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Leveson and Women
Jennifer Hornsby

If 'Leveson and Women' were a headline in a tabloid newspaper, a salacious story would probably follow. 'Leveson and Women' is my title, but I've nothing salacious to say, although I shall talk about the scandalous behaviour of the British press. I gave evidence to the Leveson Inquiry into the Culture, Practice and Ethics of the Press. I write here about how I came to do so, about how the Inquiry came into being, and about the controversy that the Inquiry and its Report (November 2012) continue to provoke.

I teach philosophy at Birkbeck, University of London, where it used to be that students took federal exams, regulated by a Philosophy Subject Panel. In 2003, thanks to a carefully crafted proposal for its introduction, 'Gender and Philosophy' came to be an optional subject in the M.A. degree. It seemed something of a triumph when the Subject Panel accepted the proposal. True, women's studies departments and centres had then existed for more than twenty years, and feminist theory in one or another guise was somewhere on the syllabus in most institutions. But philosophers like their subject pure. We needed to reassure men on the Panel that we weren't launching a separate branch of philosophy, but only wanted to give students an opportunity to learn how feminist concerns may bear upon philosophy and its history. ('Gender and Philosophy' survives at Birkbeck ten years on, and now not only in the M.A., but also in a taught degree for research students, preliminary to the Ph.D.)

So I came to teach a course on feminism in philosophy of language. In recent years, with a growing literature on hate speech, and much work which uses speech act theoretic terms in the treatment of what pornography does, I have called the course 'Speech and Power', and I have taught and published on free speech and its justification. I think that there are good questions about what 'speech' ought to mean in the context 'free speech', and about why free speech should be prized. My interest in these questions evidently made me seem like a suitable person to give evidence to the Leveson Inquiry.

Well, that's how I came to be invited. Now for how the Inquiry came to be. A short answer is 'The Phone Hacking Scandal'. The first whiff of scandal came in 2007 when an editor of *News of the World* and one of its investigators were convicted of illegally intercepting messages from phones at a royal residence, Clarence House. The editor, Goodman, was sacked from his job. The newspaper maintained that this was an isolated incident. It wasn't until 2011 that the extent of the scandal was widely known. Then it was revealed that in 2002 the *News of the World* had hacked into the phone of a 13-year-old English girl after she was reported as missing; she had been abducted on her way home from school, and was subsequently murdered. Sympathy with the girl's parents led to a public outcry. The *News of the World* was closed, there were resignations, arrests, multimillion pound payoffs, and debates in parliament.

Between 2007 and 2011, between the first whiff of scandal and the full stench, there was little in the media about press misbehaviour—save in one newspaper. *The Guardian* reported that within a year of his sacking Goodman had received a large payment from News International, that someone whose phone they had hacked had got from them £425,000 in damages, and that, so far from the Clarence House incident being once off, the practice of invading people's privacy by hacking their phones was rife. (The police now have more than 6,000 recorded hacking targets.) But the reports fell flat. News International not only continued their lies, but now engaged in a cover up, placing surveillance on *The Guardian's* lawyers and their families, and writing in its own newspapers that *The Guardian* deliberately misled the public. Even when the account was verified by *The New York Times*, there was no immediate victory for the truth. For then the police came to the service of News International, treating as suspects the whistle-blowers that the *New York Times* had uncovered. Still, the evidence was

eventually overwhelming, and thus were the ethics of the press to be subjected to scrutiny. The Prime Minister announced a public enquiry, and that Lord Justice Leveson was to be its Chair.

The Inquiry was well under way when I was invited to give evidence. I had read some of what had gone before in the newsworthy days when Leveson had summoned witnesses in order to find out about the conduct of relations between politicians and the press, and the extent of improper conduct on the part of newspaper organizations, police forces and prosecuting authorities. From Leveson's witnesses, one learnt of the cosy relationship between politicians and the media, of the regular passing off of fiction as fact in newspaper stories, and of the havoc caused to the lives of innocent people whose right to privacy was contravened. Phone hacking wasn't the half of it.

Until I received the invitation—to give written evidence in the first place, and then to give oral evidence in a panel with two other philosophers—I hadn't studied The Editors' Code of Practice. This is written into the contracts of the majority of journalists, and was "enforced", so they said, by the Press Complaints Commission (P.C.C.). I was pleasantly surprised by the Code's contents. If it were followed, then journalists would always strive for accuracy and would report in anti-discriminatory fashion. Save for a sustainable public interest defence, they would respect everyone's right to privacy, avoid harassment of individuals, appreciate the special interests of children, not resort to subterfuge . . . The fact of the matter was that for years, parts of the press had acted as if the code—its own code, which editors had written and signed its journalists up to—did not exist.

As it happened, my invitation to give evidence came the day that Michael Gove, the Education Secretary, gave his evidence to the Inquiry, which took the form of an opinionated oration. I was already alert to Gove's views: 'A chilling atmosphere towards freedom of expression emanates from the debate around Leveson', he had said. I couldn't help but wonder whether Gove's friendliness with one Rupert Murdoch might explain why he felt a chill. But Gove had things to say in support of his view. For one: 'Free speech doesn't mean anything unless some people are going to be offended some of the time'. This of course is true. And many pieces of free expression are unwanted by some—as exposures by journalists of wrongdoing well illustrate. But in the context of a debate provoked by the scandal that led to Leveson, the indubitable right to free expression seems to me something of a red herring. Neither Leveson nor his many witnesses ever suggested that there should be restrictions on expression excepting as existing statute requires. And newspapers have not defended themselves against allegations of violations of privacy rights by invoking their right to free expression, even though such a defence would succeed if they could show that they had acted in the public interest.

Gove's idea that any steps to ensure a better ethics for the Press would be at the expense of free speech has played well in some quarters. Since Leveson reported, the principal opposition to his recommendation that there should be statutory provision for a body having oversight of a successor to the P.C.C. has come from editors of offending newspapers. They have conducted a campaign to undermine the credibility of Leveson's report, largely by using their newspapers to spread lies about its contents—representing, for instance, that Leveson recommended a system which would deter whistle-blowers from going to the media, which would give police new powers of seizure of journalists' materials, and which might lead to state control of the press. The suggestion then has been that Leveson would wish to curb free speech. But this is not simply false: it is the opposite of the truth.

Gove's other theme was that the criminal law takes care of crimes. The implication presumably is that ethics, unless written into criminal law, should not touch the Press. By such a standard, it is fine that there should be a Code to which newspaper editors are signatories but which they have no intention of observing. Of course the activities that led directly to the Leveson inquiry *were* criminal, and their perpetrators may be punished now that they have

been exposed. But one wants to know why they nearly got away with it. Why did the relevant authorities not follow up allegations of criminality? The PCC's failure to recognize abuse has been blamed on its lack of powers either to investigate or to sanction; and it is surely right, even if Gove would dissent, that a Code which has been agreed should be enforced. But to understand the PCC's ready acceptance of News International's lies, and its report dismissing *The Guardian's* stories as 'lacking support', one needs perhaps to know that they took there to be 'significant evidence .. from the police'. (The PCC's report on phone message tapping allegations which followed *The Guardian's* revelations, and which gave News International a clean bill of health was only withdrawn 19 months after its publication, at a time when the truth had come to be widely known.) There is surely a systemic malaise: News International's vast financial resources, their ready stock of criminals for hire and their willingness to bribe the police protected them from being called to account. As Leveson puts this himself: 'Time and time again, there have been serious and uncorrected failures within parts of the national press that may have stretched from the criminal to the indefensibly unethical. .. Far from holding power to account, the press is exercising unaccountable power which nobody holds to account.'

One of Leveson's recommendations is hardly reported at all, not even misreported. Leveson took evidence from women's groups, hearing from *EAVES, End Violence Against Women, Object*, and *Equality Now*. His account of their evidence makes it clear that the Editors' Code has regularly been violated to women's detriment. He writes of certain newspapers as failing to show 'consistent respect for the dignity and equality of women', and of their 'tendency to sexualize and demean women'. Now the Editor's Code is framed in individualistic terms: for instance 'the press must avoid prejudicial or pejorative reference to an individual's colour, religion, gender, sexual orientation, race'. And the P.C.C. has operated a complaints system which normally requires an individual complainant who was individually affected by a story. There has never been provision for counteracting systematic discrimination against a group of people. Recognizing that there should be such provision, Leveson says that a new independent regulator should have 'the power to take complaints from representative women's groups'. It seems rather unlikely that any new regulator will actually be given any such power, given the colossal power that feeds the hostility to almost everything Leveson said. But at least women should know that there is a section of Leveson's million word report which we should be flagging up.

REFERENCES

The Report of the Leveson Inquiry is at: <http://www.levesoninquiry.org.uk/about/the-report/>

The P.C.C. Code of Practice is at: <http://www.pcc.org.uk/cop/practice.html>

The P.C.C. report on phone message tapping allegations (which on 6 July 2011 was withdrawn) is at: <http://www.pcc.org.uk/news/?article=NjAyOA==>

Gove's speech complaining of the 'chilling effect' Leveson inquiry was reported widely in the media. An example can be found at: <http://www.guardian.co.uk/media/2012/feb/21/-leveson-chilling-freedom-speech-gove>