Courting Publicity: Twitter and Television Cameras in Court

Paul Lambert

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Paul Lambert's *Courting Publicity: Twitter and Television Cameras in Court* examines topical issues surrounding the use of social media and technology in the courtroom, providing a timely examination of associated impacts on court processes and on the administration of justice more generally. With the breadth of literature in this new field expanding exponentially, Lambert's text provides a comprehensive overview of significant challenges raised by social media. *Courting Publicity* is of value in an area of law with limited commentary and operates to fill what would otherwise be a notable void in the literature. The author correctly identifies an 'urgent need'[1] for new solutions, definition, scoping and further research in this new field and notes a lack of sufficient empirical research regarding uses of social media and technology in the legal arena.

Lambert pragmatically highlights the main debates surrounding the use of social media and technology, through a tripartite structure in *Courting Publicity.* The author begins by examining issues raised by the use of Twitter (and associated in-court and out-of-court consequences). Secondly, the development of television courtroom broadcasting in the United Kingdom ('UK') Supreme Court is examined. Finally, the author turns to a discussion concerning the use of Twitter and television cameras in court. Lambert, currently completing a PhD on television broadcasting, is well placed to undertake this examination.

Courting Publicity is correct to note a multitude of issues and impacts on the court process, extending beyond those which come to mind as most controversial. In this regard, effects from social media, blogging, visual media-sharing and wikis are examined, along with the rights of various parties (including the media, defendants and the public) and also considerations of open justice.[2] Many questions are posed by the author such as; how are individual rights, defendant rights and witness rights to be vindicated in a world of enhanced courtroom broadcasting?; do the courts have a duty to ensure maximum publicity?; is there some element of self publicity at stake?; do new international courts (and tribunals) court publicity because they are new?; is there a danger of the perceived need to court publicity creeping into the mainstream national judiciary?;

[1] Paul Lambert, *Courting Publicity* (Bloomsbury Professional, 2011) 5.
[2] Ibid.

and; is allowing Twitter in court and permitting certain forms of television courtroom broadcasting part of the courts' endeavour to consort with positive publicity?[3] In doing so however, the author leaves the reader in the unfortunate situation where many of these questions are left unanswered.

A main theme of *Courting Publicity* is the misuse of social media by jurors. The urgent need for solutions to juror related internet misconduct is highlighted, in light of the right to a fair trial and impartial jury. For example, Lambert highlights a situation in which a juror was imprisoned for eight months following communication with a defendant on Facebook. While such juror misconduct is just one of numerous issues examined, it is a novel issue and perhaps one of the most significant requiring solutions in the Australian context (for instance, with the recent controversy surrounding the trial of the accused in Jill Meagher's murder).[4] This text lays foundations for some of the necessary discussion.

Another important theme of *Courting Publicity* is the growing acceptance of the use of social media in court by the judiciary (and others).[5] Lambert makes particular reference to a number of seminal cases, both from the UK and internationally, demonstrating this point. For instance, the example of Twitter updates from court being permissible in the United States (US) is given to highlight this point.[6] Lambert suggests that legislation is increasingly likely to be used as a means of addressing issues in this field.

Reference is also made to the ever-controversial super-injunction (an injunction preventing both publication and also reporting of the proceeding itself), with issues of privacy of particular relevance. Where should the line be drawn between the public and private in what is an increasingly connected world? Issues are raised as to the difficulty of enforcement in relation to such injunctions and the tension between any right to privacy and the principle of open justice.

Whilst lengthy at times -with sixteen chapters and over 400 pages - *Courting Publicity* cannot be said to be anything other than a useful

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[3] Ibid.

[4] This recent controversy arose surrounding several Facebook pages commenting on the accused which were requested to be removed by Victorian Police. The suggestion was made that social media may impact on any jury trial. Calls were subsequently made for the Victorian Law Reform Commission to consider whether legislative reforms were necessary in terms of the role of social media on the jury trial: Pia Akerman, 'Social Media Could Impact Jury Trial of Jill Meagher's Killer Adrian Ernest Bayley', *The Australian* (online) 1 October 2012, <http://www.theaustralian.com.au>.

[5] For example see *Swedish Judicial Authority v Assange* [2010] All ER (D) 195 (Dec).

[6] In *Californian Proposition 8* the United States Supreme Court prevented television courtroom broadcasting at the trial of the case: *Hollingsworth v Perry* 130 Supreme Court 705 (2010). However, subsequent practice has been much more permissible.

discussion of such controversial and novel issues and is therefore of significant value to the existing literature. Essential to the text's success has been Lambert's meticulous examination of the most important concerns in this area. Nevertheless, one major downfall throughout the entirety of *Courting Publicity* is the huge range of material covered, leaving little room for conclusions to be drawn on how these issues may be resolved. Albeit suggesting that there may be a need for legislative intervention, Lambert makes few recommendations on the practicalities of addressing these issues. *Courting Publicity,* whilst paving the way, could do more in the way of recommendations.

As indicated, *Courting Publicity* is a text largely grounded in the UK context, but will be of assistance in Australia as the use of social media and technology in the court process here too gains momentum to the extent it has elsewhere. The utility of this text extends far beyond specific case studies undertaken by Lambert, with relevance to a much broader audience than those in the UK. The literature surrounding such issues is only beginning to emerge, in an era where the significance of social media cannot be understated. This is a text of equal use to practitioners, policy makers and academics alike, with precise and thorough identification of key challenges.

As the author suggests from the preface to his text, 'the purpose of the court is not education and not spectacle or public entertainment, but justice.'[7] *Courting Publicity* provides a useful exploration of how social media and technology in the court may encroach on this fundamental purpose and the associated debate surrounding increased broadcast of, and access to, the courtroom process. It is certain that whether or not social media can really be coined as the most powerful phenomena on the planet,[8] in many ways it has changed our perceptions of the world. In a world where 'everyone's a journalist',[9] greater consideration must be given in Australia to how these issues may be resolved in order to maintain the integrity of the court system. A balance must be struck between the right to a fair trial and the principle of open justice. *Courting Publicity* goes some way to addressing these issues.

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[7] Lambert, above n 1, vii.
[8] Ibid 14.
[9] Ibid 7.

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