and

> " … involves the principle that those whose rights or interests are adversely affected by the actions of someone else have a right to hold that person to account for the manner in which they have been treated (2003, p. 12). "

It is this rationale that captures how the media might act as in its 'watchdog' role, standing as sentinel for the public who are affected by the actions of government, business and others. Mulgan notes that the two rationales work together, as affected rights goes further than ownership.

The media stand in complex relation to both constructs. The accountability of journalists and editors to the media proprietor as 'account holder' is a topic of perennial interest. Can we say that the media are the delegates of the public? Perhaps of the public and community broadcasters, and perhaps through a concept of the broadcaster as a public trustee of the airwaves, but the idea has its limits. It might be said that the media are the delegates of public interest on behalf of the public (but there is an equal amount of questioning of the public interest, or reversing the delegation to say the public interest is that of the reader's interest). Turning to the principle of affected interests, media organisations may find themselves 'aligned' or in conflict with affecting interests (by virtue of their corporate affiliations) as well as representing affected interests. Indeed, as listed companies, their interests may be multiple and conflicting.

Media ethicist Louis Hodges explores another accountability knot when he attempts to differentiate between concepts of responsibility and accountability. For Hodges, the two terms should have distinct meanings.

> " Responsibility has to do with defining proper conduct; accountability with compelling it. The former concerns identification; the latter concerns power. … The distinction is clearly reflected in the common language. Notice the prepositions: We talk about being "responsible *for*" but "accountable *to*". … This distinction can be made using other terms. To talk about responsibility is to talk about the content of our moral duties and obligations, about the substance of what we should do. To talk about accountability is to talk about who can or should have power to demand through persuasion or threat that we discharge those duties well (Hodges, 1986, p.14). "

But as Hodges notes, media professionals have not always adequately distinguished between the two. The issue of responsibility, he notes, should come 'logically prior' to the question of accountability (1986, p. 14). But very often, faced with issues of responsibility, journalists leap to accountability and, more than that, a defence of freedom of the press along the lines provided by the US Constitution. As a result, the task of defining responsibilities is dealt with expediently, if at all. In a pattern evident in recent discussions in Australia, calls for a responsible media are met with reference to the importance of the media to a healthy democracy, which are then harnessed to a defence of press freedoms. Hodges notes a journalistic sensitivity to the political issue of accountability, which he applauds. But the main aim of his work is to try to get journalists to think about responsibilities deeply and seriously (1986, p. 14).

Despite the clear distinction between responsibility and accountability on the basis of prepositions, Hodges acknowledges a deep knot which arises when the press is called on to give account of itself:

> " It is possible to have a press that is both free and responsible … It is not possible, however, to have a press that is both totally free and accountable (1986, p.14). "

This is because, recalling Mulgan, the account-holder sets the terms. An appeal to accountability in terms of freedoms (such as the freedom to self-regulate) potentially clashes with the contracts and obligations underpinning responsibilities. In other words, the conduct underpinning responsibility is also the object of accountability, albeit in a different frame of holding the delegate to account, rather than defining responsibility.

But defining proper conduct is not really tenable without some consideration of the limits of that conduct, and the point at which it becomes irresponsible, improper and even unaccountable. This explains the significance of a discussion of roles, and the normative limits of media performance, for some critics (see Christians et al., 2009). On a policy level, even more complex issues arise, evident in the way the Finkelstein Inquiry awkwardly tackled the threshold at which bloggers should fall within the regulatory umbrella of the proposed News Media Council by specifying a particular number of hits to a web site (Finkelstein, 2012: ¶11.67).

Arising out of this discussion of Mulgan and Hodges, the complex nature of the 'account', as well as the process of accounting, becomes key to both a rational definition of responsibility, and a responsible definition of accountability. To move from one to the other requires what Bateson would call a metacommunicative shift whereby conduct is put in one conceptual frame, and then shifted into another, and then flipped back and forth thereafter so that responsibility answers to expectations around accountability. Drawing on the metaphor of the pretzel, at times the main focus will be on the prayer, and at other times the stick. The pretzel is not simply emblematic of a knot, but of the twisting of responsibility, accountability and freedom into one another (and also, to draw on the metaphor fully, a non-joining at times). It is thus symbolic of the metacommunicative shifts required, as well as the unique morphology of accountability. At times, however, a metacommunicative shift may not be possible, and this brings us to the significance of the double bind.

Double binds

Moving through the 'pretzel' of accountability requires subtle metacommunicative shifts between ideas of responsibility, accountability and freedom. The distinction between the different areas depends on navigating concepts of 'responsibility *for'* and 'accountability *to'*, but also ideas of negative and positive freedoms (respectively 'freedom *from'* and 'freedom *to'* (Berlin, 1969)). Over-emphasis on either the responsibility or freedom side of the knot, makes accountability difficult to accomplish as one needs to go beyond the work of defining responsibility and insisting on liberty, to imagine accountability. In other words, accountability requires crossing the frame of responsibility and freedom in order to reflect, metacommunicatively, on the principles on which we base our freedoms and, further, the reasons why we might commit ourselves to responsibility.

In terms of the communication dynamics surrounding the media reform agenda in Australia, one explanation for some of the dysfunction in the debate, and an absence or refusal of metacommunicative flexibility, has to do with a reading that this reform agenda is primarily politically motivated. In its section on the 'Origins of the Inquiry' (Finkelstein, 2012: ¶1.4-1.6), the Finkelstein report makes clear that even though no evidence of similar practices to those found in the UK could be found, the inquiry was framed politically from the outset. One unfortunate consequence of this framing was that an agenda for media reform in Australia that stretched back to the mid-1990s at least (see Productivity Commission, 2000), and which gave public policy momentum to the 2010-2012 Convergence Review, was hitched to the interests of the minority Labor government in alliance with the Greens and independents. Reading the communication dynamics through this political lens leads to a questioning of the manoeuvrings behind the Finkelstein Inquiry, to the extent that for some parties, the context overwhelmed the substance of reform. On this reading, the Finkelstein report represents a 'deeply ideological document revelatory of our times' (Kelly, 2012); or, more simply, a document directed towards News Limited. The failure of the government to counter this ideological reading, and articulate a clear public policy rationale for the reforms, had a significant impact on the reception of the work of the Finkelstein Inquiry.

Going beyond this political reading, however, I want to suggest that the controversy over media reform in Australia bears the identifiers of a 'double bind'. Gregory Bateson (1972) looks at the concept of double bind in the concept of a theory of schizophrenia, which comes about out of an inability to 'win' a situation because the encounter crosses different levels of abstraction that cannot be followed by the patient. The patient is unable to cross categories or concepts and read the situation in a healthy way because they are bound by a 'complex' of conflicting injunctions and emotions.

For Bateson and his double bind theory (1972, pp. 206-208), there must be:

- a victim.
- a repeated experience, a recurrent theme in the mind of the victim which has the character of a trauma. Work by the 'Australia's Right to Know' coalition and the Walkley Foundation's work on press freedom, shows the theme of press freedom under threat to be a recurring one in Australian journalistic culture.
- a 'primary negative injunction', which takes the form of 'do not do something, or I will punish you'. The punishment can be the withdrawal of love, or expression of hate or anger. The threat of 'enforced self-regulation' (Finkelstein 2012: ¶10.14) meets this test, I would argue. The negative injunction resembles something like 'if you do not behave responsibly of your own independent free will, I will punish you by taking it away'.
- a secondary injunction in conflict with the first. Bateson confesses this is harder to specify, as it impinges on the first injunction and is also non-verbal or postural. The language games of the inaugurating media release for the Inquiry makes interesting reading here, with its casting of the inquiry, and the politics around it, in terms of a 'healthy and robust media' (Conroy, 2011).
- and finally, there is a tertiary negative injunction, prohibiting the victim from escaping the field. This is a threat to survival. Here, we can point to imagery of an Orwellian future and 'nuclear' threats to media work (Jones, 2013). Through this lens, media reform is interpreted not only as a threat but a form of capture: the equivalent of saying that we will protect your self-regulation whether you like it or not through regulation. Another version of this injunction might read: 'if you do not act according to the rules of your own regulator you will lose exemptions under the Privacy Act'.

Navigating the pretzel of accountability requires, as I have argued, a certain metacommunicative fluency and competency. There is something knot-like about accountability in the way it affects both our responsibilities and freedoms. Bateson's formal concept of double bind theory helps us explore something more specific, however – namely, those points at which the discussion gets stuck at a particular level. The double bind represents a point at which the party being held to account refuses to budge, or is unable to.

Freedom and the Double Bind

Arguably, one of the most interesting concepts from this perspective is that of freedom. In the context of Bateson's theory, the double bind is an attempt to describe situations in which agents feel a lack of freedom, and interpret binds negatively. In the context of the media reform discourse, freedom became a prominent feature due to the role adopted by a libertarian or 'free speech' advocates in recent debates (Allan, 2012). This view defines freedom of the press in terms of freedom from any restriction (a difficult call in light of defamation and copyright laws). This viewpoint ignores or dismisses (see Berg, 2012a) a significant body of critique extending over the last half century associated with social responsibility theory (The Commission on Freedom of the Press, 1947). However, freedom is also made complex in this context by virtue of the analysis put forward by the Finkelstein Inquiry, and its activation of the social responsibility theory. While it is tempting to view the Finkelstein Inquiry's articulation of the social responsibility theory as a purely scholastic exercise, this would be an error. Certainly, its treatment of the theory is detailed and rigorous. It is an important theory and, while not without its problems (Richards, 2005 pp. 8-14), it is intrinsic to regulatory debates in the way it seeks to balance freedoms with responsibilities. Indeed, it can be argued that the dual mission of the Australian Press Council (APC), to protect freedom of expression while maintaining responsibility to the public (Kirkman, 1996, p. 13), accords with a social responsibility theory. It is also worth noting that the original work done by the Commission on Freedom of the Press, and leading to its 1947 report, was 'promptly denounced by all but a handful of editors' (Abel, 1984, p. 40).

A distinctive feature of the Finkelstein Inquiry report is the way the report asserts, (drawing on the work of William Hocking), that there are in fact two rights intertwined in the freedom of the press:

> " The phrase 'freedom of the press' must now cover two sets of rights, and not one only. With the rights of publishers and editors to express themselves there must be associated a right of the public to be served with a substantial and honest basis of fact for its judgment of public affairs. (Hocking, quoted in Finkelstein, 2012: ¶2.66) "

Hocking is not a commonly cited source in the journalism ethics literature, and reliance on him in the report indicates a careful and purposeful engagement with social responsibility theory. The idea that the freedom of the press covers two sets of rights introduces a significant twist in the pretzel of accountability. It takes significant metacomunicative skill to grasp the idea that the rights of the public are equal to the rights of publishers and editors. It represents a leap for conventional articulations of freedom of the press that construct liberty as freedom from any constraint (Berlin, 1969). This distinctive feature of the Finkelstein report is not really captured by the caricature of the report as 'philosophy meets politics' (Allan, 2012), or a media studies dissertation (Gawenda, 2012). Indeed, in light of the argument that the Finkelstein report constitutes a threat to the freedom of the press it is interesting to note that some defenders of the freedom of speech and liberty of the press do not mention this aspect of their work (Berg, 2012b).

Responsibility gaps

Responsibility gaps arise when there is a discrepancy between expectations and standards, and differences in the ways roles are understood, and requirements interpreted. Responsibilities have social, political, organisational, and professional dimensions, and so defining and articulating responsibilities can be complex and contentious. Even when we are dealing with relatively familiar functions of the media (such as gatekeeping or watchdog roles) there are still questions to do with how these are defined and operationalised.

If one views accountability in the terms discussed above – in terms of an 'accountability to' rather than 'responsibility for' arrangement – then responsibility gaps represent danger areas for accountability systems, in that there will be a lack of clarity and understanding of the role being called to, and held to, account. Indeed, a large responsibility gap, with significant disagreement over the scope or nature of a role, could threaten the very idea of 'holding' someone responsible.

Although our focus is on media accountability, it is worth noting that in politics responsibility gaps can arise from problems of legitimacy and a lack of alignment in how power is encoded or decoded. They can arise when the work of representation and re-presentation gets torn in too many directions across too many stakeholders. As John Keane notes, in politics such gaps are not necessarily negative (personal communication, April 9, 2013). They can represent spaces of opportunity for political change and revival. In the space of media ethics, however, they can represent a challenge to media accountability precisely because the role that the party is being held accountable to may be in dispute.

Sometimes responsibility gaps can be traced back to first principles and how they are pursued or prioritised. In media ethics debates, the conflict between the right to inform readers and the need to protect the identity of children, or victims of sexual assault, is an example. Debates around 'trial by media' also take this form, with different responsibilities aligned with the media (fair report) and the judiciary (the administration of justice), while 'rogue' media actors can act to breach suppression orders or speculate on matters *sub judice*.

Responsibility gaps can be can be tracked back to differences in professional values and broader community values. The case of former NSW Opposition leader John Brogden (Jackson, 2005), and the pursuit of the story beyond resignation and apology, is an example. Political reporting represents a particularly complex area, as there is a risk of playing, or getting caught up in, the game you are supposed to report. This can be the case in leadership challenges, for example.

Responsibility gaps can be exposed by tragedy, by editors, journalists, or the courts. They can equally be papered over. Indicators of a responsibility gap in the discussion of media reform in Australia, post the UK phone hacking scandal, abound:

- Matthew Ricketson (2012a) points to the poor coverage of the inquiry itself as a core problem. He develops this argument further in terms of responsibility gap around the responsibilities of self-regulation: 'The industry could have acknowledged that the inquiry had stated a hard truth, and then set about improving the self-regulatory system' (Ricketson, 2012b).
- Julian Disney, Chairman of the APC, might argue that a responsibility gap is evident the lack of reporting of the Press Council's response to the Finkelstein report (see Hall, 2012).
- Some have pointed to the coverage of Stephen Conroy's proposals – and the controversial front cover of *The Daily*

Telegraph comparing the Minister to Stalin and other dictators – as beyond the proper conduct of the media (Turnbull, 2013).

• Media outlets have articulated a responsibility gap, described in dramatic terms as 'media's great divide', and a 'rift in Australia between those who practise journalism and those who teach it', around the idea that academics seem out of step with the industry which they teach and research about (Stuart, 2012).

• At the same time, Australian journalism academics, in an open letter to *The Australian*, see a responsibility gap in the lack of reporting of issues of trust and accountability around the Finkelstein report, and furthermore a responsibility gap between media publishers and the self-regulatory body they fund: 'We suggest that the most constructive way for News Limited and the other major newspaper owners in Australia to influence the outcome would be to engage in serious, constructive discussion about how to strengthen the independence and authority of the Australian Press Council. Had the media companies done this in their submissions, Ray Finkelstein QC might not have perceived such a pressing need to recommend a statutory news media council'.

As the last quotation suggests, a central set of concerns in the current debates, and a key responsibility gap, exists I argue around the role of a press council. For Claude-Jean Bertrand they are lynchpins of a media accountability system (or M*A*S), which is linked to 'any non-State means of making media responsible toward the public' (2000, p. 107). A council is 'potentially the most efficient M*A*S because it gathers the three media protagonists [owners, newspeople, and media users]' (2000, p. 110), but he adds that 'their record is not good' (2000, p. 128). 'Normally, now, a press council brings together representatives of press owners, of journalists, and of the public, to examine complaints against the media – and to defend the freedom of the press. Its only weapon is the publication of its judgements' (2000, p. 119). His dream was of a network of nongovernmental non-profit agencies across the globe, supplementing each other and functioning 'at different levels and in different time frames' (2000, p. 154). 'The ideal would be that, within a few decades, they all exist everywhere and that they cooperate, without shedding their autonomy, in a vast and flexible web' (2000, p. 154).

At the same time, Bertrand notes that there are forms of press council which do not forward the cause of media accountability, either because they include representatives of government and are designed to gag the news media, or because there are 'semi-councils' that are 'handicapped by the absence of lay members' (2000, p. 127). Bertrand's view here deserves recognition, as even in Australia concern about the press council pre-dates the Finkelstein Inquiry. Past criticism of the APC goes beyond the caricature of the body as 'publisher's poodle', to declare that 'the Press Council can now be seen to be 'counter-productive to accountability' (Turner, 1994, p. 2). For Geoff Turner the council was 'set up by media proprietors in 1976 to head off the threatened imposition of true accountability measures' (1994, p. 2). Originally spurred on by journalists' desires for publishers to be as accountable as their workers, the history of print self-regulation in Australia still weighs on current discussions (see Kirkman, 1996, pp. 10-11; see also Finkelstein, 2012: ¶8.64-8.85).

This question of the relationship between the APC and its role in the accountability system is one that concerns the Finkelstein Inquiry report. One of its terms of reference was 'Ways of substantially strengthening the independence and effectiveness of the Australian Press Council, including in relation to on-line publications, and with particular reference to the handling of complaints'. The report concerns itself specifically with enforcing accountability. The body recommended by the Inquiry, the 'News Media Commission', was 'about making the news media more accountable to those covered in the news, and to the public generally' (Finkelstein, 2012: ¶10). 'I recommend that these steps be taken to make the news media properly accountable' (Finkelstein, 2012: ¶14)

At the heart of the Finkelstein report is perception of a gap or a failing: 'I have come to the conclusion that these mechanisms are not sufficient to achieve the degree of accountability desirable in a democracy' (Finkelstein, 2011: ¶6). In addressing this gap Finkelstein is mindful of a key problem: 'how to accommodate the increasing and legitimate demand for press accountability, but to do so in a way that does not increase state power or inhibit the vigorous democratic role the press should play or undermine the key rationales for free speech and a free press' (2012: ¶ 2.94).

Contesting the gap

The notion of a responsibility gap helps understand a key communication dynamic in the current debate over media reform. The responsibility gap isn't recognised or well understood, and indeed the very existence of a gap or falling short of responsibility can be contested. This is evident in statements to the inquiry: 'Most newspapers steadfastly maintain that there is no need to strengthen the means by which they are to be held publicly accountable for their performance. The accountability mechanisms that are in place are sufficient, they say' (Finkelstein, 2012: ¶4.1). Other evidence indicating a misrecognition of responsibility includes a trope that emerged during the Finkelstein Inquiry, and also in the context of the proposals put forward by Senator Stephen

Conroy in March 2013, which has to do with the cry, 'What is the problem?' (Simons, 2011). It's a position that relies on the idea that there is no gap: these include the view while useful the Press Council wasn't essential to the function of the press, or alternately because the complaints received did not point to systemic failure but could be explained away as personal, vexatious, or coming from serial complainants.

A deeper response to the question, 'what is the problem?', goes back to how we understand and operationalise public accountability. An accountability system is more than a complaints system. If one does not see accountability in similar terms, or fails to legitimise any problems around accountability, then we are left with a responsibility gap.

The 'what is the problem?' trope did generate one response worth highlighting. Namely, haven't any problems (real or perceived) been addressed by more recent changes to the operation of the APC, enacted during, and after, the period of the Finkelstein inquiry (see Holmes, 2012b). These changes include a doubling of funding, and the introduction of conditions for withdrawal of members. In the words of the Julian Disney, Chair of the APC: 'The package substantially addresses key concerns expressed by the Finkelstein Inquiry about the Council's capacity to strengthen its independence and effectiveness' (Australian Press Council, 2012). While these changes may address some of the concerns of the Independent Media Inquiry, do the changes actually address the responsibility gap identified in the Finkelstein report? Answering this question is difficult in light of the chess game of concurrent and perhaps pre-emptive reform in play here. It is important to note, however, that nowhere in the Press Council's Standards or Charter or aims does the term 'accountability' appear. In its mission it says that the APC is responsible for promoting 'good standards' of media practice, community access to information of public interest, and freedom of expression through the media. The APC only uses 'accountability' in the context of holding the government to account: such as in the statement, 'The media have a crucial role in facilitating the accountability of government to the electorate' (Australian Press Council, 2010).

Further, the word 'responsibility' does not appear in the General Statement of Principles. It does appear in the 'Charter for a Free Press'. Article 5 states: 'It is the responsibility of the press to protect the people's right to know and to contest encroachments upon that right by governments, groups or individuals'. Article 3 is the closest to an accountability clause, without using the term: 'The press has a responsibility to the public to commit itself to self-regulation which provides a mechanism for dealing with the concerns of members of the public and the maintenance of the ethical standards and journalistic professionalism of the press'. But note how accountability as a relationship is narrowed to a specific 'mechanism'.

Concern over a responsibility gap goes beyond sheer media performance, or as Greg Hywood terms it, issues to do 'with the integrity, accuracy, bias or conduct of the media' (Finkelstein, 2012: ¶4.2); its at times 'unlovable' and aberrant nature. It goes to 'structural' concerns around accountability. The 'what is the problem?' trope, or its close cousin the 'if there was a problem isn't it fixed now?' trope (Jones & Scarr, 2013) – the idea that the Press Council is fine as long as it has the right funding, and has a binding membership—thus risk distracting us from some important aspects of accountability. Here, former editor-in-chief of *The Age* Michael Gawenda's argument is worth noting, although he would perhaps see these problems as more cultural than structural.

> " It is my experience that editors and journalists are more interested in burying complaints from readers than addressing them, that mistakes and ethical lapses are acknowledged only grudgingly and that most media organisations have wholly inadequate mechanisms for dealing with complaints by readers, viewers and listeners.
>
> I would bet that most journalists on most newspapers – and indeed in most commercial television and radio organisations – could not outline their organisation's code of conduct and hardly ever refer to it.
>
> That culture has to change. It is ridiculous to argue that self-regulation is working splendidly and that the Press Council does a sterling job. This sort of stance is wholly counter-productive. (Gawenda, 2012) "

At this point we can return to Claude-Jean Bertrand's work, and his view that media accountability systems across most nations are highly underdeveloped. From this point of view, it would be useful, given the absence of concepts of accountability in its operating principles, if the APC explored in a public manner its stance on such issues. The APC, as well as placing financial constraints on its members, could codify expectations of its members, thereby constructing standards around the standards, placing binding conditions around education and training of our media practitioners (both junior and mid-career) in our media organisations, and expectations of review of standards, and public debate of those standards. The mission of the council projects a concept of 'good standards' of media practice, and a standards project is underway. But currently no definition is offered. It should project a concept of the standards as public property, not just the property of the media professions. Where is the research on best models of a reader's ombudsperson, for example?

It is clear that the Finkelstein report views the Press Council as an essential mechanism for delivering accountability. This view is not universally held. The best evidence for this quite serious gap in the perception of responsibilities are statements by some editors, specifically Bob Cronin, group Editor-in-Chief of Seven West Media. Cronin is well known for describing the Finkelstein recommendations as 'the most outrageous assault on our democracy in the history of the media' and has compared the work of the Finkelstein to that of Joe Stalin (Hall, 2012). His main concern was the idea that 'editors could be jailed for refusing to publish statements demanded by the Government appointed regulator that the editor believed were completely untrue'. (Ricketson, 2012c). Another concern relates to 'a level of government involvement in what the media can and can't publish and, you know, from that point of view the freedom of the press is lost' (Hall, 2012). Critics of this view have pointed to the Australian Broadcasting Corporation as both government funded and highly trusted by the Australian public, as well as other independent statutory bodies (Holmes, 2012a).

But my main focus is in Cronin's comments on the Press Council, on which he has specific views.

> " When I say things aren't perfect, I mean I think the Press Council itself is not perfect. I think the Press Council to some extent has lost its way. It tends to stray outside adjudication on whether the papers have breached the principles of the Press Council or not and make gratuitous comments about well you know, the newspaper could have done this or it could have done that. I think that's outside the purview of the council. They're there in my view to adjudicate on whether the published material meets the principles of fairness, balance, accuracy and all of those things (Aedy, 2012). "

For Cronin, the Press Council is best understood as a 'quick, cheap and effective remedy'. Its purview is limited, and its role in any further debate around accountability would fall, it could be assumed, as extending 'outside adjudication'. He is thus sceptical of what he sees as:

> " … the drive by the chairman of the Australian Press Council for more power, and I mean power with a capital "P", more resources, more regulations, more coercion and punishment of the media (Macdonald, 2011). "

For him, this has to do with the Chairman of the Press Council seeking funding from government, but the statement has broader implications for the Press Council as a body that might deliver a more expansive idea of public accountability. In a statement that has implications for the seriousness with which the complains process is seen, Cronin states,

> " My concern is that in recent times, rather than dealing harshly with egregious errors, the council has become a cudgel with which zealots, bigots, academics and despotic politicians are able to beat newspapers which dare to depart from their view of the world (Macdonald 2011). "

Mr Cronin is not alone in his view. In a column for *The West Australian*,Paul Murray takes the view that:

> " Lifting the standards of Australian journalism is the ultimate media motherhood statement. After 40 years in the business, I find when it comes from people in politics it usually hides an ulterior motive' (Murray, 2012). "

But if it is not the task of the publishers through their council to lift these standards, then whose is it?

Murray goes on to engage the Finkelstein report directly, focusing on the idea (and he quotes from the report, ¶8.172):

> " … there must be some effective means of raising standards of journalism and of making the media publicly accountable. What the media have lost sight of is that they accepted the idea of press regulation by having set up the APC to make a positive contribution to the development of journalistic standards. (Murray, 2012). "

Murray comments:

> " And that is the fundamental flaw in their argument. We have never accepted regulation in any form. We quite properly, through the APC, provided a mechanism for public complaints to be adjudicated within the ethos of a free press, providing another level of accountability to the ultimate one: the public's right to ignore us. (Murray, 2012). "

This, despite Article 3 of the APC Charter of Press Freedom: 'The press has a responsibility to the public to commit itself to self-regulation ...'. Here, the responsibility gap expands to not only cover a difference over accountability, but (if one accepts a view that even self-regulation is a form of regulation), a commitment to regulation itself.

Murray touches on one of two issues that should be addressed as part of a broader understanding of the responsibility gap in media accountability debates in recent times. The first has to do with an argument that the media needs to be accountable, but the primary mechanism for this is through a notion of (ultimate) accountability to the reader through buying a paper or watching a channel. The concern with this marketplace view, aside from the ineffective picture it provides, (circulation being an inadequate indicator of approval or disapproval), is the narrow picture of the system of accountability it presents, focused primarily on judgement at point of purchase, and approval or disapproval of a media product or service. The consumer argument does not explore *why* an accountability relationship exists, which is distinct from a straightforward service relationship. Public accountability should be richer and thicker than this, and it should involve an open discussion of standards and the basis of accountability itself. It also limits the reader as stakeholder in the paper to that of purchaser. It presents refusal to purchase as an ultimate sanction, over and above any kind of organisational or professional or cultural set of obligations. Finally, as we have learned through television ratings, and ratings of online journalism in terms of number of views, it can be a narrow feedback mechanism in relation to what is or should be, successful journalism.

The second broader issue has to do with the integrity of journalists. Cronin in his appearance before the Inquiry stated:

> " Mr Cronin said there was not 'one scintilla of evidence' to suggest that Australian journalists did not already adhere to the code of ethics. He said journalists tended to not last long in the industry if they were routinely inaccurate, biased or unfair. They were ridiculed by their peers and castigated by editors, he said (Macdonald 2011; see also Finkelstein 2012: ¶4:3). "

The Finkelstein Report goes to some lengths to indicate its respect for the profession of journalism and the work of journalists (2012: ¶4.6-4.8). A question raised here is whether ridicule and castigation is an effective public accountability measure, in light of modern demands for meaningful codes of practice, transparency and disclosure?

None of this is to suggest that Mr Cronin or Seven West is insincere, or necessarily confused in its role. If they recognise a responsibility gap, it is that the Press Council operates above and beyond what is called for (from their perspective). They argue in their submission to the Finkelstein Inquiry that 'self regulation may not be a perfect model' but the current system strikes the right balance. Their position is not without reflection on responsibilities:

> " This role comes with a responsibility to the public and consequently we also believe it is appropriate for media outlets to establish and comply with appropriate standards of conduct and codes of practice in order to ensure that our publications and services are of the highest quality and that the public can rely on them (Seven West 2011: 9).
>
> Self-regulation protects the right of journalists to be independent, and to be judged for professional mistakes not by those in power but by their colleagues and members of the public (Seven West 2011: 11). "

The issue is that compliance with standards (policed through a mechanism of a complaints system), is a minimalistic part of a media accountability system. The standards do not represent accountability in themselves. Furthermore, the idea that self-regulation is defined by the rights of journalists to be independent seems to diminish the ethical compact. Self-regulation arguably should mean more than the right of journalists to be independent on the one hand, and a compliance culture around complaints on the other. It should reach outwards to facilitate discussion and debate of ethics. It should involve engaging meaningfully in the practice and discourse of accountability, as debated and discussed in broader society.

Conclusion

Discussions of media accountability tend to oscillate between operational and philosophical modes of inquiry. This article responds to a narrowing of the discourse on media accountability in the context of recent media reform discussions by advocating a renewed inquiry into the conceptual and communicative dimensions of accountability. It explores the multi-faceted nature of accountability through the metaphor of a pretzel, in which roles, responsibilities and accountabilities are inextricably bound together in a knot like configuration. Drawing on the work of Bateson, it suggests that a making sense of this knot requires significant metacommunicative fluency. In the absence of this fluency, and the ability to adopt different conceptual frames to make sense of the same set of behaviours, one can be faced with a double bind, in which the principle agent becomes stuck, and unable to make sense of the communication situation at hand. Contributing to this paralysis is, I argue, a responsibility gap, in which different agents refuse or misread their responsibilities. Such gaps are, I argue, evident in recent debates over media reform in Australia. The danger of such responsibility gaps is that they jeopardise the possibility of being held to account over one's actions. Through greater reflection on the nature and requirements of accountability, the hope is that new possibilities for media reform may become available.

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