

Trial by Media in the Context of Online New Media: An Analysis Based on “Death of Jiang Ge”

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Abstract: At the end of 2017, Chinese student Jiang Ge was murdered in Japan. With the help of the online we-media Mi Meng and others, there is widespread attention in China. The moral condemnation by online we-media of Liu Xin, another victim of the case, and online violence has become another case that the media makes the judge before the judiciary. Trial by media is not a new subject, and in the cyber age, especially with the increasingly prosperous development of online media, the “trial by media” power cannot be underestimated. This article, taking the “Death of Jiang Ge” as a perspective, briefly analyzes the causes and characteristics of the trial by online we-media in the Internet age, and puts forward some thoughts on the prevention and control strategies of the “trial by media” in the future.

Keywords: Trial by Media; Online New Media; Judicial Independence; Media Literacy

1. Research background

On November 3, 2016, Chinese student Jiang Ge, who was studying in Japan, was stabbed outside her apartment, and Japanese police accused Chinese male student Chen Shifeng of murdering Jiang Ge. On December 20, 2017, the first trial decision was made, and the judge sentenced the defendant Chen Shifeng to 20 years in prison for intentional homicide and intimidation, and this case came to an end.

The reason why this case has been becoming a hot topic in China is Liu Xin, another victim of the case. She was both Jiang’s roommate and Chen’s ex-girlfriend. Jiang was stabbed because of the emotional dispute between Chen and Liu, and Liu had locked the door when Jiang was seeking her help outside the apartment, which indirectly led to Jiang’s death. Before the trial, Mi Meng, a WeChat public account with millions of fans, publish an article titled “Liu Xin & Jiang Ge’s Case: The law can sanction the murderer, but who will sanction humanity” which has fierce emotional rendering. The author indicated in the article that this is the first time he/she supports network violence. The article caused a frenzy of public opinion on the Internet, and netizens pointed their fingers at Liu Xin who has been ungrateful. Mi Meng also launched an activity calling on people to sign and support the death sentence of Chen Shifeng. At the same time, other we-media KOL, such as reading at 10: 00, parents camp, HUGO, and so on, also made an absolute conclusion on this case.

Trial by media is not a brand-new proposition, and many researchers have studied it from different angles. With the drastic changes in the media ecological environment, the media has transferred from the original news professional organization into a public opinion show, however, with low threshold. Anyone can post information on blog, Weibo or WeChat. As the media is becoming more personalized, the space of online speech is becoming wider. When the public

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with different media literacy freely vent their emotions and provide various information on the Internet, the network communication gradually becoming a hotbed for the breeding of irrational public opinion. For the death of Jiang Ge, the trial by online new media was conducted even before the judicial trial. It has violated the professional ethics and professional technical requirements of journalism, far exceeding the scope of freedom of speech and publication protected by the constitution. Although the case happened in Japan, it didn't affect China's judicial justice, it has provided an appropriate opportunity for researchers to re-examine the trial by media in the context of online new media.

2. Trial by media and trial by online new media

2.1 Connotation of media trial

“Trial by Media” and “Trial by Newspaper” are exotic phrases, and they are the terms in the professional norms of western journalism and communication. It refers to the phenomenon that the news media go beyond the law and violate human rights when reporting the cases under trial, which affects the independence and impartiality of trials. The phenomenon often occurs in the reporting of criminal cases, and some countries have restrained and prevented such phenomena through laws or professional norms of journalism^[1]. In China, the Article 12 of the Criminal Procedure Law stipulates that no one may be found guilty without the judgment of the people's court according to the law, although it has not been confirmed whether “guilt can not be determined” is similar to “presumption of innocence” in the world. What is certain is that it must be decided by the court to determine whether a person commits a crime or not. There is no doubt that excessive “media justice” should never exist. As a matter of fact, trial by media is the behavior that exceed media organization's responsibilities, and it is an important factor that leads to the difficult balance between news supervision and judicial independence. At first, traditional media generate public opinion by reporting news events, then subsequent related reports continue to attract public attention. Due to the effect of “the spiral of silence”, a few people who hold opposing opinions are unwilling to express their opinions publicly. Therefore, under the influence of subjective media reports, most people form a seemingly “unified” opinion, which puts pressure on judicial trial and hinders judicial justice to a certain extent. This process can also be regarded as a conflict between public opinions and judicial independent trial opinions.

2.2 Characteristics of trial by online new media

With the continuous development of new media, many trials by online media not only have the characteristics of strong subjective attitude of case reports, imaginative elements, consuming the emotions of netizens, and convicting criminal suspects in advance, but also have the new characteristics in the are of online media. The common trial by media is mainly aimed at the traditional mass media's behavior of “judging cases before trial”. However, the trial by the online media mainly refers to that the netizens, websites or public relations companies post their analysis, investigation and judgment of some social cases that have not been formally proofed, through the online media. Therefore, it has formed a certain pressure of public opinion, affected people's understanding of the authenticity of events, caused great damage to the people involved, etc., and hindered judicial independence and justice^[2].

Because of the high level of freedom and anonymous dissemination of speech on the Internet, network opinion leaders are distributed at different classes, which means the speech orientation contains obvious personal subjective emotions. Essentially, the market of free exchange of opinions has entered a collective unconscious state, which leads to a wider range of trial by media, from the online new media to traditional media. Besides, the negative impact is even worse. Since the online new media criticized and abused Liu Xin and her family in the “Death of Jiang Ge”, it caused great damage to Liu and her family before the trial, and infringed on the legitimate rights of the litigant.

3. Causes of trial by online new media

3.1 Psychological characteristics of netizens

At present, China is in the period of social transformation, and the economic development is at super high speed.

There is a large gap between the rich and the poor in different regions and social strata. High house prices, turbulent stock market, medical care, old-age care, education and many other issues resulting in an increase in social contradictions that needs to be solved urgently. Once a certain case is triggered to the people's deep hearts, it can often cause severe repercussions and resonance on the Internet. Netizens often blindly sympathize with the "weak" or "victims" in the reports, and vent their anger madly to the parties, even take revenge offline and start the Internet mass hunting. Especially for some people with obvious labels, such as "the second generation of the rich", "BMW owner" and "dog abuser" reported by the online new media, opinion leaders on the media are used to consuming the emotions of netizens, which leads to the public's hatred of the rich, and makes criminal suspects become "personal punching bags" of netizens before the formal trial. The anonymity of the Internet gives netizens a full sense of security and the courage to speak freely. Moreover, some of them deliberately spread false information on the Internet for personal grievances.

For example, in the "death of Jiang Ge", Jiang's mother decisively divorced her husband who had son preference when her daughter was very young, and raised her daughter to be a talented person by hard working all by herself. Daughter was the only hope to her, both physically and mentally. After her daughter was murdered, the image of a single mother has aroused the sympathy and concern of netizens. On the contrary, Liu Xin, who had accepted Jiang's help, not only refused to see Jiang's mother, but also changed her hair style, took photos and had fun after Jiang's death. The ingratitude behavior has angered the opinion leaders from the online new media and the netizens who were resentful. Although online public opinion has the characteristics of coexistence of rational and irrational factors, in most cases, irrational factors overwhelm rational factors, and online public opinion is easy to be 'one-sided' and difficult to dominate^[3]. For a time, netizens ignored the criminal suspect Chen Shifeng, and instead pointed their fingers at Liu Xin, who was also the victim of the case.

3.2 Anonymous attribute of network communication

In the modern information society, the Internet is like an invisible skynet, which permeates every corner of people's daily life. The strong openness and inclusiveness of the Internet have attracted hundreds of millions of netizens. The biggest difference between online and traditional media is the anonymity of the communication platform. The anonymous publishing of most information can make netizens give full play to their "freedom of speech" unscrupulously. Moreover, there is no need to be responsible for their own speech anymore, and the open opinion circumstances leads to making the profit in troubled situations. People with ulterior motives publish and spread false information in pursuit of their own interests, creating a lot of irrational public opinions and the phenomenon of trial by the online new media.

4. Negative impact of the online media trials

4.1 Media trials affect implementation of the principle of rule of law and damages procedural justice

The judgment result of a case must be correct and fair, in line with the principles stipulated by law. Additionally, the trial process of a case also needs to be correct and fair. In order to judge whether a person is guilty or not, China's laws must be judged by the court, and all the procedures, such as filing a case, investigating, prosecuting and trialing cannot be left behind. If any media reports want only before the trial and draws a conclusion in advance, even if the content of the report is the same as the result of the judicial trial, it will still destroy the judicial process, which will show people that the media is more useful than the judiciary, and the media promotes the judiciary, even the judiciary follows the media to make judgments, which may open the door for other illegal intervention^[4].

4.2 Media trials affect judicial trials and lead to misjudgment

Although China practices the continental law system, domestic courts and people's procuratorates at all levels are led by the Party committees and legal committees at the same level. At the same time, Chinese media organizations, both online new media and traditional media, are also directly led by party and government organs. Media reports

often represent the opinions of some government departments, which will affect the relevant leaders that in charge of judicial work. The media organizations lack professional investigative ability, and those who can exert substantial influence on the administration of justice may not have relevant professional knowledge. If they believe in false reports from online media and express their opinions at will, it is difficult to uphold judicial justice in the trial process of cases.

The murder of Jiang Ge is quite special as it happened in Japan. However, the rush of the Internet from the online new media will make Japanese judicial institutions have an inherent cognition of Liu Xin's moral corruption, chaotic private life and lying, which is very likely to be caught by the lawyer of the criminal suspect Chen Shifeng. Then, the character of the only witness in this case, Liu Xin, was judged by preconceptions, and her confession would be untrue. If Chen Shifeng is indeed a murderer, then domestic netizens are no different from helping Chen Shifeng, the real criminal, exonerate himself.

4.3 Media trials impact the public on setting up correct legal awareness

In a large part of China, the people's concept of the legal system is weak. In addition, some places emphasize "rule by man." Theories, such as "equality before the law" and the "presumption of innocence" are nothing but slogans. The media needs to give play to the correct guidance of public opinion and help the public set up correct concepts of the rule of law. Even if there are cases that the defendant has been convicted, he also has the defendant's legitimate rights. The media should not swarm the defendants and attack them in groups, which will have a negative impact on public opinion.

Before the trial of Jiang Ge's case, the WeChat official account from the online media avoided talking about how Chen Shifeng, as a criminal suspect, violated the bottom line of the law step by step, and how all sectors of society should prevent possible crimes committed by violent persons and seek ways to protect themselves. On the contrary, they ostensibly from the perspective of Jiang Ge's mother, a single mother who was unable to extricate herself from the hatred of her daughter's death, overwhelmingly condemned Liu Xin's selfishness that left Jiang in the lurch by public opinions, causing the two victims to hurt each other. Although Liu Xin's behavior of repaying morality with grievances is worthy of condemnation and criticism, the large-scale crusade against a woman who has faults and has not violated the law by cyber violence has obviously broken through the bottom line of the law. In fact, Jiang Ge's mother privately exposed Liu Xin's home address, work unit, license plate number, etc., in order to urge Liu Xin to meet with herself, which also violated the privacy of citizens.

5. The prevention strategies of trial by online new media

5.1 Strengthen government's supervision

Public opinion represents public opinion, but public opinion and law are two completely different concepts. The law is the embodiment of the will of the ruling class. In China, the ruling class is the masses of the people under the leadership of the Communist Party of China. It can be said that the law is the embodiment of the will of all people in China. First, for a government under the leadership of the Party, it is necessary to actively improve Internet-related laws and regulations, and define the boundaries of online new media communication in the form of laws.

Fortunately, at the 24th meeting of the Standing Committee of the Twelfth National People's Congress on November 7, 2016, the Network Security Law of the People's Republic of China which made it clear that provisions on the protection of personal information, the control of Internet fraud and the real-name system of the Internet was voted and passed. However, it still needs a long way to go to thoroughly implement the legal provisions of the Cyber Security Law and truly standardize Internet communication. At the same time, we should strengthen the management mechanism of online we-media, and ensure the supervision behavior of network communication truly have laws to follow, and to effectively prevent and reduce the cross-border behavior of trial by media.

5.2 Strengthen the supervision of third-party

Strengthen the evaluation power of third parties on the online new media, and promote a good information dis-

semination order through media criticism. While the law gives every individual full freedom, it also sets a boundary for this unlimited right. Each we-media can provide information for netizens, but it does not mean that it can be widely promoted as long as it is of interest to netizens.

In June 2017, “Fengxing Studio” “All-Star Detective” “China’s No. 1 Paparazzi Zhuo Wei” “Famous Detective Zhao Wuer” and other large-scale entertainment circles were blocked. Sina Weibo released an announcement on closing the accounts of hype and vulgar star chasers, and then 25 accounts including “Poison Tongue Movie” and “Nandu Entertainment Weekly” were successively blocked. This is not only to wash the bottom of vulgar content, but also to warn vulgar marketing, which is one-sided pursuit of traffic to find explosion points. This proves that the supervision of the third party has a restraining force on the values spread from the online new media.

In the “Death of Jiang Ge”, the Beijing News and other media questioned the behavior of Mi Meng and other we-media giants against Liu Xin before the trial. It is believed that Mi Meng made use of the influence of online we-media to set off a new upsurge of online violence. What is a fair trial, in the end, has to be decided in court. Mi Meng directly called for the “execution of a person” in her influential official account, which is chilling. The question—“The law can sanction the murderer, but who will sanction humanity?” may be answered like this: no one can sanction humanity except God and the law. Whether it is right or wrong, raising antagonistic opinions on the online we-media that creates irrational public opinion can be said to criticize the online we-media from the side and increase the supervision and control, which can curb the trial by the online media to a certain extent.

5.3 Improve online new media literacy

The online new media should raise awareness of the law. When facing a case report, it should not be led by emotions, draw conclusions simply and rudely, and lack rational thinking about the case. Therefore, the education of relevant laws for we-media is significant to prevent and control the trial by online new media. Even the reporter from online media belongs to journalists. Just because it is out of the supervision of traditional media, everything is market-oriented. In order to write explosive articles, it is not possible to fabricate facts or make up the truth or make the false one. When reporting news facts, whether it is on the media platform or not, it is necessary to ensure that the facts are true, objective and fair, and shoulder the social responsibility of the media. Only when traditional media and online new media shoulder their due responsibilities and positively guide public opinion, can they maintain the objective communication environment of the Internet, avoid media trials, and maintain judicial independence.

6. Conclusion

The trial by media in the era of online new media has more extensive influence than the traditional media, such as radio, television and newspapers. Its supervision and prevention not only requires strict supervision by relevant government departments, but requires improvement on media literacy. This is a long-term process and requires the joint efforts of many parties to avoid the infringement of judicial independence caused by Internet public opinion in order to create a healthy and rational Internet communication environment.

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