

Cell Phones to Prison Cells: Argument, Melodrama and the Case of Milly Dowler

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Introduction

The 4th of July is a day associated with fireworks and revolution in the United States. In the United Kingdom, on the other hand, the day in 2011 was associated with fireworks in a metaphorical sense when the British newspaper *The Guardian* reported that rival newspaper *News of the World* had hacked into the mobile phone of a murdered 13 year old girl, Milly Dowler, during the search for her in 2002 (Davies and Hill, 2011). Less than one week after that revelation, the *News of the World*, at the time the top selling British tabloid, was closed and a government inquiry into the practice of phone hacking was announced. Within two weeks of the news story, News Corporation, the parent company of *News of the World*, had withdrawn its attempt to purchase controlling interest in a British television station, several top executives at *News of the World* and News Corporation were arrested, the Metropolitan Police commissioner and assistant commissioner had resigned their posts and the Prime Minister postponed the recess for Parliament so that they could further consider the issue. Less than half a year later, News Corporation and its owner, Rupert Murdoch would pay over 3 million pounds (approximately 362 million yen) to the Dowler family and the charity established in Milly's name.

What is particularly shocking about this turn of events was how long it was in coming. Of course, once the revelations about Milly Dowler were published, things happened quite quickly, but the discussion of phone hacking (as part of a broader discussion of blagging, or gathering personal data without the consent of the other person) had actually been going on for almost a decade. Indeed, Operation Motorman, which began in 2003 and issued two reports in 2006 (*What Price Privacy?* and *What Price Privacy Now?*), found numerous cases of illegal blagging.

Over the three years it covered, the ICO found that 305 different journalists had instructed one private investigator Steve Whittamore to obtain around 13,343 different items of information. (Around 43 per journalist.) On the ICO's cautious reckoning, around 11,345 of these were classified as being certainly or

very probably in breach of data protection laws. (Tyler and Hartley, 2011).

The year after those reports were released by the government, a *News of the World* editor and the private investigator who would later be implicated in the hacking of Milly Dowler's phone were both sent to prison for phone-hacking several people who worked with the royal family. The BBC reported that "In January 2007, NoW (*News of the World*) royal editor Clive Goodman was jailed for four months, while private investigator Glenn Mulcaire was jailed for six months, for intercepting voicemail messages on royal aides' phones." (Holt, 2011). An article published two years before the Dowler revelations gave a rather long list of the (presumably) illegal actions undertaken to that point by the *News of the World* and other British tabloids.

The full picture on News Group's involvement in the hacking of mobile phones is still not clear, largely because the Metropolitan Police took the controversial decision not to inform the public figures whose phones had been targeted and the Crown Prosecution Service decided not to take News Group executives to court. Scotland Yard is likely to face questions about whether senior officers intervened to avoid alienating a powerful media group.

Scotland Yard disclosed only a limited amount of its evidence to Taylor. The *Guardian* understands that the full police file shows that several thousand public figures were targeted by investigators, including, during one month in 2006: John Prescott, then deputy prime minister; Tessa Jowell, then responsible for the media as secretary of state for culture; Boris Johnson, then the Conservative spokesman on higher education; Gwyneth Paltrow, after she had given birth to her son; George Michael, who had been seen looking tired at the wheel of his car; and Jade Goody.

When Goodman, the *News of the World's* royal editor, was jailed for hacking into the mobile phones of Palace staff, *News International* said he had been acting without their knowledge. One of the investigators working for the paper, Glenn Mulcaire, was also charged with hacking the phones of the Lib Dem MP Simon Hughes, celebrity PR Max Clifford, model Elle MacPherson and football agent Sky Andrew as well as Taylor. At the time, the *News of the World* claimed to know nothing about the hacking of these targets, but Taylor has now proved that to be untrue in his case. Others who are believed to have been possible targets include the Scottish politician Tommy Sheridan, who has previously accused the *News of the World* of bugging his car; Jeffrey Archer, whose perjury was exposed by the paper; and Sven-Göran Eriksson, whose sex

life became a tabloid obsession (Davies, 2009).

All of this points to a long-standing problem, of course: Why did the single case of Milly Dowler cause such immediate movement when the large preponderance of evidence which preceded the news of her phone being hacked did not?

Real-World Arguments

The case of the phone-hacking scandal in Great Britain, centered on the Milly Dowler news, provides an opportunity to look at the function of arguments in real-world situations and to consider how the theories of argument (drawn from academic debate) apply or fail to apply in applied situations.

Beginning at the broadest possible point, what is an argument? This is made slightly more complicated by the fact that argument has two different meanings, commonly noted as argument₁ and argument₂. Argument₂ is the kind of argument meant when describing people quarrelling or fighting. It is certainly possible for any argument to become an argument₂, but the argument that is generally studied in academic settings is argument₁. Daniel J. O'Keefe (1982) set about defining argument₁ by imagining the archetypal, or paradigmatic, case:

[T]he considerations expressed thus far would suggest that a paradigm case of making an argument₁ is a case in which a person makes a claim and overtly expresses a reason (or reasons) for that claim. But I think that even this is not sufficient, that there is an additional element of paradigm cases of argument-making: that both the claim and the overtly expressed reason(s) be linguistically explicable—which is not to say linguistically explicit. That is, in exemplary cases of argument-making, one should be able to *say what the argument₁ was*, to express linguistically both the claim and the overtly expressed reasons (13).

The clearest case of argument₁, then is a case where a claim and reasons for the claim are able to be understood (even if they are not explicitly stated).

To extend that definition slightly, it should be noted that there is no clear mention of who is making the argument. In a traditional, academic debate, of course, there is one speaker who is articulating a claim and providing reasons for the claim. However, over the last four or five decades, there has been an increasing focus on arguments as they happen in society rather than just arguments as they happen in the classroom. J. Robert Cox and Charles Arthur Willard (1982) noted in their introduction to *Advances in Argumentation Theory & Research*, that "in the decades of the 1960s and 1970s, scholarship in this area [argumentation] would be concerned less with *prescription* than

with the description of *argument-in-use* (xxii).

In society, indeed in large, public conflicts, it can be expected that numerous voices may be heard from. This complicates the question of articulating a claim and the reasons for the claim, but it does not make it impossible. Frequently, the issues will condense around a few salient issues (with claims and reasons) which can then be examined and evaluated as an argument¹.

Academic Argument

As a starting point, the traditional, academic way of evaluating reasons is to consider the claims and evidence (the “proof” for the reasons) and evaluate them given some relatively “objective” measures. Michael D. Bartanen and David A. Frank (1991) provide an example of such measures in their book, *Debating Values*. They wrote that:

Evidence is evaluated on a continuum in which the judge and the advocates consider the relative strength and weakness of the evidence in question. Certain standards and criteria have evolved to help in that evaluation. Although there are particular means of evaluating the appropriateness of each of the three types of evidence, two criteria apply to all evidence introduced into a debate: sufficiency and propriety (67).

These two standards, sufficiency and propriety are then further explained. They note that sufficiency is relatively simple. “The first general question asked about any evidence is simply, ‘Is there enough?’” (67). Propriety is similarly defined. “Is the evidence appropriate for proving the point it is asserted to prove?” (68). There are a variety of guidelines for determining appropriateness, but the most applicable in the phone-hacking scandal would probably be “representativeness”—that is, do the cited examples or cases “represent” the un-cited cases or the typical cases of the issue.

Given either standard, it would seem clear that the case of Milly Dowler should fail as evidence or reasons. Archie Bland (2011) writing on the website of the British newspaper, *The Independent*, noted:

Already back in July, there was a litany of damning evidence against News International – one of the most shocking things about all of this is that it took something so grotesque as the Dowler allegation to bring the wider scrutiny that had previously been almost totally lacking . . . Far more evidence has emerged since. It has only drawn less attention than the Dowler claim because the depths had already been plumbed.

Clearly then the Milly Dowler case was not, in itself, sufficient. There were

countless other cases which might have commanded attention but did not. The Dowler case represents just one investigator hacking into one phone. There were, at the time, other stories about people being hacked including Hugh Grant, who, just three months before the Dowler case broke, wrote a report about a chance meeting with a former reporter for the News of the World. He had surreptitiously taped a reporter conceding that Grant's phone had been hacked. Grant wrote:

I wanted to hear more about phone-hacking and the whole business of tabloid journalism. It occurred to me just to interview him straight, as he has, after all, been a whistleblower. But then I thought I might possibly get more, and it might be more fun, if I secretly taped him, The bugger bugged, as it were (2011).

Despite the wide publicity Grant's status as an actor granted him, very little came of his story. It was not sufficient either. In fact, Grant's story along with the many other stories listed above put lie to the general statement (often misattributed to Joseph Stalin) that "one death is a tragedy but a million deaths is a statistic." A supporter of Rupert Murdoch, Kelvin Mackenzie even went so far as to claim that the Prime Minister ignored other cases and paid particular attention to this one. "[Prime Minister] Cameron made it clear that stars with a weakness for call girls (Hugh Grant had one, Mosely five, Coogan two lapdancers and class A drugs) were of no concern. But evidence being tampered with when it concerned the murder of a 13-year-old, that was different" (2011). The Dowler case would seem to show that only certain "deaths" are tragedies, which goes to the second standard. The Dowler case was not typical or representative of the other cases. It was unusual. It was, in Bland's words, "grotesque" and was in "the depths."

Despite these failings, however, the Milly Dowler case is most clearly tied to all of the actions that followed. Those actions would seem to describe a claim; a claim for which the Dowler case became the reason. Gordon Rayner (2011) reported in The Telegraph that "James Murdoch shut down the News of the World as a direct result of the discovery that Milly Dowler's phone had been hacked. Rebekah Brooks, the chief executive of News International, later resigned." That claim was further substantiated by Mackenzie who argued that the tribunal investigating phone-hacking "was only set up by David Cameron after the Dowler scandal" (2011). How did it happen? How, against the backdrop of all of the other cases of phone-hacking, did the Milly Dowler case become so significant?

News as Melodrama; Melodrama as Argument

The beginning of an answer would seem to lie in the conflation of news with entertainment, specifically melodrama. Tracey L. Mitchell (2000) noted that there is a tendency for news to be transformed into a story. She wrote that, “ultimately, the news media try to convert the world into a stage, and newsmaking events into the scenes of a melodrama” (210).

What, then, is a melodrama? What defines it as a genre or type of communication pattern? Mitchell (2000) identified four main characteristics of melodramas:

1. The individuals involved become the cast of characters, with the perceived hero(es) and villain(s) of the story receiving particular attention.
2. The conflict, which is established early in the story, centers on the action of the central characters, and the plot line is attributed to either the hero's quest or the villain's attempted conquest.
3. Every element of the story is presented in a dramatic manner, with every issue portrayed as a dichotomy (good versus evil) to eliminate any moral ambiguity.
4. The story is made to fit into the existing belief system of the dominant culture and to reinforce it (210).

Melodrama, then, has unambiguous heroes and villains who struggle over some goal which usually reinforces the current system. Peter Brooks (1976) expanded on the idea of unambiguous heroes and villains by suggesting that the characters in a melodrama are very one-dimensional, lacking any “deep” emotional core. He wrote:

There is no “psychology” in melodrama in this sense; the characters have no interior depth, there is no psychological conflict. It is delusive to seek an interior conflict, the “psychology of melodrama,” because melodrama externalizes conflict and psychic structure, producing instead what we might call the “melodrama of psychology.” What we have is a drama of pure psychic signs—called Father, Daughter, Protector, Persecutor, Judge, Duty, Obedience, Justice—that interest us through their clash, by the dramatic space created through their interplay, providing the means for their resolution (35-6)

The characters in the melodrama, then, are not merely unambiguous, they are also simple and play to a type. The good (and innocent) daughter is threatened by an evil and powerful persecutor. Ideally, through duty and obedience, justice and the protector will prevail and save the daughter for the father (and, one presumes, mother).

From an argumentative perspective, however, the genre of melodrama has a

problem. Mitchell's fourth point is that the argument of a melodrama almost always reinforces the current system rather than allowing a chance to oppose it. Elizabeth S. Bird (2003) agreed with Mitchell when she wrote that, "more important to this discussion of scandal is that Fiske misses the point that melodrama and carnival, like much of oral culture, tend always toward the maintenance of the status quo, as do media scandals" (48).

It could, certainly, be argued that the outcome of the Dowler case reinforced the status quo, but that outcome does not seem certain. Murdoch remains a powerful figure with a large media empire, but he did lose the best-selling tabloid newspaper in Britain, he lost the ability to purchase control of a television station, and a number of powerful people were forced to resign and face imprisonment. Given those outcomes, it would seem as though the status quo was not entirely preserved and was, at some level, threatened. How did this happen?

The Milly Dowler Case as post-Melodrama

To consider the Milly Dowler case as a melodrama and then as an argument, first the pieces must be put into place. Dowler, herself, is the innocent, the daughter. She is the "good" character in the story. The *News of the World* staff, on the other hand, are the persecutors, the villains. They are the "bad" characters in this story.

What kind of character is Milly Dowler? She is young (many of the newspaper articles featured a picture of Dowler and mentioned that she was just 13 years old when she disappeared), innocent (again, her age is listed), and, critically, dead. Dowler's death simplifies her character in the melodrama even more. She is not and cannot become a "deeper" or more conflicted character out for money or fame. Her story has ended, leaving only the villain and the audience.

It is this key point: that only the villain remains on stage, which allows for the possibility of argument. Ben Singer (2001) noted that one of the key components of the melodrama is the focus on the evil of the villain and the audience's reaction to that villain:

Classic melodrama, particularly on stage, gave the audience the cathartic pleasure of the very purest, unequivocal kind of hatred, repulsion, or disdain for the villain. Melodrama was designed to arouse, and morally validate, a kind of primal bloodlust, in the sense that the villain is so despicable, hated so intensely, that there was no more urgent gratification than to see him extinguished (40).

Milly Dowler, the innocent, the daughter, is dead. There is no chance for her redemption. There is no hope for her rescue. There is no possibility for the world to be restored to order by her safe return. There is only one possibility remaining then. If order is to be restored, it must be through the punishment and destruction of the villain.

What kind of villain, then, is the *News of the World*? First, the staff of the newspaper were opportunistic and moved quickly without hesitation or reflection. Rayner wrote that, "the 13-year-old was still being treated as a missing person when the *News of the World* arranged for her messages to be intercepted in 2002." Davies and Hill (2011) similarly noted that this was normal behavior for the reporters:

The Guardian investigation has shown that, within a very short time of Milly vanishing, *News of the World* journalists reacted by engaging in what was standard practice in their newsroom: they hired private investigators to get them a story.

The reporters and investigators working for *News of the World* were also voyeuristic. Davies and Hill wrote that the staff eavesdropped on messages of support from Milly's friends and families, violating their sense of privacy.

Then, with the help of its own full-time private investigator, Glenn Mulcaire, the *News of the World* started illegally intercepting mobile phone messages. Scotland Yard is now investigating evidence that the paper hacked directly into the voicemail of the missing girl's own phone. As her friends and parents called and left messages imploring Milly to get in touch with them, the *News of the World* was listening and recording their every private word (2011).

What is more, the *News of the World* was even brazen about its bad behavior, including references to their actions in news stories, not even showing any signs of shame or guilt. Davies and Hill referenced a story printed in the *News of the World* in 2002 which seemed to declare that they had knowledge of what messages were stored on Milly Dowler's phone and made no attempt to conceal that knowledge.

The paper made little effort to conceal the hacking from its readers. On 14 April 2002 it published a story about a woman allegedly pretending to be Milly Dowler who had applied for a job with a recruitment agency: "It is thought the hoaxer even gave the agency Milly's real mobile number ... the agency used the number to contact Milly when a job vacancy arose and left a message on her voicemail ... it was on March 27, six days after Milly went missing, that the employment agency appears to have phoned her mobile"

The newspaper also made no effort to conceal its activity from Surrey

police. After it had hacked the message from the recruitment agency on Milly's phone, the paper informed police about it (2011).

Finally, they were willing to exploit the Dowler family and use the family's suffering to gain more readers. Davies and Hill, again, noted that "the Dowler family then granted an exclusive interview to the *News of the World* in which they talked about their hope, quite unaware that it had been falsely kindled by the newspaper's own intervention" (2011).

In short, the newspaper stories (in particular the original story written by Davies and Hill) painted the *News of the World* as a nearly perfect melodrama villain: callous, calculating, immoral, and treacherous. Brooks (1976) noted that the force of the evil character in a melodrama comes from the ways the villain can hurt and undermine all that is good.

The force of evil in melodrama derives from its personal menace, its swift execution of its declarations of intent, its reduction of innocence to powerlessness. Evil is treachery in that it appears to unleash a cosmic betrayal of the moral order and puts all appearances into question (34).

Indeed, an article in *The Telegraph* quoting the Dowler's lawyer was almost a note perfect recital of Brook's discussion of menace:

Mr Lewis, from London-based Taylor Hampton Solicitors, said: "Sally and Bob Dowler have been through so much grief and trauma without further distressing revelations to them regarding the loss of their daughter.

"It is distress heaped upon tragedy to learn that the *News of the World* had no humanity at such a terrible time.

"The fact that they were prepared to act in such a heinous way that could have jeopardised the police investigation and give them false hope is despicable." ("Milly Dowler's phone," 2011)

Conclusion

As an argument, the claims and reasons offered by the other news sources, *The Guardian*, *The Telegraph*, the BBC, among others, was not explicit, but it was explicable. Molly Dowler was lost and the only hope of redeeming society was to punish the villains, the *News of the World*, News International, News Corporation and Rupert Murdoch.

The method of punishment, ironically, was primarily through hearings and trials—the prototypical method of redeeming the innocent in melodramas. Brooks (1976) noted

In a striking number of cases, this recognition requires a full-fledged trial, the public hearing and judgment of right against wrong, where virtues advocates deploy all arms to win the victory of truth over appearance and to explain the deep meaning of enigmatic and misleading signs (31).

News Corporation and Rupert Murdoch made several tactical errors in this argument which, quite possibly, cost them the *News of the World* and BSkyB (British Sky Broadcasting). By not recognizing the style or form of the argument being made against them, News Corporation and Murdoch played further into the type of the melodrama villain. The early insistence that the wrongdoing was all done by low level employees with virtually no power in News Corporation makes no sense against the backdrop of a melodrama. The powerless are never the villain in a melodrama and an angry public out for revenge is unlikely to be satisfied with the jailing of what amounted to a part-time worker. The irony, of course, is that the *News of the World* was one of the main newspapers responsible for covering the news as if it were a melodrama. To borrow a phrase from *Hamlet*, another story that did not end well, they were hoist on their own petard.

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