

***Ethics: First Choice or Last Resort?***  
***School of Graduate Studies***  
***University of Melbourne***

***Speakers***

***Brian Howe***

***Katherine Teh-White***

***David Marr***

***Facilitator***

***Michael Cathcart***

***16 March 2005, 6.30pm***

**Venue: Public Lecture Theatre, The University of Melbourne**

**Introduction – Associate Dean Joy Damousi**

Good evening everybody. My name is Joy Damousi and I am an Associate Dean of the School of Graduate Studies and tonight's event is brought to you by the School of Graduate Studies as part of the Dean's Series.

It's my role tonight to give you a very quick overview of the School and what it does here at the University and to introduce our MC for this evening, Michael Cathcart.

The School of Graduate Studies administers the PhD program throughout the University. It provides enrichment programs and facilities for postgraduate students at the University of Melbourne. And it formulates policy to enhance the postgraduate experience for our students while they are enrolled with us.

SGS – as it is known – also assists staff in orientation programs on issues relating to postgraduates such as supervision, monitoring the progress of students and in thinking of ways to best provide a collegiate and intellectual environment for our postgraduate students to thrive in their studies.

The SGS Dean's Lecture Series is a major event in our program. It is designed to encourage intellectual thought and discussion within both the University and in the wider community. And tonight's activity is part of the role the University plays by providing opportunities for debate and discussion on a range of issues pertinent to current debates.

The question of ethics and ethical behaviour is one such issue which I'm sure will provide the basis for a more stimulating and thought-provoking discussion this evening.

It is now my pleasure to introduce to you – and to thank in advance – the facilitator of tonight's proceedings. Michael Cathcart is a lecturer in Australian studies at the Australian Studies Centre here at the University. As a historian, he is best known as the abridger of Manning Clarke's six-volume classic *A History of Australia*. He is far better known to audiences of the ABC as a presenter on Radio National and as the host of the ABC television series *Rewind*. Welcome Michael.

### **Michael Cathcart**

Thank you Professor Damousi. There was a smattering of polite applause there. Thank you for that.

The last time I hosted one of these the panel included Rod Quantock who sat at one end and Malcolm Fraser who sat at the other, which seemed to me to have a nice span to it. And as I sat next to Malcolm Fraser, making small talk – which was a little bit of a challenge – I remembered the last time I thought about Malcolm Fraser in this room was just after 1975 when everyone was protesting like 'billyo'. So it is an extraordinary

experience these kinds of forums because they bring together people in unusual relationships and gives us a chance to discuss the things that matter.

Now tonight the thing that matters is *Ethics: First Choice or Last Resort* and it falls to me to welcome our speakers. Now not a smattering of applause; an absolutely furious thunder of applause for Brian Howe, Katherine Teh-White and David Marr.

*applause*

That's the ticket!

Tonight we're looking at the role of ethics – ethics in government, in business and in the media. And I'm sure I'm not alone in wondering what force or authority ethics have among our powerbrokers, wondering whether in this age of free markets and user pays and spin doctors and broken promises that the only principle that really counts is that you should look after yourself.

I guess that ethics – that term 'ethics' – is sometimes about the way we treat ourselves but the more when you think about ethical behaviour, it is about the way you treat other people, isn't it? It's about your relationship with society and the wider world and I guess with the environment.

And our speakers tonight have each given very serious thought to this question, the question of what the ethics of public life should be and how they should operate.

I'll ask each of our speakers to address us for 15 minutes. If they go to 20 minutes – you can get anything at Officeworks, you can even get one of these (Michael rings small bell) – so if any of our speakers goes over that 20-minute mark I will ... *Michael rings the bell*

Our first speaker tonight is Brian Howe. Brian is a professorial associate of the Centre for Public Policy here at the University of Melbourne. He is a board member of the

Brotherhood of St Lawrence. He was a senior member of the Hawke and Keating governments where he held all sorts of ministerial portfolios – defence, social security, health, housing and community services. He was also Deputy Prime Minister from 1991 to 1995.

His research interests here at the University include sustainable social policy, ethics, religion and the future of work.

Would you give a thunderous welcome to Professor Brian Howe.

*applause*

### **Professor Brian Howe**

I hope I won't be too partisan tonight, although I was just saying to David Marr that I was at a meeting recently at which Malcolm Fraser was present and as he was going out he said, 'Huh, there's only five liberals left in the Liberal Party at my latest count.'

When I was a student at Melbourne University I belonged to the Student Christian Movement, I was a theological student and for a time I did a number of politics subjects. I wouldn't describe myself as a political scientist but I think I saw politics as a means to achieve social reforms.

I guess I was regarded as something of an idealist and Christians at the time at the University were seen rather like that. I still remember very much an incident at this very lecture theatre – this was during the Cold War in the late 1950s and early 1960s – and Malcolm Marker was present in about the third row and someone at the back asked a question about the futility of war or something like that and (he said) 'I think I hear someone speaking but I know by the sound of his voice he is a Christian.' Ethics as the first choice was not very popular.

I always accepted the fact that there is a degree of pragmatism in politics. That is, ideals need to be tempered by recognition of the frailties of human nature. That is, to sense that people no matter how high minded their motives or how firm their principles may in the cut and thrust of politics, when there is an opportunity to wield power or face an apparent threat to their own power, to allow themselves to be diverted or compromised.

It is for this reason that the institutions of government are very important, having regard to the fact that people can't be expected always to act decently.

However, there is a strong sense in Australia among people of liberal values that they are fighting a rearguard action. There is a sense in the community that the institutions of government are working against the maintenance of Australia as a liberal democracy, given the events and the atmosphere post-September 11.

Geoffrey Barker wrote this in *The Financial Review* quite recently, 'Perhaps the Howard Government's ultimate objective is to make Australia more like Singapore. An orderly, affluent, conformist model of economic success, but profoundly intolerant of dissent, criticism and accountability.' This is a worrying thought if you support even modest moral foundations for Australia's foreign policy.

The evidence of this trend away from liberal values that is usually cited certainly includes the treatment of refugees, following on from the Tampa, the Defend Our Borders legislation and of course the 'children overboard' affair.

Many people were incensed by the 'Pacific solution' and continue to feel that housing people applying for asylum in Australia in detention centres – like prisons or concentration camps – shows an ignorance about what people have been through and a lack of sense of our common humanity.

Of course, we were very tough on refugees in the immediate post-war period, but these days we tend to celebrate the Dunera Boys and others who suffered at the hands of

oppressive regimes but who were to make such an important contribution to building post-war Australia. In the immediate post-war period, Australians were confident that they could grow a larger population and they could foster full employment.

These days, we are not so confident about our future. We have, as Mike Keating said the other day, 1.7 million people unemployed. And with many people at risk there is a growing constituency for harsher politics. This constituency seems to cut into the Labor vote, transferring to One Nation and then from there across to the Liberal / Country parties.

The ALP is not blameless in this regard, but it was not responsible for the wedge politics illustrated in Wilkinson and Maher's *Dark Victory*. This issue seemed to recall Alan Renouf's *Frightened Country*, a country unable to solve an issue in a humane way, perhaps as Beazley suggested by negotiation with relevant effected countries.

The whole issue reflected so badly on the Department of Immigration that seemed insensitive to the implications to the region of such harsh policies and allowed the centres under its control to operate with so little creativity and imagination.

Ministers are important and it was hard to believe that Ruddock – a former active and apparently committed member of Amnesty International – could be so uncaring. In the end, his commitment to power seemed to overcome his sense of decency.

Most members of parliament are in my experience decent-enough people who notwithstanding their reputation for self interest are people with principles and ideals. It's surprising then that there has not been a stronger revolt on this and some other human rights issues. I'm not sure myself what the reason might be for this.

Clearly, political survival is one important reason. Dissent in politics on one hand is welcome by the media but in the end it is very punishing to political parties. If you can't govern the party, you can't govern the country.

It is a very courageous decision to stand out in a political party as Judy Moylan did on the legislation referred to, or as Petro Giorgiou has constantly done, the Member for Kooyong.

Presidential-style elections give prime ministers enormous power. Cabinet rules allow for very little dissent or expression of personal opinion by senior or aspiring senior ministers. Political debates in parliament are rarely reported. The ordinary backbencher, whether a member of a major party or an independent, has very little effective power. There was a time in which the ALP caucus contrasted with the emphasis on individual views in the Liberal Party. This is no longer the case, both parties emphasise iron-caucus discipline.

These trends tend to work against a liberal democracy (150). I recall several years ago going to a conference on social security which included a number of international policy experts. I was surprised at the complete absence of politicians, including ministers, who tend not to be interested in policy. They're interested in political outcomes, not in policy, not in complex issues. I think it was an indication of the Government – and possibly the Opposition – not being at all engaged with policy.

Policy review processes are often very limited affairs with a very big emphasis on political feasibility. The issues of national government especially are becoming more complex and there should be plenty of room to explore differences of opinion before deciding on policy options.

The Iraq war was one such issue. In a sense, the underlying policy issues which lay behind our decision to go to war were never really openly debated. There was an early decision made to join Bush's war, even though it was remote from Australia and not central to our policy interests. It was simply asserted that Iraq was a danger to the world because it possessed weapons of mass destruction and had links to Al Qaeda.

As Wilkes' book shows, the issues that these propositions raised were complex and within the defence and intelligence communities there were a whole range of different views. However, Australia went to war on the basis of premises that were never very credible and which turned out to be completely false.

On Iraq, there was no bipartisan agreement. However, there could be no informed debate because of the sensitivity of intelligence discussions. It was only following the war that we've had the opportunity to understand the facile basis on which we entered the war still going on, in which tens of thousands of people have lost their lives.

In a way, it is important to see as paradigmatic of key policy decisions which are being made in Canberra decisions which are destructive, which involved the loss of so many lives, which went against the values of so many Australians. People were essentially treated like idiots, like absolute idiots, by an approach to government which frankly is dangerous to this country, and which has to be in a sense recognised as Geoff recognised in his piece; a danger to liberal democracy.

Because these judgements are about deciding issues that have deep ethical and profound considerations without any evidence, without any opportunity for people to make a fair judgement based on the facts.

I believe we went to war because our powerful friends in the United States wanted support; echoes of 'all the way with LBJ.' It may be that there are national-interest grounds as to why we should have participated in this war. However, the grounds that were put forward proved fallacious and this makes citizens look like fools.

Perhaps we need to give more power to the parliament as opposed to the executive on these kind of major issues. In a number of European parliaments, there is a much higher levels of participation on these issues. The parliament's committees in Australia seem to examine the event's evidence after the event rather than being able to place

pressure on the Government prior to the decision to go to war to justify that decision on the basis of solid evidence.

Another important issue in a liberal democracy is the rule of law, the sense of justice before the law. There are many themes such as innocent until proven guilty, the right to a fair trial, various procedures that operate in trials like knowing what the evidence is on the basis on which you will be charged. There are issues like not being locked up for long periods before one has an opportunity to know what one is charged with, as well as having a speedy settlement of the issue.

Many of the issues of accepted legal justice seem to be put to one side because of the word 'terrorism.' There are policies being implemented such as imprisonment of people for long periods without trial, harsh practices of interrogation and the use of torture. Again, Australia is caught in processes it doesn't understand and which are foreign to our legal traditions.

These issues go to the heart of our citizenship and what our rights are as Australian citizens. These rights when they are abused attack the basis of our democracy. I would like to think that in our country ethics are not just something associated with seminaries and universities. It is relevant to the choices we make as a nation about who is included and who is excluded, that whenever possible we settle disputes between countries on the basis of negotiations and as far as possible avoid military conflict, that while the United Nations feels that there are avenues to explore that we will avoid war and will continue down that peaceful road.

I've referred to choices that are being made by governments that have been defended and promoted on grounds and ways that seem dishonest. It's not just that lies are being told, but in various subtle and not so subtle ways people have been denied the truth. It's not so much the lies themselves as the mendacity. Mendacity is a great parliamentary word. You are not allowed in the parliament to say 'you're a liar', but you are allowed to say, 'the Honourable Member's remarks are entirely mendacious.' But in a sense

mendacious is a much more serious offence because what mendacious is about intent, it's what you intend to do.

What I think makes people angry in Australia is the sense that people are being deceived in that fundamental way. It's not that the odd lie is being told around the place, but essentially the intent is not to take the people with you in their understanding. The sense is that people in a sense can be treated like fools and they'll cop it, and governments will get re-elected and so on we go.

So these issues – first, ethics – Ethics: First Choice or Last Resort is a fundamental issue. And I think in the kind of atmosphere of competitive individualism in Australia, the sense that really it's only the individual as the Liberal Party will say again and again, it's only the individual. There's a sense in which society doesn't exist, the sense of social choices.

But just as with Aboriginal people, and the harshness that was treated to Aboriginal people and continues to be treated to Aboriginal people in areas of Australia, it's something we all bear some responsibility for. So when a government decides to go and do what's been done to Iraq, with all that modern technology and bombs and all of that, there is an issue of moral responsibility in which we are all guilty, and we have to share that guilt in a sense.

And when John Howard takes us to – not a war that is just unpopular – but a war that in terms of just-war principles was an immoral war, then in a sense Australia as a democracy is debased by that process.

### **Michael Cathcart**

Thank you, Brian. Our next speaker is Katherine Teh-White, who talking about Singapore knows a fair bit about Singapore because she lived in Malaysia for six years. Earlier in her working life Catherine worked as a journalist on *The Age* and *The Australian*.

And when I first met her about 10 years ago she was working for one of our large mining companies where she was developing environmental and indigenous policies for that company.

These days she is the managing director of **Futureye** where she describes herself as a strategic thinker, foresight, sustainability and community engagement expert, which is a big claim. She says that she wants to see companies and other organisations behaving in ways that are accountable and responsive to community concerns, particularly companies involved in minerals, forestry, water and agricultural sectors. She has just been involved in a major review of the way in which we handle The Great Barrier Reef.

Earlier in her career she won the Telstra Businesswomen of the Year Award; that was in 2000 when she won for the Victorian private sector.

Would you please welcome Katherine Teh-White.

*applause*

### **Katherine Teh-White**

Thank you very much, Michael. Today's news on ethics is that only 45 per cent of people in England are trained in ethics. Unfortunately, I think that's a lot lower here. However, I have to say that no company in Australia may as well put anyone through ethics training given the way that it is done today.

I participated in ethics training in a major Australian company that Michael mentioned. During this very long, two-day process I had a man sitting opposite me who was sexually harassing me at the time, and I have to say that workplace violence didn't ever come up in ethics training although we discussed the general role of the social world

But we didn't do anything about what the role of a mining company in relation to the environment might be or in relation to indigenous communities. We didn't actually talk about the way that we conduct ourselves inside the organisation and what it feels like to be working inside an ethical company.

I know that in the heart of most of the people who work inside mining companies feeling the pressure of the changing demands that the community had, there was enormous amount of internal stress but a stress that wasn't actually communicated. In fact, the environment was deeply bullying, in fact the executives often talked about being in a cock ring and seeing who won and how much blood there might be.

It was that kind of environment and the training that we had in ethics that 10-years ago cemented in my mind that ethics training as we know it is fundamentally flawed and needs to be changed fundamentally.

I've been collecting information as we go about what is wrong with ethics and I'd just like to give you an overview because I could go on about this topic for a long time; I have 15 minutes and I'm going to stick to it. I have three key points that I want to share with you.

- No.1 is knowing what the key issues inside your organisation are is absolutely vital;
- No.2 is engaging stakeholders;
- No.3 is really looking at your attitude around litigation.

So these are the three key things that I think that unless they are resolved inside companies it doesn't matter how good your code of ethics looks, it doesn't matter how much training you have done, unless you resolve these issues you really don't have an ethics program worth living and breathing.

I'm going to give you my all-time anti-ethical positions that organisations have and I'm going to share a challenge with you at the end.

Some of you might recognise him; this is my all-time favourite anti-ethical position and it's what a friend of mine coined the Sergeant Schultz position, 'I know nothing', as you probably heard him say in *Hogan's Heroes*. The very sad thing about it is that there are hundreds of examples of this.

Probably my personal favourite is when I worked in another mining company in the 1990s and I was asked to do a risk review. I went around the country looking at worker risks, social risks, environmental risks and I came back with a report that my general manager asked me to give to her and she gave it straight to the executive. The next morning when I arrived at work, my computer had been removed, my whole entire filing cabinet had been gone through and everything I had done had been shredded or the disks wiped. That was their assessment of my assessment of their risks.

That is my personal favourite example of that. Their view was that if they didn't know and no-one could prove that they didn't know, then it didn't happen and no-one could prove that it did. And if the paper trail was removed that was fine, that was ethical.

The funniest of all these examples is probably the Shane Warne one; that's my personal favourite. On taking banned drugs – probably you all recall – he knew nothing but when pushed he did my all-time blame shifting exercise; his mum did it, it was her fault.

Perhaps the most damaging to a political career was Carmen Lawrence's 'I don't remember' statements. Incredibly sad given what a political career I think many people thought she would have.

The one that makes me most angry – angriest of all – is the James Hardy issue, and that should be top of our minds now. It has been general knowledge since the 1600s that asbestos is damaging to human lives. There is evidence that James Hardy

cottoned onto this in the 1940s or 1950s – some 300 years later – but that they continued to expose workers to the lethal substance despite that so today the death toll in Australia stands at between 8000 and 10,000 people.

The question for us is what kind of ethical paradigm existed there? Was it that they thought that shareholder profits were more important than the lives of the workers? Did they think that they could get away without personal costs themselves? If we as a community don't actually see how these things play out and make sure the costs are significant then the result that we have is what we've currently got and this saddens me deeply.

The board and Hugh Morgan, the President of the Business Council of Australia, argue that they had to pay out the CEO after a lot of pressure that had come upon him and they had to stick with what was a legal contract. So he had to get a payout of \$6.5 million. Those figures – \$6.5 million, 10,000 lives – how does that actually equate and what does that mean and why is it that we still don't have a legal contract for those asbestos victims that are still alive?

To me, this is absolutely horrendous and I can't understand why there hasn't been more pressure from the community, maybe even a court case around criminal negligence. Because in my mind if the James Hardy executives who made these decisions to expose people to these kinds of risks don't pay, and pay substantially, then there is a risk that the 'I know nothing' position is going to be an acceptable position. And we can make that choice, that's my view, that it can cost and I'm proud to say that yesterday it did cost a man, former WorldCom chief executive Bernard Ebbers who can pride himself on the biggest corporate collapse in US history, was found guilty on fraud charges of US\$11 billion. You'll be pleased to know he blamed his accountant and said – you guess it – 'I know nothing.' He's going to jail. That's what should happen to him.

In my view, in companies and in organisations the board needs to make it their business to know and understand the culture. It's not good enough to know nothing and it actually

takes an enormous effort to know what is going on inside your organisation and to know the decisions that are being made, not just the overt culture but the covert culture that operates, the decisions that are being made and how and what the implications of those things are. In short, ignorance is no defence.

My second favourite anti-ethical statement, 'Are these people really stakeholders? These people don't really represent the majority. The majority, they approve of what we do.' Some excuses that companies or organisations use to deny or defend behaviour at all cost, even going to the extent that Gunns is going to by suing green groups.

At **Futureye**, we believe that stakeholders can raise the emerging ethical dilemmas that corporations face and even if it is one angry person, especially if it is one angry person that can get a room full of people angry, like Brian Howe. If you can gather a lot of people to your cause then essentially you represent what it is that makes this democracy great today and define and shape community attitudes about an issue. Think of how the feminist movement started or how the anti-slavery movement started or how the environment movement started. All of these things were started by individuals gathering in groups and those groups gathering more groups and making a difference.

So I started a movement. After being sexually harassed, exposed to the level of workplace violence that I saw I decided to do something about it. I co-convene a group called Working Against Sexual Harassment. We participate in a government process to investigate workplace violence. We eventually got to a place where we forced the government to acknowledge that it was an issue.

They said that instead of looking at all the data that has been gathered over a number of years that proves that there has been a large amount of workplace violence, they would do their own study. Now, they've done this study and I called them today to see if after three months of having this study they could actually let me release the numbers but they refused to let me release the numbers. So ... I just don't know what to do; the

numbers are huge. The amount of people in workplaces in Victoria that have experienced workplace violence in the past five years is phenomenal. It's enormous.

I've started a movement, that's in my own personal time and with my private hat on. Each one of you can do that or join one and you can make an enormous difference because as stakeholders of companies you can help them to understand the issues that are unacceptable and you can help them to reshape the way they think about business. At the very minimum, it's about risk management for them; at the very most it's about reinventing what type of business model they might have and in fact we can have some exciting businesses being developed in this new era of environmental and social expectations. That's certainly what we believe.

Now, Enron had a wonderful code of ethics. That required them to comply with the laws and act in a moral and honest manner, and yet the core of the Enron business plan was to use influence, to use political lobbying to basically manipulate the market. In short, they would have continued to be successful had it not been for an internal whistleblower.

The point I am making is that your stakeholders are not just your external stakeholders, they are also your internal stakeholders and people inside your organisations have to believe that what you are doing is morally and ethically correct. This brings me to the second point that I want to make which is that the No.2 ethic that an organisation needs to introduce is that they have to be listening to their stakeholders and they have to be engaging with their internal community as well, in a meaningful way so that people can know and understand and be engaged in why it is they are behaving in the way they are, and look at how they could improve that.

In short, that needs to be imbedded in the strategic thinking and the organisational structure of our organisations in the future, what we call organisational intelligence as opposed to just relying on one individual being intelligent.

My third favourite is, 'It's not illegal.' This anti-ethical concept is one that has meant that companies have had a licence to pollute even if it is at dangerous levels where government approval has been given to site a toxic waste dump without necessarily having community agreement, where agreements have been made by major mining companies, petroleum companies and national governments in third-world countries to build where indigenous people don't want it or don't get any benefit.

All of those concepts have happened with the statement, 'Well, it's not illegal.' But what's clear in the past decade to me is that the law is such a lag indicator, it doesn't actually determine what community sentiment of today is, and in fact if you focus entirely on what the law is you get it wrong most of the time. The attitude of trying to make .sure that you understand what the sentiment of today is rather than just what the laws are of today, that's where people should be focussing on.

In South Africa, one of the major pharmaceutical companies tried to sue the government for providing generic HIV drugs. Let's say they lost their reputation before they lost the legal battle, and they had to in the end withdraw.

So did McDonald's in the McLibel case. I love this example. In the McLibel case, McDonald's sue a gardener and a former postal worker for slander after they distributed pamphlets entitled *What's Wrong with McDonald's – Everything They Didn't Want You to Know*. And ironically knew as a result. While McDonald's won the lawsuit for most of the points made in the pamphlet, the case ran for 300 days, cost £10 million and they'll never receive damages.

The major cost to the corporation was in terms of its reputation. They were seen as goliaths to the David, they were a giant company picking on two ordinary people. The defendants – Helen Steel and Dave Morris – fought their case on the basis that all printed material was true and that McDonald's had to prove the allegations of rain forest destruction, poor working conditions and animal cruelty were false.

While some points were won, not just activists but members of the broader community were exposed to the issues and sadly for them – even though they were proved wrong on some – they ended up by a judge being found to be culpable and responsible for cruelty to animals and strongly antipathetic to unions and pay employees low wages.

Other actions that have cost companies money include boycotts when Shell was in the middle of the Brent Spa controversy with Greenpeace, they lost a total of \$30 million a week in petrol sales in Germany alone. The erosion of brand value and reputation cost Nike dearly, they actually had their first ever lost during the height of the sweatshop issue. And there have been lots and lots of examples of the loss of shareholder value.

That said, if companies actually take into account the culture, the law and the spirit of the law, then there is great lenience. Take the ACCC example of how they approach cartels; if you are the first person to ‘dob’ then you’ll get off a bit easier than the next person who didn’t ‘dob’ themselves in. Lenience is pretty much the way regulators do it because they are not actually funded enough to be able to go there and really be the bad cop. Most of the time, what we rely upon is that communities, and watchdogs, and NGOs fight these sorts of battles from a reputation perspective and that the law some time and some how will catch up to our expectations.

So in short, executives and boards of directors need to have a focus, to be active participants in their organisations – ethics and compliance programs – and also to think about it from a moral and reputation perspective.

We’ve been working with Mallesons on a number of legal and reputation issues and we’ve done things on class actions, we’ve worked on things like project approvals where we’ve tried to take both things into account. And in our view, if you try to combine the legal with the reputation with the moral with the ethical and integrate those things, you are far better off because you are actually starting to interlink key components instead of thinking in silos in the organisation.

So our key ethic No.3 is ... legality and morality are intertwined and you have to act like that inside the company.

To conclude, 'Want to know and you will find; Want to hear and you will be able to listen; Want to obfuscate and you shall be pummelled.' The challenge to you is to make sure companies and governments are ethical and as employees and as consumers you've got more power than governments and media put together. In a sense, you're the ones that can make a difference by the choices you make of who you work for and who you buy. It's through those active decisions you make, that we can start to create pressure for an ethical world.

Thank you very much.

### **Michael Cathcart**

Thank you, Katherine. Our final speaker is David Marr. David was educated at Sydney University where he studied law / arts, but he soon turned to journalism. He's worked at *The Bulletin*, *The National Times*, which he actually edited for a while there. He's been on *4 Corners*, he was the founding presenter of a marvellous program called *Arts Today* on Radio National. He was a senior journalist at *The Sydney Morning Herald* and of course, he has written several important books including his biographies of Garfield Barwick and Patrick White. And most recently, as Brian was pointing out, he's been the co-author of a searing exposé of the politics behind the Tampa, a book called *Dark Victory*.

He's just finished a fearless – I would say – and quite distinguished period as the presenter of ABC Television's *Media Watch*. Here's David Marr.

*applause*

## **David Marr**

Thank you, and thank you Michael and thank you also to the School of Graduate Studies who flew me here to speak tonight, thank you very much.

The first ethical responsibility of the press is to tell the news. Now, that's not as obvious or as easy as it sounds, particularly in an age that is infected with the 'neo-con' delusion that if you can control the discourse you can shape reality.

Now, I don't quite know why but I think that Melbourne is a city where that 'neo-con' discourse has one of its chief headquarters. I suppose because for the last three years I have been working at the ABC and because it is from Melbourne that some of the most appalling campaigns against the ABC are directed. When I first went to the ABC, Michael Kroger was still a member of the board of the ABC. And Michael Kroger used to deliver to the ABC - and endorse - dossiers of complaints from sections of the Jewish community in Melbourne about the coverage of Middle Eastern affairs on the ABC. We saw these dossiers, the ABC spent an enormous amount of time dealing with these dossiers and the reporters from the Middle East for the ABC know that it is part of their job to spend a substantial amount of their time defending what they say on air to complainers from the Jewish lobby, principally in Melbourne.

I remember with great affection one of the complaints that Kroger endorsed and put to the ABC and was investigated by the ABC, was how completely appalling it was – how wrong it was, let me take the emotion out of it – how wrong it was for the ABC to talk about settlements on the West Bank 'expanding.' No settlements on the West Bank were 'expanding', they were 'experiencing national growth.'

I thought of that particularly last week when that fearless report from within the Israeli Government revealed the extent to which illegal payments from within the majority bureaucracy had been funding settlements of the West Bank. But they were not being 'established', they were not being 'set up', they were not being 'expanded', they were going through a spasm of natural growth.

And it is of course in Melbourne – his home town – although no longer for the next few years his city of residence - that Richard Alston sent his enormous, now famous, dossier of complaints to the ABC.

This dossier, which is available on the net, you can see it through *Media Watch* if you are ever curious to have a good look at it. And it's worth looking at. This dossier includes things like how completely wrong it was for Linda Mottram to describe the invasion of Iraq as an 'invasion.' Richard Alston said that the word 'invasion' carried negative connotations. He also cited as an example of the 'remorseless negativism' of *AM* when reporting those early weeks of the war in Iraq.

That Linda Mottram had said this, for instance, 'There is still no sign of a coherent plan for dealing with transitional issues like the security and internecine conflict in the Iraqi community.' She said that in April 2003, and Richard Alston spent a year pursuing that complaint through two tribunals before he abandoned it in the face of the evident reality that the United States had no coherent plan for dealing with transitional issues like the security and internecine conflicts in the Iraqi community.

That's news that Richard Alston and the Government of which he was a minister did not want published. According to an old saying, and there may be someone in this room who can tell me who actually said it, news is something that somebody somewhere does not want to be published. And most of the pressures on newspapers, radio and television stations not to publish come in the guise of appeals to ethics.

The ethic of privacy, the ethic of kindness, the ethic of private property, the ethic of patriotism. Alston was appealing to the ethic of patriotism, which as usual was the well-cut overcoat, worn by a bully demanding media support for the Government.

The press causes pain. The press causes pain by publication. The press can wreck the reputation of people and governments and corporations. The press deals in facts and

documents that come our way in frankly murky circumstances. The press has rules, often self-serving rules, to deal with the ethical contradictions involved in pursuing what we see as the higher ethical duty of telling readers, listeners and viewers what's really going on in the world. Telling them the news.

Ethics in the media is not a matter, to my mind, of something that you do at the start or a last resort at the end. Ethics is something that you are constantly dealing with because what makes all ethical situations actually interesting – really interesting – is that ethics are always in collusion with one another. That's what makes ethics really interesting, that and the second thing, that very human sense that, sound as ethical rules are, they don't necessarily apply to me.

Who's that marvellous, now 'ex', Labor Party politician who's been caught now twice driving slightly drunk and without a licence? But sure, if over the breakfast table she were asked what the ethics of driving slightly drunk when you don't have a licence and then giving your daughter's name when you are caught by the police, I'm sure without hesitation that women would say that that is not an ethical thing to do. But under pressure, ethics can sometimes not apply to us.

Of course, the doyen of this situation in Australia still is the splendid figure of David Flint. Now, he's just published a book which I recommend to you all. It's called *Malice in Medialand* and there's a good deal in it about *Media Watch*, which interestingly bears not much relation to what we did on *Media Watch*. But there is an enormous amount that is of great interest in it actually, the extent to which he had become more and more a figure on the fringe within the Australian Broadcasting Authority of which he was the Chair.

But David Flint still claims in that book that it was OK for him to hobnob with the kings of talkback radio while preparing to chair the first full-scale inquiry into cash for comments. David Flint says in the book that, 'no one, absolutely no one, would believe in apprehended bias just because he was writing affectionate letters to Alan Jones and

just because he was going on the *John Laws Show* to advance a rather odd view of the monarchy; actually, on the *John Laws Show* after the inquiry had begun.

The ethical dilemma then was for the staff, the legal and other staff of the ABA inquiry, and in the end David Flint was forced to stand down. But let me tell you, all these years later, in *Malice in Medialand*, you can read how outrageous it was that ... *inaudible* ...

There are two ethical challenges to the media that trouble me, particularly at the moment, and I want to take a few moments tonight to alert you to them, although I'm sure that most people in this room are aware of them to some extent already. These two ethical challenges converge and they are of great importance at the moment.

The first is that more and more characteristic demand of the John Howard era that the media, along with intellectuals and academics and commentators, defers to the values of the mainstream. The stakeholders that we were hearing about earlier tonight. The second is a demand for balance rather than fairness in news reporting, a distinction which I believe is very important and a distinction which I believe is being manipulated to muffle the truth.

One of the defining aspects of the Howard era is this notion that we must once again pay greater heed to the mainstream. There are some splendid commentators around who actually sing the praises of the mainstream in ways which I think ought to be set to music, and if I could sing at this point I would but I can't so I won't.

But I will read a little from a famous piece by Andrew Bolt last year. This was shortly after *The Bulletin* magazine had praised Robert Manne very highly and declared him to be, as indeed he is, one of the leading thinkers in this country and one of the forces for ethical consideration of the nature of this country's existence at the moment.

Now, this is Andrew Bolt. 'The response to Manne's abusive moralising and misrepresentations and his Whitlimate fantasies was the one we usually gets. That is,

most of the public believed and did precisely the opposite, giving John Howard his most stunning win.' This is referring to the election last year. 'And they did so not only despite being told not to by our most influential intellectual (Robert Manne) but after being warned off Howard by petitions from flocks of other intellectuals, including one from 400 Howard-hating university staff. Clearly, this is a chasm between our intellectuals and the public, the public that pays them, a chasm unhealthy in a civilised society. Surely this time Labor tuned into the conversation of Australia rather than of our intellectuals and for the ABC to do the same.'

Now, underlying rhetoric of that splendid invention is an idea which is familiar to us from our memories of how the Russians and the Russian empire worked until the wall fell down in 1989. And that is that journalists, intellectuals, writers, commentators must define their own ethics by the ethics of the people. In Australia, the people becomes the majority or the mainstream. But it is just as thuggish a demand that we put aside our particular beliefs and judgements and adopt instead the generalised notion of the judgements of the mainstream. I want to say two things about this.

First, that the 'mainstream' is an invention. One of us can actually wonder down to the riverbank and view the stream as it goes by ... *inaudible* ... came to me as I was wondering past the Yarra this afternoon and thinking I'm glad this is not the main stream. I'm equally glad of course that the Parramatta River is not the main stream; I don't want to be unfair in these things. But the mainstream is an invention.

Recently, the Communications Law Centre in Sydney did this fascinating exercise. They asked a large number of people how they would respond to various statements if published in the press. Statements that so and so smoked dope, statements that so and so had an extra martial affair; statements that so and so got drunk; things like this. And asked them did they personally think it was defamatory to say this of somebody, and there were certain results came out of that. Then they asked them another question. Did they think that the community generally would think it defamatory to say that of somebody.

And what they revealed was this – to use Andrew Bolt’s word – chasm between the personal politics of Australians, and those same Australians’ notions of living in a very conservative and somewhat vindictive society. That the accumulation of individual judgements and those individuals’ judgement of the society itself – in other words, what they think the mainstream is – are totally different. And that the mainstream, the construct, has been to my view particularly cleverly manipulated over the last eight or nine years to make Australians – individuals views and ethics haven’t changed much at all – believe that they now live in a more vindictive, more conservative, more closed society than in fact they do. The mainstream is a construct.

The other thing is that the mainstream has absolutely no impact on deciding whether things are right or wrong. The mainstream verdict on whether the war in Iraq was legal is a very interesting fact to know, and one that all journalists must be alert to and all members of the community – I repeat – should be curious to have an answer to.

But it doesn’t solve the problem of whether the invasion of Iraq is legal or illegal. You don’t decide ethical values by a majority vote. I’m afraid I’m of the view that it doesn’t end the question of whether abortion is right or wrong, that Australians pretty much overwhelmingly believe that abortion is a women’s choice and it is up to her to decide. Now, that’s my view as well, but I don’t think it ends the ethical debate just because a majority has decided one way or another. A majority of Australians, by the way, believe in capital punishment, but I don’t think that that makes capital punishment right.

And these bullies like Andrew Bolt (and there are a vast number of them in the press and in the government as well) who keep saying that Australia’s commentators, our journalists, our writers must listen to the mainstream and adopt the values of the mainstream are just being thuggish and to my mind just a tiny bit communist.

Briefly, just a couple of words about balance. Any journalist who starts to question the doctrine of balance takes their reputation absolutely in their hands. I believe journalism

should be fair, it should be fair to the facts, fair to the truth, fair to the situation, and fair to the people involved. But there is a doctrine of balance now which is being touted and become extremely influential in journalism which is a mechanical approach to the question which to my mind is being promoted in order to muffle the truth.

This is a style of reporting where both sides of the issue are given but the reader, the listener, the viewer, is not given a verdict. Now my view – and this is exactly what we used to do on *Media Watch* – we used to show the evidence and give an absolutely clear cut verdict. Our viewers could dissent from the verdict and senior editors of the Murdoch press always did, often vociferously. But the evidence was there, but we gave a verdict, we said to the viewers, this is what we think the story is.

More and more in Australian journalism at the moment there is a community creeping in where intelligent people who know the facts are not organising their reports around a sense of what actually happened. That instead, adopting in some bizarre way, the ethic of a courtroom. Here's the prosecution case, here's the defence case, and we'll leave it at that. But the readers, viewers and listeners have a right to a verdict, they have a right to our verdict. They have a right also to be able to question our verdict and see the basis on which it is being made.

But a mechanical 'he said, she said' concept of balance is designed to leave important questions open which are indeed settled. Imagine the creation of the world, if every time we talked about how the world was created we also had to say 'but on the other hand, it was done in six days.'

This is the kind of model that is being pressed onto journalism at the moment, and it is a model designed to give a certain point of view enormous influence. That point of view is what Bolt himself I suppose would call anti-left. It is an image of balance like two kids on a seesaw and David Fleet and I had a bit of a discussion about it on television the other night, it got a bit heated in a way. David sees it ... it's really very simple, you've got the

right here and the left there and a pinpoint in the middle and that's balance. It's like two kids on a seesaw.

I think I've said – and it was really disgraceful of me on television – I think I told him that was a kindergarten view of balance and I think I should rephrase that; it is an infantile view of how balance is achieved. And it is achieved by a deliberate, coarse distortion of the range of views in our society and in the media on a number of questions and lumping all of the sceptical ones, all of the enquiring ones – sceptical of authority – and calling them 'the left.'

Have you any idea how evil the left is in this country at the moment? I mean, it is simply amazing the power of the left, absolutely everybody but about five commentators in Australia are all paid up members of this shifty organisation called 'the left.' They share the most appalling characteristics. Many of them are two legged and get around upright. A number of them, a quite frightening proportion of them, have been to university. They tend to write and speak in English and they ask questions of authority.

Now these people are very dangerous, they've captured the ABC, they've captured *The Age*. I would have thought also that they have captured *The Herald Sun* except one or two editorial figures at the top.

But because all of these people on the left have to be balanced by people on the right, it is a permanent invitation to the party to people like Andrew Bolt, David Flint, Piers Ackerman, all of these astonishing commentators, they all have a right to be there on the other end of the seesaw because only they – remembering the principles of the fulcrum – only they know where to post themselves on the seesaw to balance absolutely everybody else on the other end.

This is not designed to tell the world the news. It is not a way of telling people what is actually going on in the world. It is a way of making it extraordinarily difficult to tell plain, blunt truths about what's happening in this country.

Ethics are not the first or the last; ethics are the things that last. Ethics are the principles that last. Ethics are usually an absolute pain in the bum in the short term, an absolute pain in the bum, they are an absolute imposition and a dreadful problem. But they are the things that last ... *Michael rings his time limit bell* ... I'm not in the slightest bit afraid of that! I was recently at a conference in Melbourne on the High Court and Sir Anthony Mason was sitting there where Cathcart is sitting now and Sir Anthony in introducing the lectures said, 'Everybody is to speak for 10 minutes and if they go any longer than that, I shall stand up with all the strength of my 80-year-old body and wrestle them to the ground.'

I think I've finished anyway.

*applause*

### **Michael Cathcart**

Obviously I'll have to go to Officeworks and demand my money back. David Marr, thank you.

Now, for various reasons we have to conclude at a quarter to so we need to be brief. I'll take some questions. Now, please don't give a long position statement. Ask a question, not to the panel but to one of the people in particular.

### **Question**

Actually, I was thinking of the whole panel, can I say to anyone who wants to answer this can. I teach a program called *Real Hope* which stands for 'responsibility, empathy, awareness, love, honesty, oneness, peace and enjoyment.' I teach the program to primary school children as a world peace clown.

What I wanted to ask you was your feedback in respect of what you thought about values-based education, and second point, do ethics grow out of values and what do you perceive as values?

**Professor Brian Howe**

Well, I think ethics grow out of truths and that in a sense was the crunch, I thought, in David's remarks. At the end of the day, everything is not relative and at the end of the day there are some things of much greater value, of fundamental value. And I think in our society at the moment there is a tendency to feel 'well, everything is relative and issues of truth are not really all that important.'

That is a challenge right at the beginning and it is quite fundamental all the way through education. I think in universities today, there are some real questions about that. I mean, the corporatisation, the commercialisation of universities itself in a way raises a question about whether fundamentally education is really about truth, whether the value at the end of the day is making distinctions of that order.

That's where I think, in a sense, where ethics come from. It's really about being, it's about what is fundamentally important in terms of the truer human. It's about when you do things or when we become responsible for the treatment of people in a way which reduces their stature, which demeans them, which diminishes them. And in a sense, we're departing from a fundamental truth, that human beings are very important.

I'm giving you a kind of Kantian answer. I think at the end of the day, when we start using other people for our own purposes then we are departing from what I see as universal truth.

**Katherine Teh-White**

I thought that was one of the key issues that came up in listening to both Brian's and David's views is that somehow there is a sense, like you were saying, there is a verdict that we come to about community sentiment.

What I was trying to get to was that community sentiment actually changed quite dramatically in a very short space of time. So if you like, slavery used to be OK, the community sentiment was that it was acceptable. It used to be OK that damaging the environment was acceptable; it used to be OK that killing workers was acceptable.

Community sentiment changes, there isn't like an ultimate truth that defines community sentiment of today. It is shaped by each one of us questioning and people challenging those things.

And that for me is the sense of hope about ... I don't think there is a mainstream but I do think there are leading thinkers and I think leading thinkers change the way the world is and shape that. So, it's not like, there is an ultimate truth that we'll stay this way for ever. It is something that will emerge and we'll get better at being fairer, better at being more fair in terms of the way our economy works, in terms of how our supply chains work, in terms of how we deal with our workers.

All of those things will emerge with time and with discussion. I don't think it's just this definitive verdict that is right or wrong.

### **Michael Cathcart**

Katherine, just to focus this issue on the topic that you yourself addressed. You in the end spoke as though the hope for change was going to come from everybody taking an individual stand, behaving as a discriminating customer for example.

The more traditional view is that if we are to get the corporate sector to behave ethically, they have to be legislated into ethics, but that kind of direction needs to come from government, from the state. Is that a view that you are distancing yourself from?

### **Katherine Teh-White**

No, I genuinely believe there needs to be stronger laws. I think those laws need to be policed. Let's face it, Australia is only 11<sup>th</sup> in the scale of environmental regulation in the world as judged by Michael Porter and that in his view makes us highly inefficient. I can see that there are arguments for that.

But even that said, there are laws that are in place today that people aren't complying to and there is no impact of that. The law is only a living thing as per our community saying is it something that we will accept or not.

While the law is a manifestation of community will of the past, it is actually not alive unless we demand that people comply with it.

### **Question**

Thank you. As a retired scientist I guess to look for things in black and white and that might be asking a little too much of such a diffuse or – as I'll get to – an ill defined subject.

The reason I came here tonight, and at this late stage of my life, I've started to give serious thought to ethics. And the one thing I was looking for tonight, and there have been some excellent examples of ethical behaviour, ethical guidelines and so on and in many cases I must appreciatively admit that they were presented in a very amusing way. But the thing I was looking for in particular was a definition of ethics and ideally that definition is universally accepted so that it provides a yardstick whereby any action or proposition can be judged and one might hope that Al Quieda would find it as acceptable as you or I might.

David Marr, particularly I look for a comment from him but anyone else. Thank you.

### **David Marr**

I don't think we can expect to discover universally accepted, a small set of universally accepted ethics. My view, as I said, is that ethics are in collision the entire time. Our

everyday life is a matter of choosing between ethical principles that crop up at any particular moment. And the choices in those collisions differ from society to society.

Whereas I think there is probably a kind of underlying human ethic of being kind to one another except when some other ethic comes up to put it to one side for a moment. But I don't think we can expect truth to finally boil down to a short number of ethics in that way. It doesn't work like that, I don't think.

**Questioner**

*... inaudible ...*

**David Marr**

I'm very fond of the line that W.H. Auden wrote and then renounced, we must love one another or die. I think that's a pretty good start.

**Question**

My question is for David. You said during your presentation that the views of the majority don't determine the ethical status of a particular thing. How then would you suggest that we determine the ethical status of something because I'm not sure that we should leave it to the moral philosophers either?

**David Marr**

For ourselves! There's absolutely no other way.

**Questioner**

But there has to be some kind of social cohesion, surely?

**David Marr**

There's nowhere you can go that knows best. There are some books out that are quite interesting on the issue, but each of those has problems.

**Michael Cathcart**

I always find that when someone mentions Leviticus, the time has come to go home ...

It remains for me to thank the School of Graduate Studies who brought us all her tonight. Kylie Gillman did all the legwork. Thank you very much Kylie.

Would you thank her and our speakers, Brian Howe, Katherine Teh-White and David Marr.

*applause*

— end of transcript —

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