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Righting Wrongs: Citizen Journalism and Miscarriages of Justice

Abstract

This chapter demonstrates the agenda-setting power of citizen journalism in a context of miscarriages of justice. Our empirical analysis focuses on the interaction of media, political and judicial forces following the death of newspaper vendor, Ian Tomlinson, shortly after being struck by a police officer at the G20 Protests in London 2009. We examine the rise of citizen journalism as a key challenge to those institutions that traditionally have been able to control the information environment. We then illustrate how the intervention of citizen journalism, above all else, established the news agenda around the Tomlinson case, disrupted the traditional flows of communication power, and was transformative in the Tomlinson family's search for justice.

Introduction

This chapter uses a case study approach to demonstrate the agenda-setting power of citizen journalism. More specifically, we explore the interaction of media, political and judicial forces following the death of newspaper vendor Ian Tomlinson shortly after being struck by a police officer at the G20 Protests in London 2009. First, we map out key transformations in the contemporary news environment, and discuss the implications of these for the control of information during the policing of public order events. Second, we discuss the rise of the citizen journalist as an important and developing feature of this transforming news media landscape. Third, we describe the 'events' of the G20 protests, and consider the initial

‘inferential structure’ used by the news media to make sense of them.¹ Fourth, we analyse the news media maelstrom around the death of Ian Tomlinson, and examine how the initial inferential structure and flows of communication power were disrupted by the intervention of citizen journalists. Fifth, we consider the news media outrage at the Crown Prosecution Failure (CPS) failure to prosecute the police officer filmed striking Tomlinson shortly before he collapsed and died, and the subsequent official responses, inquiries and prosecutions. Finally, we return to our conceptual framework to consider the wider implications of this case study.

The Transforming News Environment and the Rise of ‘Citizen Journalism’

The contemporary reporting of crime and public protests takes place within a radically transformed information-communications environment. The police are increasingly enmeshed in a complex web of internal and external stakeholders and ‘publics’ with different agendas and needs who are willing and able to use the news media and Internet to represent their interests. Cottle (2008) has noted the extent to which protest groups and demonstrators have become ‘reflexively conditioned’ to get their message across and activate public support. The contemporary news media environment offers ‘new political opportunities for protest organizations, activists and their supporters to communicate independently of mainstream news media’ (ibid: 853; DeLuca and Peeples 2002; Hutchins and Lester 2006; Maratea 2008; McCaughey and Ayers 2003). Protesters are aware that their activities have to compete proactively for space in the fast-moving, issue-based attention cycle that defines the 24-7 news mediasphere (Oliver and Maney 2000). In addition, as Milne (2005) argues, there has been a notable shift in political perspective amongst sections of the Fourth Estate as they attempt to prise open the political process. Market-driven newspapers in particular are much more willing to initiate and/or support anti-government/establishment campaigns and protests, and in certain respects have become ‘ideologically footloose’. Consequently, there is the increased possibility of

¹ The concept of ‘inferential structures’ explains how the same news content can be shaped into multiple configurations, establishing selectively representative frameworks of understanding that shape how both newsmakers and news consumers interpret the story - **Lang, K. and Lang, G.** 1955 ‘The Inferential Structure of Political Communications: A Study in Unwitting Bias’, *Public Opinion Quarterly* 19(2): 168-183..

damaging images and representations of state institutions such as the police materialising and circulating in the offline and online news media. Of crucial importance here is the rise of the citizen journalist.

Allen and Thorsen (2009) define citizen journalism as 'the spontaneous actions of ordinary people, caught up in extraordinary events, who felt compelled to adopt the role of a news reporter'. Peat (2010) provides a vivid description: 'Armed with cellphones, BlackBerries or iPhones, the average Joe is now a walking eye on the world, a citizen journalist, able to take a photo, add a caption or a short story and upload it to the Internet for all their friends, and usually everyone else, to see'. In recognition of this unprecedented news-gathering potential, news organisations have established formal links to encourage citizens to submit their mobile news material (Pavlik 2008; Wallace 2009). Citizen-generated content, in turn, can generate other information and images, fuelling 'endless remixes, mashups and continuous edits' (Deuze 2008: 861). Citizen journalism has been instrumental not only in providing newsworthy images, but also in defining the news itself – in shaping representations of key global events. The defining images of the 7/7 London bombings in 2005, probably the watershed in the emergence of a highly interactive and participatory contemporary news production process, were provided by citizen journalists (Sambrook 2005). The emergence of the citizen journalist carries significant implications for professional news gathering organisations and official institutions who would seek to control the news. Novel forms of selecting, gathering, processing, and disseminating 'news' are transforming communication circuits. On the one hand, there are real issues of simulation, manipulation, partisanship and lack of accountability. On the other, 'right here, right now' citizen journalism can bring authenticity, immediacy and realism to news stories through the production of dramatic and visually powerful 'evidence' of events 'as they happen'. The G20 demonstrations in the City of London on 1st April 2009 provide an important insight into the disruptive impact of citizen journalism upon routinised police-news media relations. They also illustrate the shifting nature of definitional power in the 24-7 news mediasphere.

Ian Tomlinson and Citizen Journalism: From 'Protester Violence' to 'Police Violence'

The April 2009 G20 London Summit involved a meeting of the Group of Twenty Finance Ministers and Central Bank Governors – the G20 heads of government or state – to discuss the financial crisis of 2007-2008 and the world economy. Given the high levels of public anger at the way in which the financial crisis was being managed, the summit would become one of the most high profile security events to be staged in the UK. The London Metropolitan Police Service (MPS) identified a number of ‘unique’ factors that had the clear potential to generate problems for the securitisation of the G20 Summit, codenamed ‘Operation Glencoe’. First, an unprecedented number of public order events were taking place simultaneously across London, including: the arrival of G20 delegations, a state visit by the President of Mexico, and an international football match at Wembley. Since any one of these events could present a target for a terrorist strike, the logistical pressures on police resources was enormous. Second, the potential for trouble would be increased significantly by widespread public anger at the handling of the financial crisis. And thirdly, a coalition of anarchist, anti-globalisation, anti-war and environmentalist ‘direct action’ groupings had declared their intention to ‘take’ the financial heart of the City of London. These groups were using a range of media to communicate their plans and exchange views on how the days of protest would develop, where the ‘flashpoints’ would be, and the likelihood that the police would over-react (Greer and McLaughlin 2010, 2012).

In the countdown to the G20 protests, both the police and the press drew from a well established or default news frame in order to interpret and explain the unfolding events. This default news frame was ‘protester violence’: that is, there was a clear sense that the demonstrations would be marred by violence, and that this violence would come from the protesters (Gorringe and Rosie 2009). An initial inferential structure developed around the news frame of ‘protester violence’, and it was this framework – reflecting and reinforcing the police perspective – that shaped newspaper coverage in terms of ‘what the story was’ and ‘how it would develop over time’. When, as predicted, protesters clashed with police on 1st April, the inferential structure crystallised and now explicitly set the context for newspapers’ interpretation of events at G20.

At 11.30pm on 1st April the MPS released a statement disclosing that a man had died in the area of the Bank of England (MPS statement, 1st April). Partly due to the timing and context of the statement, the press situated the death within the existing inferential structure, and

reproduced the police narrative which claimed that the man had died in the midst of chaotic protester violence. Journalists' reports and protest group websites conflicted over whether or not the dead man, Ian Tomlinson, was a protestor, and where he had collapsed. On 2 April the Independent Police Complaints Commission (IPCC) confirmed that it had been asked by the police to review Tomlinson's death. An immediate post-mortem examination established that he had suffered a heart attack and died of natural causes. Whatever Tomlinson's G20 protest connections, the police position was that he had not come into contact with officers prior to collapsing in the street.

One of the most noticeable characteristics of the 1st April protests was the sheer density and variety of recording devices being used by professional and citizen journalists, private businesses, demonstrators, the police, and passers-by. Furthermore, because of police containment tactics, police-news media-protester-public interactions took place in extremely close spatial proximity, which simultaneously created a captive audience to surrounding events. The result was a hyper-mediatised, high-surveillance context within which control of the information and communication environment would be difficult to maintain. As photographs of Ian Tomlinson appeared in the news media and online, witnesses began to emerge, claiming they had seen the man interacting with the police on several occasions. Their testimonies, significantly brought first to the news media rather than the IPCC, challenged the official line that bottles had been thrown at police while they were attending to Tomlinson after his collapse. It soon transpired that Tomlinson, in attempting to make his way home from work, had in fact come into contact with the police on several occasions prior to collapsing at 7.30pm. In a pivotal news media intervention, on 3rd April the *Guardian* informed City of London Police, who were responsible for conducting the IPCC investigation into the death, that it had obtained timed and dated photographs of Tomlinson lying on the pavement at the feet of riot police. On 5th April *The Guardian* published several of these photographs, along with the testimony of three named witnesses who claimed they had seen Tomlinson being hit with a baton and/or thrown to the ground by officers. The next day the IPCC confirmed that Tomlinson had come into contact with officers prior to his death, but continued to contest reports that he had been assaulted.

Serious concerns about the policing of G20 were aired across the weekend news media on 4th and 5th April, accompanied by the first calls for a public inquiry. Ian Tomlinson was

becoming a *cause célèbre*. The decisive moment came on April 7th, when the *Guardian* website broadcast mobile phone footage that appeared to provide clear evidence of police violence against Tomlinson minutes before he collapsed. The footage had been handed to the newspaper by an American fund manager who said, 'The primary reason for me coming forward is that it was clear the family were not getting any answers' (*Guardian*, 7th April 2009). It shows Tomlinson walking, hands in pockets, seemingly oblivious to an adjacent group of officers, some dog handlers, and others in riot gear. He presents no discernible threat to public order. Without warning, an officer in helmet and balaclava pushes Tomlinson forcefully from behind, knocking him to the ground. When slowed-down, the footage captures the officer swiping at Tomlinson's legs with a baton, and then pushing him hard in the back. Police stand and watch as passers-by help Tomlinson to a sitting position, where he appears to remonstrate with the officers in question. He is then helped to his feet, again by passers-by, and is seen walking away. Soon afterwards he will collapse beyond the view of this camera.

The *Guardian* shared the footage with the news channels of the *BBC*, *Sky* and *Channel 4*. It was also added to various online news sites, and to *YouTube*. The footage was picked up globally and was by far the most read story on the *Guardian's* website, with about 400,000 views. It initiated intensive blogging and a letter-writing campaign to parliament. Authenticated, real-time footage of events surrounding Ian Tomlinson's death provided a focus for the growing body of complaints, led by the Tomlinson family who had now established a campaign website (<http://www.iantomlinsonfamilycampaign.org.uk>), about (a) the overall policing of G20, and (b) the actions of officers attached to specialist units. On 8th April new footage shot from a different angle, retrieved from a broken *Channel 4* camera, showed an officer striking at Mr. Tomlinson from behind with a baton and then pushing him to the ground. This combined footage set the agenda not only for other news agencies, but also for the response of the MPS and the IPCC. The MPS subsequently confirmed that four officers had come forward in relation to the investigation into the death of Mr. Tomlinson.

The initial inferential structure around 'protester violence' – so routinely and uncontroversially established in the run up to the G20 protests – had disintegrated, and a new inferential structure – initiated and driven by the raw content of citizen journalism – had

crystallised around the news frame of 'police violence'. The emergence of this *dominant* inferential structure was evident in the shifting focus of news media interest, and how the 'story' of G20 was re-ordered and re-interpreted within that context. But further, and crucially, this dominant inferential structure was evident in the extensive and highly public official response that asked probing questions about the MPS's public order policing strategy, and foregrounded the importance of two media-related phenomena: the need for the MPS to develop more positive police-press relations, and the implications of the rise of the citizen journalist for the policing of public events.

'No Realistic Prospect of a Conviction': The Crown Prosecution Service (CPS) Decision on Ian Tomlinson

On 23rd July 2010, Keir Starmer, the Director of Public Prosecutions (DPP), confirmed that Ian Tomlinson did not pose a threat to any police officer he had encountered on 1st April 2009. His innocence was officially confirmed. Starmer verified that the officer's use of force had been disproportionate and unjustified. However, there was an 'irreconcilable conflict' between pathologists about the cause of Tomlinson's death (Starmer, *Sky News*, 22 July 2010) – one ruled that Tomlinson died from a heart attack, whilst two subsequent post-mortems by other pathologists concluded that he had died as a result of internal bleeding after a blow to the abdomen. Consequently, there was 'no realistic prospect' of pursuing a conviction for manslaughter or assault occasioning actual bodily harm. The IPCC immediately released a statement that it would now conclude its final report and present it to the Coroner so that preparations could be made for an inquest. At a news conference the Tomlinson family and their lawyer branded as a 'cover-up' the CPS decision not to bring criminal charges against the TSG officer. The outrage of the Tomlinson family registered immediately across broadcast news bulletins and newspaper websites. Coverage was contextualised by re-running or re-posting video footage of the policing of G20 and, in particular, Tomlinson's encounter with the TSG officer. The news media inferential structure was crystallising around the news frame of systemic, multi-agency 'institutional failure' – a failure of 'justice' – and explicitly set the tone for press interpretations of the Tomlinson case the following day.

The CPS decision dominated the front pages of the *Guardian*, the *Times* and the *Daily Telegraph*, the *London Evening Standard* and the *Metro* (one of London's several 'freesheets'), and was covered on the inside pages of the *Independent*, the *Sun*, the *Daily Mirror* and the *Daily Express*. Headlines were remarkably consistent, communicating a clear consensus across tabloid and broadsheet, left and right. Moral indignation in the form of the Tomlinson family's 'fury' and 'outrage' was the dominant emotional register. The police officer had been 'let off' and allowed to escape justice. News items, feature articles and editorials reinforced and advanced an inferential structure that had been developing since the footage of Tomlinson's assault had been made public. Now, the dominant inferential structure extended beyond the Metropolitan Police Service (MPS) to include the CPS and the IPCC. The Tomlinson story continued to evolve as a rolling news story. But it was no longer about the Tomlinson case alone. It constituted collective press outrage at the impunity of police officers and the ineffectiveness of the structures of accountability designed to deliver public protection and justice. With each new development in the Tomlinson case, the inferential structure built around systemic institutional failure was consolidated and strengthened, and the journalistic distrust in those who possess and exercise institutional power simultaneously appeared to be validated and amplified across the criminal justice estate.

The Mediatization of the Tomlinson Inquest

In England and Wales, an inquest is a fact-finding legal inquiry to establish who has died, and how, when and where the death occurred. It is held in public – sometimes with a jury – by a coroner, in cases where the death was violent or unnatural, took place in prison or police custody, or when the cause of death is still uncertain after a post-mortem. An inquest does not establish liability or blame (Ministry of Justice 2012). Because the nature of the proceedings is inquisitorial, rather than adversarial, the inquest is the only independent forum in which questions can be asked, enabling families of the deceased to understand the circumstances of the death. In theory, the inquest is one of the clearest manifestations of the principle of 'open justice' in England and Wales. For critics and some victims, this potential is seldom achieved and inquests – due to delays, inconsistent verdicts and built-in

reluctance to censure criminal justice agencies – are as likely to perpetuate ‘miscarriages of justice’ as they are to deliver ‘open justice’. Those dissatisfied with the inquest process have no avenue of appeal. The inquest of Ian Tomlinson began on 28th March 2011, and heard evidence until 21st April. We would argue that the video footage of what happened to Tomlinson played a critical role in the jury’s deliberations. The level of controversy and news media interest surrounding the Tomlinson case ensured that the inquest would be a high profile event. Its importance was further signalled by the fact that it was conducted by the chief coroner, Judge Peter Thornton QC, who replaced the City of London coroner, Paul Matthews.

To our knowledge this was the first inquest in England and Wales to take full account of the new media environment. The *Guardian* and other newspapers were given permission by the coroner to tweet live from the inquest. the Tomlinson inquest was the first in British legal history to be reported as it happened, and was made accessible in real time via tweets and live blogs to millions of virtual onlookers. A dedicated Ian Tomlinson inquest website was created, providing updated information for anyone interested in the proceedings.

Transcripts and links to key video and photographic evidence were uploaded daily.

Anticipating significant public interest, members of the public and accredited journalists who could not access the inquiry room were allowed to watch the proceedings from a specially equipped court annexe. This annexe was serviced by a live audio and video link to the court room and a running display of the transcripts.

Visual evidence played an unprecedented role in the inquest. The Independent Police Complaints Commission (IPCC) was instructed to compile a montage of video footage from citizen, professional and official sources including CCTV cameras, police helicopters, police surveillance teams, news organisations, bystanders and websites. The footage was ordered chronologically into an evidential documentary that sought to provide a 360 degree account of events running up to Tomlinson’s death. The first video montage covered Tomlinson’s attempts to negotiate various police cordons. The second followed PC Simon Harwood as he was seen engaging with various protestors during the course of the day. The inquest opened with this evidential documentary being shown to the jury. An IPCC representative was asked to provide an account of the methods used to construct a visual data base. Over the four week period, the jury heard of Mr Tomlinson's actions on the day, and police, including PC

Harwood, described their involvement. The medical reasons for Mr Tomlinson's death were discussed in detail, and three of the four pathologists who carried out post-mortem examinations, as well as other medical experts, were called to give evidence. The visual evidence, along with photographs, was used in the cross examination of witnesses to guide the discussion and assess the accuracy of the evidence being given. The Coroner also allowed the jury to re-watch the visual material when they retired to consider their verdict. No qualitative distinction was made between official, professional and citizen footage.

This was also the first inquest where the testimony of a citizen journalist was recognised as central to the deliberations. Christopher La Jaunie spoke publicly for the first time about his filming of the moment PC Harwood struck Ian Tomlinson. From reading the initial news coverage he realised that there were discrepancies between the official police account of what had happened and what he had witnessed and filmed:

'I basically contacted every reporter who had followed the story by email to say "Hey, I have something that may be of interest to you", because at the time, as you know, the story that had come out was that he had just died of natural causes, completely unrelated to this... In my opinion, that footage was contradicting the story' (Testimony, Ian Tomlinson Inquest, 31st March 2011).

As we have noted, only the *Guardian* appears to have recognised the significance of La Jaunie's footage. On 30th March 2011, all the main national newspapers reproduced the same iconic still – taken from this footage – of Ian Tomlinson being pushed to the ground by PC Harwood.

'Tears as family sees G20 victim's final moments' (*Daily Mail*, 30th March 2011: 22)

'Riot violence of officer in G20 death: Footage of Harwood with other protesters' (*Daily Telegraph*, 30th March 2011: 13)

'Family weep over CCTV film over man's death at G20' (*Times*, 30th March 2011: 9)

'Family in tears as Tomlinson's last moments shown' (*Guardian*, 30th March 2011: 7)

'Widow's tears as she sees G20 shove: Inquest shown new evidence' (*Daily Mirror*, 30th March 2011: 6)

‘Tears for G20 dad’ (*Sun*, 30th March 2011: 21)

‘Tearful Tomlinson family see footage of G20 death’ (*Independent*, 30th March 2011: 20)

On 3rd May the inquest jury returned the verdict that Ian Tomlinson had been unlawfully killed by PC Harwood, though use of ‘excessive and unreasonable’ force. The headlines the following day were robust in their near unanimous calls for Harwood to be formally prosecuted. Once more the iconic still of Ian Tomlinson illustrated the highly critical press coverage. The Director of Public Prosecutions (DPP) announced that evidence emerging during the inquest would be reviewed to ascertain if, despite the DPP and CPS previous decision not to prosecute though ‘no realistic chance of a conviction’, Harwood should now be charged with manslaughter. On 24th May 2011, the DPP announced that there was a ‘realistic prospect’ of convicting PC Harwood, who would now face prosecution on the charge of manslaughter. On 18th June 2012, PC Harwood stood trial at Southwark Crown Court. On 19th July 2012 he was found not guilty of the manslaughter of Ian Tomlinson. The press response to the ‘unjust’ verdict was unanimously scathing:

‘Call This Justice?’ (*Daily Mirror*, 20 July, Front Page)

‘Cleared but G20 cop had stormy past’ (*Sun*, 20 July, p.17)

‘Freed: ‘Thug in Police Uniform’ (*Daily Mail*, 20 July, Front Page)

‘PC Cleared of G20 Protest Killing, But Now faces the Axe’ (*Daily Express*, 20 July, Front Page)

‘Policeman Cleared over G20 Death, but Questions Remain’ (*Guardian*, 20 July, Front Page)

‘Not Guilty but Not Innocent’ (*Independent*, 20 July, Front Page)

‘Stains on the record of G20 Officer’ (*Daily Telegraph*, 20 July, p.7)

‘G20 Officer had Long History of Misconduct’ (*Times*, 20 July, Front Page)

The press coverage juxtaposed a photograph of PC Harwood leaving court with the now instantly recognisable image of Ian Tomlinson. On 17th September 2012, PC Harwood was found guilty of gross misconduct by a Metropolitan Police disciplinary panel and sacked with immediate effect. Ian Tomlinson's family left the hearing before PC Harwood was dismissed from the force, saying the process was ‘pointless’ and left them with ‘no answers’. They said

they intended to pursue the case in civil court to try and establish who was responsible for Ian Tomlinson's death.

Conclusions

The nature and intensity of the Tomlinson news coverage, substantiated by real-time citizen-generated content of this and other incidents of police violence, and reinforced by the internet, made the MPS public order policing strategy a live political and policy issue that had to be addressed. Following the G20 protests, a raft of official inquiries into 'Operation Glencoe' raised wider questions about public order policing and the news media in the 21st Century (HMIC 2009; House of Commons Home Affairs Committee 2009; IPCC 2010; Joint Committee on Human Rights 2009; Metropolitan Police Authority 2010). The resulting reports all expressed concern that the high-profile exposure of police violence, however isolated, could seriously damage public confidence in the police. The changing media environment featured prominently in discussion of: the poor state of police-news-media relations, which generated tensions, frustrations and conflict between professional journalists and on the ground officers; the sophisticated use of multi-media technologies by protest groups, which by far surpassed the static communicative capabilities of the police; and the significance of the citizen journalist for intensifying public scrutiny of individual and collective police action, and in shaping public perceptions of the police. At the request of the Tomlinson family, an IPCC investigation was established specifically to consider the way the MPS and City of London Police handled the news media in the aftermath of Ian Tomlinson's death.

Were it not for the incendiary visual evidence handed to the news media by citizen journalists, the 'story' of Ian Tomlinson may never have taken off, the MPS may have succeeded in denying or defusing allegations of police violence, and the policing of G20 may have been recorded officially as a resounding success. Because of citizen journalism, the operational integrity and institutional authority of the MPS was first of all questioned, and then successfully challenged. The citizen-generated coverage of the events surrounding Ian Tomlinson's death was validated systematically, first through the national press, then through various official inquiries and, most significantly, as documentary evidence in the

inquest. In the process, it became not only part of the official record of the policing of G20, but its defining element. Feeding directly into the inquest proceedings, it was core to the task of uncovering the *truth* of what happened on 1 April 2009 – a vital means of ascertaining the accuracy of verbal evidence, and a primary source of influence on the jury's deliberations. The Inquest findings, combined with sustained news media outrage at the lack of police accountability – all underpinned by visual evidence from citizen, professional and official sources – were central in reversing the CPS decision that there was 'no realistic prospect' of securing a conviction against Tomlinson's police assailant. This in turn was a necessary stage in the processes that ultimately led to Harwood's acquittal for manslaughter, and dismissal for gross misconduct.

On 5 August 2013, the MPS issued a formal apology to Ian Tomlinson's family. They acknowledged for the first time that 'excessive and unlawful' force had been used. Ian Tomlinson's family said the apology marked the end of a long legal battle blighted by untruthful accounts and obstruction by PC Harwood. Harwood's dismissal and the MPS apology are clear evidence of the influence that citizen-generated content can have on the justice process. Tomlinson's widow, Julia Tomlinson, said 'The public admission of unlawful killing by the Metropolitan police is the final verdict, and it is as close as we are going to get to justice'.

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