

# Media, the courts, and terrorism

## Lessons from the Christchurch mosque attacks

**Commentary:** Court proceedings against the alleged perpetrator of the Christchurch mosque attacks in 2019 led to what may be ground-breaking cooperation between the judicial system and the media to balance fair trial rights and a determination to (a) avoid retraumatisation and (b) prevent the court being used as a platform for white supremacist propaganda. The case, and the willingness of media to honour these imperatives, demonstrates the centrality of publicity in acts of terrorism known as ‘propaganda of the deed’. The research outlined in this article suggests that institutional cooperation can avoid ‘giving oxygen’ to perpetrators and their causes without sacrificing journalistic integrity or a duty to bear witness in the interests of open justice. A change of plea resulted in proceedings being limited to a sentencing hearing. A lengthy trial may have tested the robustness of the measures put in place but, nonetheless, the planning processes employed in New Zealand lead to a conclusion that they could provide a basis for similar cooperation in other judicial jurisdictions, such as Australia.

**Keywords:** Australia, Christchurch mosque attacks, court reporting, fair trial rights, judge’s orders, Media and Courts Committee, media cooperation, Media Freedom Committee, media law, New Zealand, propaganda of the deed, terrorism, *R v Brenton Harrison Tarrant*

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### Introduction

THE ACTIONS and reactions of the New Zealand media in the wake of the 2019 Christchurch mosque attacks and subsequent court proceedings demonstrate the value of institutional cooperation and mutual trust.

That conclusion is drawn from research conducted in conjunction with my colleague, Dr Denis Muller of Melbourne University. To date two papers have been published from our study. The first examined New Zealand and overseas coverage of the attacks themselves (Ellis & Muller, 2019). The second related to the sentencing of Brenton Harrison Tarrant in 2020 (Ellis & Muller, 2022). A third paper will follow a coronial hearing into the attacks (for which a date has yet to be determined), and Tarrant’s appeal against conviction and sentence (filed in November 2022).<sup>1</sup>

This article addresses issues in media reporting of terrorism, in the context of the Christchurch attacks.

It is useful to first consider the nature of terrorism itself. It is a violent crime where the victims are not the end, but the *means* to an end. They are the means by which a message can be sent to the public in a way that cannot be ignored. French journalist Paul Brousse in 1877 coined the phrase *Propaganda par le fait*—propaganda by the deed.

It became the war cry of militant anarchists in the late 19th and early 20th centuries, a period that saw exponential growth in mass circulation newspapers (Kassel, 2009).

After he assassinated the Empress of Austria in 1898, anarchist Luigi Lucheni was reported as having said: ‘I would like to kill someone, but it would have to be someone important, so that it gets in the papers!’ (Van de Meer, 2015).

It was, and ‘propaganda of the deed’ has found a ready media platform over the following 125 years.

Each advance in media technology has provided ever more graphic means of publicising the deed—from large front page drawings depicting the assassination of US President McKinley in 1901 to live tv coverage of the second aircraft smashing into the Twin Towers a century later. And, in the age of social media, a terrorist live-streaming the killing of 51 people in two places of worship in Christchurch.

Media not only bear witness to these actions. They are an essential component of the deed itself. The publicity they provide achieves the objectives of the terrorist, magnifying and spreading the trauma. Editors are presented with the classic Hobson’s Choice. It is not a question of *whether* to cover these events: They cannot ignore them despite publicity achieving the terrorist’s objective. The dilemma is not lost on most of them as they turn their attention to *how* the events are covered.

However, the theatre of terrorism (Weimann, 2008), as it is also known, is so gripping that some media organisations put spectacle ahead of principle. I recall, for example, a British tabloid describing the sound of bodies hitting the ground after falling from the World Trade Centre on September 11. Others unwittingly ‘enhance’ the notoriety of perpetrators and give oxygen to their messages.

### **A moderating factor—the Proximity Filter**

In our 2019 paper, my colleague Denis Muller and I found a moderating factor that may even stay the hand of a tabloid editor. The closer media outlets are to the site of the crime, the greater the consideration for the audience and, thereby, the victims. We termed this effect the Proximity Filter.

It was certainly present in coverage of the attacks on the two Christchurch mosques and we detailed that in that paper. We concluded a proximity filter was used by New Zealand media who identified the victims as part of their own community (and tailored coverage accordingly), but the events were seen as

‘foreign’ by Australian journalists who used perceived distance as justification for extremely graphic content and images of the gunman that white supremacists would view as aggrandising. Those extremists have lionised the mosque shooter on the more clandestine social media platforms.

The filter has been present in other terrorist attacks. For example, while the aircraft crashing into the second tower became the stock image of 9/11 for media *outside* America, *within* the United States—amid an upswelling of patriotism—it was more likely to be a picture of three dust-covered firemen securing an intact Stars and Stripes to a post protruding from the rubble. It became the Heroes 2001 postage stamp.

In Australia, the Joint Commonwealth-New South Wales Review of the Martin Place Siege in 2014 found the media coverage was ‘measured and responsible’ (Commonwealth of Australia, 2015). The emphasis was on the victims, not the attacker.

However, the filter should not be seen as all-powerful. In Britain, for example, some tabloid coverage of domestic terrorism attributed to Muslims has been Islamophobic, motivated by a desire to provoke strong emotional responses in readers (Ivanic et al., 2019). Other British coverage has been at pains to distance extremists from the Islamic faith.

After the massacre of staff of the French magazine *Charlie Hebdo* following publication of the Muhammad cartoons, values collided. The republication of the cartoons by others in the name of press freedom added fuel to the extremists’ fire (Jenkins & Tandoc, 2017).

However, my colleague and I were satisfied that, in a general sense, proximity has a moderating effect on news media coverage.

And it operates beyond news reportage. It is also evident in interactions between media and government agencies in relation to terrorist actions within their borders.

During the Martin Place siege in Sydney, media ensured the gunman’s attempts to secure media attention and make demands were unsuccessful:

- Calls claiming to be from hostages were not put to air;
- Inflammatory callers to talkback radio stations were taken off air by radio hosts;
- Media contacted by the gunman or hostages sought police guidance before responding;
- The gunman’s posts on social media were not repeated in mainstream media.
- And media took care to avoid revealing police tactics during live coverage at the scene.

The gunman, Man Haron Monis, died in the police assault on the Lindt Café. The perpetrator of the Christchurch mosque shootings, on the other hand, *was* brought to justice.

Dutch security and terrorism researcher Professor Beatrice de Graaf has developed a typology of terrorism trials (de Graaf, 2011), based on the performative strategies that can be in play:

- A not-so-dramatic show
- A show run by the terrorists and their lawyers
- A show run by the executive and the prosecution
- A media show
- A performance of justice.

The institutional cooperation that took place in the planning for media coverage of Brenton Tarrant's court appearances, in order to achieve the last of those typologies, is laid out in our second paper. We believe the processes were ground-breaking.

### **The impact of two cooperation bodies**

Two bodies had fundamental impacts on the pre-trial process and facilitated the high degree of cooperation between the justice system and media to prevent the case becoming the sort of platform that was exploited by Norwegian terrorist Anders Behring Breivik (one of the Christchurch shooter's role models) during his trial in 2012.

Breivik attempted to use the trial to push his idiosyncratic white supremacist views, but the academic consensus is that he failed for a number of reasons, including the ability of the Norwegian people to read coverage of the proceedings that explained how justice was being done. His attempts to use the court as a platform were also subverted by his counsel's attempt to argue an insanity plea (Bangstad, 2017).

The first body that should be recognised in the Tarrant case is New Zealand's Media Freedom Committee, which represents all mainstream press, broadcasting and online media outlets.

Almost two decades ago, discussions with police and security services led to the development of a set of protocols for engagement between senior media executives and government agencies in the event of terrorist and national security events.<sup>2</sup> It was in force when the Christchurch attacks took place and committed both sides to enter into and maintain high level dialogue at the earliest opportunity through to the resolution of the event.

It set out protocols for dealing with various aspects of a terrorist event, including efforts by terrorists to contact media (which Tarrant attempted in the lead-up to the attacks). It recognised that editorial control stayed in the hands of editors.

Apart from one fleeting use of a short segment of the initial part of the perpetrator's live stream of the attacks, New Zealand media concentrated wholly on the victims. The protocol has now been updated to include provisions relating to live-streaming via the internet, which had not been anticipated when the original

agreement was reached.

Two months after the attacks, the five core media organisations represented on the Media Freedom Committee decided to limit their reporting of the impending trial to prevent dissemination of the perpetrator's white supremacist beliefs and the re-traumatising of victims and their families. Court officials were shown the guidelines and made one suggestion—that only senior reporters would cover the proceedings—before they were made public (*The New Zealand Herald*, 2019).

It is important to note that this committee communicates in two directions—with government agencies and with member organisations. This facilitated rapid decision-making despite the fact that COVID-19 imposed restrictions on newsrooms. Two of its representatives, including its current chair, played leading liaison roles in the planning for the Tarrant trial then during the sentencing hearing.

The other body that played a significant role in those processes was the Media and Courts Committee, made up of five judges, two officials and six senior media executives. Its genesis lay in discussions over the introduction of cameras in court during the 1990s. Established in 2001, the committee has overseen the preparation of comprehensive guidelines for media in-court coverage. It provides an informal forum in which issues of concern to either party can be aired and resolved. It is fair to say it has the capacity to handle robust discussion.

Its current chair, High Court Justice Simon Moore, sees the committee—and its evolution over more than two decades—as central to the building of trust between media and the justice system in New Zealand.

Members of this committee played a pivotal role in overcoming inherent tensions in planning for what was initially to be a lengthy trial. These were proceedings that:

1. Needed to balance the rights of the accused against retraumatising of victims,
2. Potentially challenged principles of open justice, and
3. Carried the potential both for misappropriation by white supremacists, and flouting of court orders by media situated outside the jurisdiction of the New Zealand court.

These challenges remained after Tarrant changed his plea to guilty.

Of course, the trial-then-sentencing judge, Justice Cameron Mander, had jurisdiction over his own court, but it was clear to my colleague and I that his decisions relating to media coverage—set out in a series of minutes before the hearing—had the benefit of not only significant input from a variety of state agencies but support from the senior media executives on the committee who were consulted by officials during the planning process. Those media executives were also briefed by police, victim support personnel, and a Muslim expert advisory group.

This last group assisted throughout the planning process and during proceedings. Measures were taken to ensure the needs of the Islamic faith were met. The court—

and the media—were acutely aware of the potential for retraumatising victims and, indeed, the wider community.

The relationship between media and the court was assisted in no small measure by the fact that the judiciary employed highly respected former journalists in media liaison roles and one—Cate Brett (now Director of the Office of the Chief Justice)—sat on the Media and Courts Committee.

A combination of trust and the proximity filter led New Zealand media to accept conditions on coverage that were possibly unprecedented, including limited reporting ‘windows’.<sup>3</sup> Their foreign counterparts, through innovative registration and distribution systems, had to accept the same conditions.

I believe that the Hobson’s Choice dilemma over coverage of terrorism played a part. These arrangements tipped the balance away from media serving the terrorist’s ends.

And I might also add that media executives are much more open to solutions on which they have been consulted than to those that have been unilaterally imposed.

Our second paper stopped short of presenting the Tarrant case as a complete model to prevent misappropriation of proceedings by extremist defendants or, indeed, by retraumatised victims in court. A lengthy trial may have exposed unanticipated issues. We did say it provided ‘a starting point and some robust suggestions’. We were being cautious.

## Conclusion

Could the model work in other jurisdictions such as Australia?

The relationship between Australian media and the courts may at times have been tense. We instanced the case against the late Cardinal Pell in our second paper. That tension may be why we found relationships between judges and the media in Australia tended to be at the court reporter level, but in New Zealand they also existed at the senior editorial executive and institutional levels.

On both sides of the Tasman, journalists—who perceive their role as providing a check on power—are sensitive to attempts to control their activities, whether it be by government, the judiciary, or illegitimate agents. They bridle at the very suggestions of prior restraint and are not averse to criticising the courts.

However, proximity and a strong aversion to becoming a terrorist’s pawn are powerful drivers that could be used to draw Australian media and representatives of the judiciary into a dialogue.

Australia’s federal and state judicial structures complicate that dialogue. However, there are bodies that might facilitate discussions. Judges and magistrates have their own collective organisation in the Australian Judicial Officers Association. Could it invite the major Australian publishers and broadcasters to discuss coverage of future proceedings against terrorists? Alternatively, the Australia-New Zealand Counter-Terrorism Committee (the primary forum for developing

and coordinating approaches to countering terrorism, and which emphasises interoperability across jurisdictions) could be asked to bring the parties together.

Denying oxygen to those who create propaganda of the deed on home soil is an inducement to sit around the table. It might also lead to an enduring forum—with a wider brief—for the judiciary and the media. New Zealand has demonstrated that both are possible.

## Notes

1. Then New Zealand Prime Minister Jacinda Ardern said she would not name the gunman and said he should be denied publicity. (Walls, 2019). A convention has developed on limiting use of the name of the person convicted of the Christchurch attacks. His name is used here only in connection with his court appearances. That approach recognises that there was no suppression of the name of the accused. Media minimised its use in other contexts, but reported his name in relation to court appearances to avoid de facto suppression that was at odds with the position of the court. A similar approach is used here.
2. Disclosure: The author chaired the Media Freedom Committee during discussions with government agencies that led to the terrorism protocols.
3. The conditions governing media coverage were set out in a minute by Justice Mander on 2 August 2020. <https://www.courtsofnz.govt.nz/assets/cases/r-v-tarrant/R-v-Tarrant-20200806.pdf>

## References

- Bangstad, S. (2017). Norway: A lack of reckoning? In Kellner, A.M. (ed.), *Democracy and terrorism—experiences in coping with terror attacks* (pp. 37-46). Friedrich-Ebert-Stiftung.
- Commonwealth of Australia (2015, January). Martin Place siege: Joint Commonwealth – New South Wales review. Canberra.
- de Graaf, B. (2011). Terrorists on trial: A performative perspective. International Centre for Counter-Terrorism, The Hague (Expert Meeting Paper).
- Ellis, G., & Muller, D. (2019). The proximity filter: The effect of distance on media coverage of the Christchurch mosque attacks. *Kōtuitui: New Zealand Journal of Social Sciences Online*, 15(2) 332-348. <https://doi.org/10.1080/1177083X.2019.1705358>
- Ellis, G., & Muller, D. (2022). Justice, the media, and the Christchurch mosque terrorist. *New Zealand Law Journal*, 265, 300, 336, & 378. <https://search.informit.org/doi/10.3316/agispt.20221018076025>
- Ivanic, R., Kirchmaier, T. & Machin, S. (2019, April). Jihadi attacks, media and local hate crime. Centre for Economic Performance: Discussion Paper No 1615.
- Jenkins, J. & Tandoc, E. (2017). Journalism under attack: The *Charlie Hebdo* covers and reconsideration of journalistic norms. *Journalism*, 20 (9), 1165-1182. <https://doi.org/10.1177/1464884917724597>
- Kassel, W. (2009). Terrorism and the international anarchist movement of the late nineteenth and early twentieth centuries. *Studies in Conflict & Terrorism*, 32(3), 237-252. <https://doi.org/10.1080/10576100802671009>

*The New Zealand Herald* (2019, May 1). Christchurch mosque shootings: Media agree to protocols for accused gunman's trial. <https://www.nzherald.co.nz/nz/christchurch-mosque-shootings-media-agree-to-protocols-for-accused-gunmans-trial/ORFN36IX-QWHSON7EW57SMGM6RA/>.

Van de Meer, B. (2015). The assassination of Empress Elisabeth of Austria: An investigative psychological analysis of lone-actor terrorism. *Journal of Threat Assessment and Management*, 2(3-4) 176-186. <https://doi.org/10.1037/tam0000044>

Walls, J. (2019, March 19) PM Jacinda Ardern says the public will never hear her say the accused Christchurch terrorist's name. *The New Zealand Herald*. <https://www.nzherald.co.nz/nz/pm-jacinda-ardern-says-the-public-will-never-hear-her-say-the-accused-christchurch-terrorists-name/XTCQGIWGPEIQDY5ZQTYXUM34WE/>

Weimann, G. (2008). The psychology of mass-mediated terrorism. *American Behavioral Scientist*, 52(1), 69-86. <https://doi.org/10.1177/0002764208321342>

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