

Mr Jack Valero
Information Office
Opus Dei Prelature in Britain
6 Orme Court
LONDON
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20 August 2007

Ref: AL/14062035

Dear Mr Valero

Waking the Dead, BBC1, 21 & 22 January 2007

The Editorial Standards Committee (ESC) has now considered your appeal. I enclose a copy of its decision.

The ESC's finding looks at your complaint, which suggested that 'Waking the Dead' breached the BBC's editorial standards. The complaint was not upheld. I realise this will be disappointing.

A summary of this finding will be included in the next edition of the monthly bulletin "Editorial Complaints: appeals to the Trust", which will be published on the 23 August 2007 at the following address:

http://www.bbc.co.uk/bbctrust/appeals/editorial_appeal_findings.html

As with all findings published in the bulletin, apart from those relating to appeals from people directly involved in a programme, your name is not mentioned in the finding.

Yours sincerely,

Richard Tait
Chairman, Editorial Standards Committee

FINDING BY THE EDITORIAL STANDARDS COMMITTEE

Waking the Dead 'The Fall', BBC One, 21 & 22 January 2007

Summary of finding

The complainant, on behalf of the Opus Dei Prelature in Britain, believes the episode of Waking the Dead shown on BBC One in January 2007, contained a very negative and false portrayal of Opus Dei. He also feels that this is a direct result of the characterisation of Opus Dei in Dan Brown's book *The Da Vinci Code*. He comments that despite various reports which evidenced that the operation of Opus Dei was in contrast to that portrayed in Brown's book, the BBC chose to use this view instead of challenging it.

The Committee concluded:

- Waking the Dead was a well established crime drama series and the audience would have had clear expectations as to the fictional nature of its content;
- the drama was pure fiction and did not portray real people or events;
- the drama was about individuals not Opus Dei as an organisation and that the characters would not be seen as representative of Opus Dei or its membership or of members of the Catholic Church;
- the programme had not contained a damaging critique of Opus Dei or of an individual within Opus Dei which required a right of reply as the references within the script to fraudulent bank deals and to Roberto Calvi:
 - a) were prefaced at the beginning of the dialogue with a comment that the police officer should not make a fool of himself by taking seriously the swirls of conspiracy that surrounded Opus Dei;
 - b) The functional murders and fictional theft of bank funds were shown not to be linked with Opus Dei in the play;
 - c) the script referred to "*Opus Dei has been connected with fraudulent deals between large banks, deals which have led to people being assassinated or found dead in suspicious circumstances*" which was accurate in terms of media coverage and
 - d) the script did not say that Opus Dei was connected or was responsible for Calvi's death or fraudulent bank deals.
- the use of Opus Dei may have been due to its increased profile as a result of the 'Da Vinci Code' by Dan Brown but the Waking the Dead was a fiction and did not purport to give a true portrayal of Opus Dei.

The complaint was not upheld.

Waking the Dead 'The Fall', BBC One, 21 & 22 January 2007

I. The series

A description on the Waking the Dead website states:

Waking The Dead is a six-part series shown in two hour long episodes over consecutive nights. The programme follows the work of the Metropolitan Police's Cold Case Unit set up to reinvestigate old cases where new evidence or links to modern day crimes come to light. To aid their investigations the unit uses advanced techniques in forensic science; often taking risks discovering the truth and bringing the perpetrators to justice.

2. The programme "The Fall" (two episodes)

A synopsis of the story:

Part 1

The team are called in when workmen dislodge two conjoined bodies in a former City bank, which folded after Black Wednesday.

A gold ingot is linked to a body found in a river who is identified as Brian McGurk, an aide to the Irish Ambassador.

One of the bodies in the bank is Bank Director Mervyn Simmel, suspected of skipping the country with the bank's funds. The female body in the bank is journalist Katherine Keane whose biography is being researched by Lisa Tobin. The team check out Keane's previous lovers which include a City Alderman, Philip White (who it later becomes clear is a member of Opus Dei) and shadow Trade and Industry Minister, Ian Taggart, and question Simmel's former co-Chairman, Luden Calvin.

Evidence is found that Katherine's used mortification which the team consider a possible link to Opus Dei membership. The team learn that the McGurk was on charitable trust boards with Simmel and Calvin. Boyd also meets with Hugo Keegan, Opus Dei's London director, to discuss whether Keane was a member of Opus Dei. Boyd and Spencer then join DI Bailey from the Garda in Dublin where they find Katherine's husband, drug-dealer Declan Keane. Boyd and Spencer see a masked figure as they chase after Declan. Boyd finds Declan hanging from a bridge between two roofs. He screams at Boyd not to kill him. Boyd tries to pull him up but Declan falls. His bag splits, revealing gold ingots.

Part 2

The team discover that Katherine gave away a child who was Lisa Tobin. Boyd and Spencer trace two safe deposit boxes. One – belonging to Keane and Simmel – is full of gold ingots. Bailey was an arresting officer when McGurk crashed his car in Dublin some years back.

Stella realises Clive Marlow, a rich client of Calvin's, is officially missing. It is also discovered that Katherine was dying of a brain tumour when she was killed. Lisa is abducted by a gunman. Grace realises Calvin's parents committed suicide and he always blamed himself. He was scared of becoming bankrupt. The team trace the missing gold to another bank in the city. Turncoat Bailey removes it only to have a knife held to his throat by Calvin. Saliva links a sample from the bank murder scene to White. Meanwhile, White is denied forgiveness by Opus Dei leader Keegan. On searching Calvin's house, the team discover the body of Clive Marlow in the freezer.

Boyd and Grace find Calvin upstairs conducting a ritual. Calvin raises a kitchen knife to Boyd but Bailey, throat slashed, shoots Calvin. Boyd holds Bailey as he dies. Boyd finds Lisa to whom gunman White hands over his weapon. She avenges her mother's murder by shooting White.

3. The complaint

The complaint, which is made on behalf of Opus Dei, can be briefly summarised as follows:

The complainant, on behalf of the Opus Dei Prelature in Britain, believes the episode of *Waking the Dead* shown on BBC One in January 2007, contained a very negative and false portrayal of Opus Dei. He also feels that this is a direct result of the characterisation of Opus Dei in Dan Brown's book *The Da Vinci Code*. He comments that despite various reports which evidenced that the operation of Opus Dei was in contrast to that portrayed in Brown's book, the BBC chose to use this view instead of challenging it.

The complainant's more specific points and the BBC's responses are detailed below (quotes are extracts from the complaint and replies):

The complaint

- *"...Opus Dei was portrayed as an organisation of murderers, thieves and adulterers who justify and cover up evil actions while hiding behind a veneer of hypocritical piety and penitential rituals of self-flagellation";*
- *"This portrayal is lifted from the Da Vinci Code,...despite...objections at the time by the Catholic Church, and..., press reports. . . which found the organisation innocent of Dan Brown's depiction, the BBC chose to exploit this portrayal as if it were commonplace fact";*
- The complainant accepts that the BBC does not claim that the depiction of Opus Dei is factual but goes on to comment that; *"from your Editorial Guidelines . . . the BBC believes that in dramas 'the same standards of fairness which apply to factual programmes should generally be observed'.. 'we have an obligation to...ensure the drama does not unduly distort the known facts...";*
- He points out that the programme contained a fictional bank and could have similarly created a fictional organisation;

- In not doing so the complainant feels that the BBC has neglected its own guidelines: *“we also note, that from the same Guidelines, that the BBC is committed to avoiding the perpetuation of ‘prejudice and disadvantages which exist in our society’;*
- He also feels that the BBC has gone against its guidelines on religion which state that: *“the BBC ‘will ensure the religious views and beliefs of an individual, a religion or religious denomination are not misrepresented’;* and
- The complainant also noted that Opus Dei was not contacted at any time whilst the programme was being made nor was the organisation’s consent sought for its portrayal.

In response to a reply from the series producer, Cohn Wratten (see BBC response) the complainant commented:

- Re: The intention of the programme to focus on individuals and not on the organisations they were affiliated too: *“... it was precisely the three members’ affiliation to Opus Dei, repeatedly mentioned, which was crucial to a part of the drama...”*
- *“Opus Dei was further maligned by the implication that it was involved in the murder of Roberto Calvi... the creepy figure representing Opus Dei in the UK listens to these accusations in a silent attitude akin to admitting they are true”;* and
- As to the Opus Dei character refusing to give sanctuary, he comments: *“...the implication could well be that he did not want Opus Dei to be tainted — which reinforces the defamatory portrayal and does not provide ‘balance’ as the producer claims”.*

When requesting the Editorial Standards Committee consider the complaint on appeal he responded to the Editorial Complaints Unit’s (ECU) reply (see BBC response):

- *“. . . the fact that not all immoral characters are in Opus Dei does not take away from the fact that all Opus Dei characters in the programme are either criminal or immoral”;* and
- *“the portrayal of Opus Dei is unremittingly negative.., no attempt is made to fictionalise the organisation...if we took the same plot and substituted Opus Dei for “the Board of Deputies of British Jews” or “The Samaritans’ I think you would agree that these organisations would be deeply unhappy at the implications for the reputations of their organisations”.*

BBC response

Colin Wratten, Producer, Waking the Dead, initially responded:

- *“Waking the Dead’, by its nature, aims to tackle dark, disturbing but hopefully fascinating subjects using fictional characters against non- fictional back-drops. . . it is not a drama which pretends to reflect the ‘state of the nation’”;*
- *“We feel balance was achieved in The Fall’ by showing the fictional representative of Opus Dei...refusing to give sanctuary to or condone the actions of the protagonist...”;* and

- *“Waking the Dead’ portrayed characters from a number of organisations including the British Government, The City of London, The Garda and the Psychotherapy profession...the focus of the story centred...on the individuals rather than their affiliations...”*

ECU did not uphold the complaint, their response is summarised below:

- *“...of the people portrayed as being involved in fraud and adultery, only two are actually said to have had on involvement at all with Opus Dei... their involvement in Opus Dei did not appear to be contemporaneous with their misdeeds...”*;
- When the character of Alderman White asks Hugo Keegan for forgiveness for the crimes that were committed 15 years ago ECU stated: *“it seems to me from Keegan’s outrage that this is the first time that White has disclosed to Keegan his responsibility for the two murders... Keegan’s response, admittedly in part driven by a fear that the organisation might be tainted by White’s transgressions, is nevertheless that of someone not prepared to be associated with what he has just been told”*; and
- ECU conceded when considering the guidelines on **Fair Portrayal and Impartiality in Drama** that, *“...drama dealing with contemporary situations has a duty of fairness to real individuals...”*, but *Waking the Dead* does not have a staunch claim to credibility nor would the audience assume its content as it is, *“...a highly fictionalised format in which unlikely conspiracies, guilty secrets and unexpected revelations are the order of the day. That isn’t to say that it has limitless licence in the way it portrays real organisations...it does mean that it can portray them in a more highly coloured way...”*.

4. Applicable programme standards

BBC Editorial Values

Truth and accuracy

We strive to be accurate and establish the truth of what has happened. Accuracy is more important than speed and it is often more than a question of getting the facts right. We will weigh all relevant facts and information to get at the truth. Our output will be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We will be honest and open about what we don’t know and avoid unfounded speculation.

Section 4 - Impartiality and Diversity of Opinion

Impartiality & drama

When drama realistically portrays living people or contemporary situations in a controversial way it has an obligation to be accurate and to do justice to the main facts. If the drama is accurate but is a partisan or partial portrayal of a controversial subject we should normally only proceed if we believe that its insight and excellence justify the platform offered. Even so we must ensure that its nature is clearly signposted to our audience. When a drama is likely to prove particularly

controversial we must consider whether to offer an alternative view in other output on the same service.

Section 5 - Fairness, Contributors and Consent

Fair portrayal in drama

When our drama realistically portrays living people in contemporary situations, particularly a controversial or sensitive event, the same standards of fairness which apply to factual programmes should generally be observed. It is inevitable that the creative realisation of some dramatic elements such as characterisation, dialogue and atmosphere, will introduce a fictional dimension, but we have an obligation to be accurate and to ensure the drama does not unduly distort the known facts and thus become unfair. It is important to explain the nature of the content to our audiences by clearly signposting the output.

Section 8 — Harm and Offence

Introduction

The BBC aims to reflect the world as it is, including all aspects of the human experience and the realities of the natural world. In doing so, we balance our right to broadcast and publish innovative and challenging content appropriate to each of our services with our responsibility to protect the vulnerable.

When we broadcast or publish challenging material which risks offending some of our audience we must always be able to demonstrate a clear editorial purpose. Such material may include, but is not limited to, offensive language, humiliation, sexual violence and discriminatory treatment. We must be sensitive to audience expectations, particularly in relation to the protection of children, as well as clearly signposting the material.

Portrayal

We aim to reflect fully and fairly all of the United Kingdom's people and cultures in our services. Content may reflect the prejudice and disadvantage which exist in our society but we should not perpetuate it. We should avoid offensive or stereotypical assumptions and people should only be described in terms of their disability, age, sexual orientation and so on when clearly editorially justified.

Section 12 - Religion

Religion editorial principles

We will ensure the religious views and beliefs of an individual, a religion or religious denomination are not misrepresented, abused or discriminated against, as judged against generally accepted standards.

5. The Committee's decision

The Committee considered the complaint against the relevant editorial standards, including the BBC's values and other standards set out in the Editorial Guidelines. The Committee took into account all the material before it relating to the appeal; this included submissions from all the relevant parties to the complaint who were asked to comment on the material going before the Committee.

The Committee considered the complaint under three headings of the BBC's Editorial Guidelines:

- Fairness (portrayal in drama and right of reply)
- Harm and offence (portrayal)
- Religion (editorial principles)

Fairness

Fair portrayal in drama:

There were three characters in the drama who were associated implicitly or explicitly with Opus Dei:

- Katherine Keane, one of the two murder victims who had used mortification and had been involved in stealing gold from the Bank;
- Her lover and murderer Philip White, a member of Opus Dei;
- And .Hugo Keenan who was the fictitious London director of Opus Dei and who rejected White when his double murder became known.

The complainant believed the association of these characters with Opus Dei meant that Opus Dei was portrayed as being an organisation of "murders, thieves and adulterers who justify and cover up evil actions while hiding behind a veneer of hypocritical piety and penitential rituals of self-flagellation";

The Committee noted that this was not a factual drama, but a work based purely on fiction. -

The guidelines require that

"When our drama realistically portrays living people in contemporary situations, particularly a controversial or sensitive event, the same standards of fairness which apply to factual programmes should generally be observed."

It was the view of the Committee that this drama did not realistically portray living people (or organisations) or events in a contemporary situation. It was not a drama documentary, it did not attempt to dramatically portray real events and it did not set out to realistically portray a living person in a contemporary situation.

The Committee felt that as this was a wholly fictional drama greater licence should be allowed for the writers to develop unrealistic and unrepresentative storylines that were engaging and entertaining than would be the case with for example a drama documentary.

The Committee were satisfied that the audience tuning into this programme would have had been fully aware that they were watching fiction. The Committee noted that the nature of fictional drama required audiences to suspend disbelief and their sense of reality. Moreover as *Waking the Dead* was an established and popular drama series which, when this story was transmitted, was into its sixth season of programmes the audience would have been prepared for highly complicated and unrealistic story lines which bore no relation to real life — an example of which is the plot summary at the head of this finding.

The Committee also noted that this was a drama concerned primarily with the individuals involved in the storyline and not with the organisations, whether imaginary or real, they were associated with.

Writers were not required to ensure that individuals reflected credibly upon organisations. That would be an inappropriate limitation upon the freedom of expression of the writer. The role of drama was to develop characters with a range of personalities both good and bad. An example of this in this drama was the character DI Bailey of the Garda, who was a corrupt policeman and was clearly not intended to be representative of the Irish police force.

It was noted that Opus Dei was referred to in the programme, but the Committee did not consider that the organisation was portrayed in any particular way, nor that the audience would treat any references as a realistic portrayal.

Fairness - right of reply

The guidelines also require that

we have an obligation to be accurate and to ensure the drama does not unduly distort the known facts and thus become unfair.

With regard to the general representation of Opus Dei as an organisation, whilst the Committee was satisfied that the drama's intention was to use it as a means to connect various characters together, it noted that the conversation in part one of the story and the specific references to Hugo Keenan's involvement with the Vatican Bank and Roberto Calvi raised wider issues concerning more than just the individual character but Opus Dei itself. The Committee considered whether this was a damaging critique of the organisation which required some form of redress within the drama. It noted the conversation in DS Boyd's office:

BOYD:

Well discretion, yes, although, er Opus Dei hasn't exactly been, erm, publicity shy over the last few years, has it Mr Keegan, but confidentiality, no. I have a murder investigation in progress and reasons to believe that an Opus Dei member may be involved.

KEEGAN:

You mustn't make a fool of yourself Detective Superintendent by taking seriously the swirls of conspiracy that surround us.

BOYD:

Hm, let me share my, my thinking with you because it might save us both a bit of time. -

(Keegan looks interested in what Boyd maybe about to say)

BOYD:

I know that you where in Rome in 1971 as part of an Opus Dei delegation: a delegation that was offering to bale out the Vatican Bank which lost over two hundred million dollars on bad business deals.

(Keegan says nothing - Boyd. pulls au the photograph of Calvi from the file and shows it to Keegan)

BOYD:

In 1982, you had a meeting with this man, Roberto Calvi.

(Keegan listen to Boyd and does not react at all)

BOYD:

This is Calvi two days later, hanging under Blackfriars Bridge. The evidence is here; Opus Dei has been connected with fraudulent deals between large banks, deals which have led to people being assassinated or found dead in suspicious circumstances:

(Keegan is still giving nothing away and Boyd is becoming exasperated)

BOYD

Okay well, then, we discover two bodies on the premises of a bank, a bank which has collapsed. There's evidence that one of the victims may be an Opus Dei member. Now my investigation has to....

BOYD

...ask - Is history repeating itself?

(Finally Keegan has something to say)

KEEGAN

D'you have a faith, Mr Boyd?

The Committee recognised that Keenan had prefaced the various accusations of Boyd's by suggesting he (Boyd) "*mustn't make a fool of yourself*" by referring to the "*swirls of conspiracy that surround us [Opus Dei]*". It noted that the fictional character, Keenan, was proved accurate in that the murders had nothing to do with Opus Dei

and Opus Dei was not connected with the collapse of the bank and the theft of the funds.

The Committee also noted that the comments referring to Keenan's meeting with the Vatican Bank and Roberto Calvi would have been seen to be entirely fictitious, and were not based on any known individual or event.

The Committee was satisfied that even with the inclusion of these fictitious meetings the programme had not provided a damaging critique of Opus Dei in that the detective did not go on to state that Opus Dei were responsible for the death of Calvi or the fraudulent collapse of a bank. However it did recognise that the programme could have made Opus Dei's position on the Calvi death clearer by including a rebuttal by Keenan to any link with Calvi's death and fraudulent bank dealing during Boyd's questioning as well as or instead of a statement regarding conspiracies at the start of the conversation. Nevertheless, the Committee was satisfied that the programme had not breached guidelines on fairness in its portrayal of Opus Dei. It was also satisfied, given no critique of Opus Dei had been included within the programme, that the production team was not required to provide Opus Dei with a right of reply within the drama, contact Opus Dei in advance of broadcast or use a fictional name for Opus Dei.

Harm and offence - Portrayal

The guidelines on portrayal require that:

We aim to reflect fully and fairly all of the United Kingdom's people and cultures in our services. Content may reflect the prejudice and disadvantage which exist in our society but we should not perpetuate it. We should avoid offensive or stereotypical assumptions and people should only be described in terms of their disability, age, sexual orientation and so on when clearly editorially justified.

In this case the Committee considered whether the portrayal of characters linked with Opus Dei included offensive and stereotypical assumptions possibly linked to the portrayal of Opus Dei in "The Da Vinci Code" by Dan Brown and if so whether the portrayal was editorially justified.

It was satisfied from the script that the characters' motivation to commit theft, adultery, and murder were ascribed to the characters' flaws and were never linked to membership of Opus Dei. As such it did not believe that Opus Dei itself was portrayed in a stereotypical way.

Religion

The Editorial principles require that:

We will ensure the religious views and beliefs of an individual, a religion or religious denomination are not misrepresented, abused or discriminated against as judged against generally accepted standards.

The Committee was satisfied that the drama dealt with individual characters as opposed to Opus Dei itself and that the drama did not deal with the religious views and beliefs of either an individual or of Opus Dei or of the Catholic Church.

In conclusion, the Committee, whilst it recognised that Opus Dei was offended and as such wished to express its regret that this was the case, was satisfied the drama, a work of fiction, had not breached guidelines. It noted that whilst some of the characters with Opus Dei links were deeply flawed they were not representatives of the organisation or its real membership.

Finding: Not upheld