

The Importance of Appearances: How Suspects and Accused Persons are Presented in  
the Courtroom, in Public and in the Media

National Media Report – Spain

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## 1.- Legal guidelines

### 1.1.- Presumption of innocence in Spanish law

The right of all persons to be presumed innocent is enshrined in Section 24.2 of the Spanish Constitution (1978), along with the rest of judicial guarantees related to a fair trial. Although presumption of innocence is commonly assumed to be a translation of the proverbial *in dubio pro reo* principle (when in doubt, the suspect must be set free), legal scholars claim it is not a standard but a guiding principle for judges to avoid the social prejudice of guilt, that is, the psychological inertia that human beings have towards deeming any suspect guilty of the offense she/he is being accused of.<sup>1</sup>

This notwithstanding, the Spanish jurisprudence on presumption of innocence, built on sentences from the Supreme and Constitutional Courts, insists on the American-inspired attempt to define a standard, a threshold of enough evidence that would allow judges to discard innocence and claim guilt. Such a standard, based on ideas like the 'burden of proof' or 'conviction beyond reasonable doubt', is either inapplicable (in criminal proceedings, the suspect may not have any countering evidence) or too subjective, as each judge may have a different threshold by which a fact is considered proven beyond any doubt.<sup>2</sup>

### 1.2.- Publicity of justice and media access to trials

The publicity of justice is a constitutional principle in Spain, with roots in two fundamental rights: all persons have the right to receive and spread truthful information through any form of media (Section 20.1.d) and all persons have the right to a public trial (Sections 24 and 120).

The idea that justice should be public is based on the assumption that a transparent trial prevents arbitrariness on the judge, and on the hope that a proceeding accessible to all will be pedagogic (those who think about breaking the law know what awaits them) and shall generate popular trust on the judiciary, as judges act independently but under the public's gaze.<sup>3</sup>

The principle of publicity has, nevertheless, a few exceptions.<sup>4</sup> Before the oral phase, during the instruction phase, prosecutors and police authorities will need some secrecy when gathering evidence (*summary secret*), although journalists will have access to the number and identity of those being investigated, their accusations and the number of witnesses that have been heard.<sup>5</sup> Trials are deemed public by default, but some hearings might be held with restrictions to publicity if minors or victims of domestic violence are involved.<sup>6</sup> Also, witnesses or judicial experts might need to have their identities protected to avoid potential retaliations.<sup>7</sup> In these exceptional cases, judges must issue well-argued orders to justify such restrictions.

The access of the news media to trials is a source of contention among fundamental rights. A trial is fair as long as its oral phase is public, and journalists are mediators, proxies of the general public. Reporters, as any other individuals, are free to communicate truthful information by any means available. But the individuals who take part in the proceedings, such as suspects, victims or regular citizens when acting as a popular jury, have 'personality rights' such as personal reputation, privacy, own image... which are also constitutionally protected. It was not until 2004 that the General Council of the Judiciary (*Consejo General del Poder Judicial*), the

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<sup>1</sup> Nieva Fenoll, J. (2016). La razón de ser de la presunción de inocencia. *InDret, Revista para el Análisis del Derecho* 1/2016: 1-23.

<sup>2</sup> Nieva Fenoll, J. (2016). La razón de ser de la presunción de inocencia. *InDret, Revista para el Análisis del Derecho* 1/2016: 1-23.

<sup>3</sup> Montalvo Abiol, J.C. (2012). Los juicios paralelos en el proceso penal: ¿anomalía democrática o mal necesario? *Universitas, Revista de Filosofía, Derecho y Política* 16: 105-125.

<sup>4</sup> Ley de Enjuiciamiento Criminal, 2015 [1882], Arts. 680-682.

<sup>5</sup> p.9, Consejo General del Poder Judicial (2015). *Protocolo de Comunicación de la Justicia*. Retrieved 15 November 2018 from <https://goo.gl/QonBZR>.

<sup>6</sup> Ley Orgánica 5/2000, reguladora de la responsabilidad penal del menor, Art. 35.2; Ley Orgánica 1/2004, de medidas de protección integral contra la violencia de género, Art. 63.2.

<sup>7</sup> (Ley Orgánica 19/1994 de protección de testigos y peritos en causas criminales, Art. 3.1).

organ that governs the judiciary in Spain, issued a 'communication protocol' that establishes some recommendations on how to negotiate the different interests among the actors.<sup>8</sup> Until then, the access of audiovisual news media to trials was heavily restricted.<sup>9</sup> The protocol was updated in 2015.

Nowadays, the usual practice among the news media is to liaise with the press offices at the different geographical levels (from the Supreme Court to the High Courts of each of the 17 Autonomous Communities). The press office alerts the court in question about the intention to cover a trial, and the judge consults with the parties to issue a motivated order detailing the conditions of access.<sup>10</sup> Journalists complain that if a court restricts access to the coverage of the trial just before it starts, filing an appeal against that order will not prevent the trial from beginning and being missed by the media.<sup>11</sup>

The 'communication protocol' of the judiciary, though based in several laws and jurisprudence, is not a piece of law, so the decisions on whether to grant access to the audiovisual media must rely on sentences by the Constitutional Court, which has lessened the restrictions common during the 1990s and recommended a full access with the exceptions foreseen by the law (minors, victims of domestic violence...).

Of particular interest here is the protocol section on "Criteria for recording images of the parties involved in the oral hearing".<sup>12</sup> If the accused person is a public figure or the judged facts are of great social salience, the frontal recording and full identification is permitted. Otherwise it is recommended to take lateral or back shots of the suspect. And, unless they grant explicit permission, images of the witnesses or victims should not allow their easy identification. The protocol also regulates access in conditions of limited space, granting the news media preference over the general public, while recommending a pooling of images from a single camera instead of the installation of several cameras.

### **1.3.- 'Trial by the media', self-regulation and media councils**

Absent any tabloid print press, sensationalism in the Spanish media mostly occurs on television, and on political talk shows rather than on traditional news broadcasts. Given that trials must be public, and that the news media are the main means by which the audience comes to know about judicial affairs, a certain situation of 'trial by the media' is unavoidable, as commentators will inevitably wage on the circumstances surrounding serious criminal offences or the behaviour of public figures.

When media coverage of trials becomes harmful is when the presumption of innocence is not granted or the identity of victims or witnesses is revealed. In cases of intense media attention, a popular jury might be more vulnerable than professional judges to pressure of public opinion. Perhaps one of the most dangerous situations is when television shows interview relatives of individuals under trial, indirectly inviting the public to become judges themselves, opening a parallel trial.

Spain stands out in the European context for being a country with no national media authority. At the regional level, however, two Audiovisual Councils exist in Catalonia and Andalusia. The Ley General de la Comunicación Audiovisual passed in 2010 by the Socialist-led government did foresee the creation of an Audiovisual Council with sanctioning power, but this was an idea

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<sup>8</sup> Consejo General del Poder Judicial (2015). *Protocolo de Comunicación de la Justicia*. Retrieved 15 November 2018 from <https://goo.gl/QonBZR>.

<sup>9</sup> Navarro Marchante, V.J. (2007). Las imágenes de los juicios: aproximación a la realidad en España. *InDret, Revista para el Análisis del Derecho* 3/2007: 1-28.

<sup>10</sup> Gómez Bermúdez, J. and Beni Uzabal, E. (2006). *Levantando el velo: manual de periodismo judicial*. Madrid: Cie Dossat.

<sup>11</sup> Navarro Marchante, V.J. (2007). Las imágenes de los juicios: aproximación a la realidad en España. *InDret, Revista para el Análisis del Derecho* 3/2007: 1-28.

<sup>12</sup> pp. 15-17, Consejo General del Poder Judicial (2015). *Protocolo de Comunicación de la Justicia*. Retrieved 15 November 2018 from <https://goo.gl/QonBZR>.

fiercely fought by the Conservatives and never put in place. At present, the sanctioning of any media malpractice is exerted by the National Commission on Markets and Competition (*Comisión Nacional de los Mercados y la Competencia*, CNMC), an independent state agency that oversees the fair competition among the private providers of public services.<sup>13</sup>

The existence of media or audiovisual councils has been a matter of contentious debate over decades, as Conservatives see in them censorship bodies whose matters are better dealt with by traditional judges. The Catalan Audiovisual Council, which is the closest to the European model and is the only entity in Spain with powers to grant broadcasting licenses, has been criticized for its bias favouring the independence of Catalonia.<sup>14</sup> Any sanction from an independent authority regarding media content will be criticised as a limitation to freedom of expression, a fundamental right, which should not be curtailed without fair trial. A recent example is the CNMC's sanction against a popular right-wing political talk radio presenter, Federico Jiménez Losantos, for inciting hate against nationals from Germany after a German judge declined to extradite former Catalan regional PM Carles Puigdemont.<sup>15</sup>

If such an event were to be judged by conventional courts, jurors would have to pay attention to the jurisprudence of the Spanish Constitutional Court (STC 6/1988, 21 January), which following the American Supreme Court, issued a triple test to resolve conflicts between freedom of information and the right to honour and personal reputation. Any information or commentary in the news media must be a) based on truthful information (*veracity*), b) relevant to the public (*necessity*) and c) should not include gratuitous insults (*proportionality*).<sup>16</sup>

As for self-regulation, the closest institution to a Press Council in Spain is a complaints committee created by the Spanish Federation of Press Associations (*Federación de Asociaciones de Periodistas de España*, FAPE). The figure of press ombudsmen, which is kept by newspapers like *El País* (since 1985) and *La Vanguardia* (since 1993), is practically non-existent in the rest of the print press but still survives in the national public broadcaster, RTVE. The online native eldiario.es has a 'defender of the community' who responds to readers in blog form, but is inactive since February 2016.

## 2.- Journalistic guidelines

### 2.1.- Ethical codes

Any in many other liberal democracies, journalism in Spain is not a licensed profession. That is, despite a majority its practitioners are journalism graduates, the craft of reporting is open to anyone and not limited to a set of trained professionals. Reporters may join two kinds of trade associations: press associations and professional boards (*colegios profesionales*). These latter are corporations of public law and have been created in several autonomous communities following the leading example of Catalonia. Professional boards have codes of ethics of their own, but the main reference in terms of journalistic ethics in Spain is the code of ethics approved by the federation of press associations, the FAPE. Along with the customary references to upholding truthful and balanced reporting, this code makes an explicit mention to the right to presumption of innocence, devoting its entire 5<sup>th</sup> principle to the issue:

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<sup>13</sup> p. 110, Guichot, E. (2016, coord.). *Derecho de la comunicación*. Madrid: Iustel.

<sup>14</sup> Arranz, R. (2017, November 30). "El CAC se niega a sancionar la polémica versión sobre el 1-O del informativo infantil de TV3." *Voz Pópuli*. Retrieved 15 November 2018 from [https://www.vozpopuli.com/medios/CAC-sancionar-polemico-informativo-TV3-infantil-1-O-independencia-cataluna\\_0\\_1086192890.html](https://www.vozpopuli.com/medios/CAC-sancionar-polemico-informativo-TV3-infantil-1-O-independencia-cataluna_0_1086192890.html); Cia, B. (2017, September 14). "Tres consejeros del CAC piden analizar la imparcialidad de TV3, 3/24 y Catalunya Ràdio." *El País*. Retrieved 15 November 2018 from [https://elpais.com/ccaa/2017/09/14/catalunya/1505393841\\_287154.html](https://elpais.com/ccaa/2017/09/14/catalunya/1505393841_287154.html).

<sup>15</sup> Comisión Nacional de Mercados y la Competencia (2018, September 17). "La CNMC sanciona a Libertad Digital por la emisión de contenidos susceptibles de incitar al odio." CNMC [press release]. Retrieved 15 November 2018 from <https://www.cnmec.es/node/371441>.

<sup>16</sup> Del Moral, A. (2008). Derecho a un juicio público, libertad de información y derechos al honor y a la vida privada: relaciones, conflictos, interferencias. *Persona y Derecho* 59: 253-293.

"5.- The journalist must assume the principle that all persons are innocent for as long the contrary is demonstrated, and strive to avoid the potentially damaging consequences of the fulfilment of her/his reporting duties. Such criteria are particularly enforceable whenever the information at hand deals with affairs being judged by the Courts.

5.a.- The journalist will avoid naming in her/his reports the relatives or friends of suspects or individuals convicted for a crime, unless such mention is necessary for the report to be complete or balanced.

5.b.- Naming the victims of a crime is to be avoided, and so is the publication of materials that might lead to their identification, acting with special care whenever those crimes are against sexual freedom."<sup>17</sup>

At the newsroom level, legacy newspapers include ethical codes in their editorial guidelines. For instance, RTVE includes in the article 9 of its editorial statutes a series of ethical admonitions that mirror those of the FAPE code:

"9.14.- They [journalists] will scrupulously observe the principle of presumption of innocence in the information and opinions related to criminal cases or proceedings in progress. They will also avoid identifying against their will the next of kin or the relatives of the accused and convicts in criminal proceedings.

9.15.- They [journalists] will treat with special care all information that affects minors, avoiding spreading their identification and image when they appear as victims, witnesses or defendants in criminal cases, especially in matters of special social transcendence, as is the case of sexual crimes."<sup>18</sup>

Younger publications like *eldiario.es* proudly publish their editorial principles, but these are more a series of mission statements on several political areas rather than rules of journalistic behaviour.

## 2.2.- Press complaints

The closest body to a Press Council in Spain is the Committee of Arbitration, Complaints and Ethics of Journalism (*Comisión de Arbitraje, Quejas y Deontología del Periodismo*). It was established by the FAPE in 2006, and became a foundation 2011. Most benchmark media outlets in Spain have pledged to abide with the FAPE code of ethics, and their performance is evaluated by the Commission whenever a complaint is received. The Commission then studies the case, asks the parties to provide their version of the events and, when the investigation is closed, publishes a statement assessing the journalistic compliance of the FAPE ethical code. The Commission has no sanctioning capacity; its power comes from public shaming and the sense of justice when a media-related grievance is redressed. The Catalan Committee on Information (*Consell de Informació de Catalunya*), created in 1996, has been doing the same at the regional level.

The two regional audiovisual councils in operation, in Catalonia and Andalusia, have their own online forms to receive complaints from the users of audiovisual media operating in their respective regions.

## 2.3.- Guidelines for covering trials

In terms of guidelines, the Audiovisual Council of Catalonia issued in 1997 a document with "Recommendations about the celebration of trials and their treatment on television".<sup>19</sup> Among its suggestions, the document included the following:

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<sup>17</sup> Federación de Asociaciones de Periodistas de España (2017 [1993]). *Código Deontológico*. FAPE. Retrieved 15 November 2018 from <http://fape.es/home/codigo-deontologico/>.

<sup>18</sup> Radio Televisión Española (2008). *Estatuto de Información de la Corporación RTVE*. Retrieved 15 November 2018 from [http://www.rtve.es/contenidos/documentos/ESTATUTO\\_DE\\_INFORMATIVOS\\_v1.pdf](http://www.rtve.es/contenidos/documentos/ESTATUTO_DE_INFORMATIVOS_v1.pdf)

<sup>19</sup> Consell de l'Audiovisual de Catalunya (1997, October 6). "Recomendaciones sobre la celebración de los juicios y su tratamiento en televisión." Retrieved 15 November 2018 from [https://www.cac.cat/sites/default/files/migrate/actuacions/CAC\\_Recomendaciones\\_juicios.pdf](https://www.cac.cat/sites/default/files/migrate/actuacions/CAC_Recomendaciones_juicios.pdf).

- During the trial hearings, the media should abstain from interviewing witnesses or judicial experts.
- Witnesses' faces should not be shown on TV unless they authorize it explicitly.
- The intimacy of children and young adolescents affected by judicial processes should be protected.
- No members of public juries should be interviewed on TV shows during the trial.
- Until lawmakers approve clear guidelines on the subject, live TV trials should be broadcast from a long shot to prevent any bias or emotional loads with close-ups or camera angles.

In 2003, the Catalan Council agreed with the Supreme Court of Catalonia, the Professional Board of Journalists in the region, and the Catalan Committee on Information, on establishing a protocol of collaboration recommending the compliance with "the constitutional principle of presumption of innocence that protects every citizen".<sup>20</sup> On article 7 of the protocol, communication professionals pledge to "preserve the right to the presumption of innocence among the suspects, and the right to intimacy, self image and honour of the witnesses who attend the court premises, without subjecting them to any harassment."<sup>21</sup> Article 11 makes an explicit mention to "parallel trials", which must be avoided.

The Audiovisual Council of Andalusia published in 2013 a *Guide for covering trials*, itself the result of a collaboration agreement between the Council, the Supreme Court of Andalusia and the regional Professional Board of Journalists signed in 2012.<sup>22</sup> The admitted goal was to avoid the media performance during the trial of the suspects of murdering 17-year-old Marta del Castillo. In 2011, the Council issued a report criticizing three national TV stations, Telecinco, Antena 3 and Cuatro, for not complying with the ethical guidelines issued by the body to avoid a parallel trial. Those three channels broadcast interviews with witnesses and judicial experts who had been summoned by the judge. Telecinco even boasted of interviewing 57 witnesses who were being interrogated by the investigators. These TV stations also showed reconstructions of the crime mixing images of the actual suspects with others of professional actors with great resemblance to them. It should be stressed that these practices happened on morning and late-night magazines, not on regular news bulletins. In any case, the Andalusian Council lamented that those programmes "violated the constitutional rights of the defendants" and "disseminated rumours and value judgments".<sup>23</sup>

The guide for covering trials from the Andalusian Council is perhaps the most concise and complete document of its kind, with information on who is a legitimate source during a trial, on how to access and cover public hearings, and on how to proceed during the investigation and oral phases. The guide includes chapters on dealing with information regarding minors and victims of domestic violence.

Of particular interest here is the warning that no individual should be deemed 'accused' (*acusado/a*) until she/he reaches the oral phase of the criminal trial.<sup>24</sup> Before, the individual

<sup>20</sup> Consell de l'Audiovisual de Catalunya (2003, November 17). Protocolo de colaboración del Tribunal Superior de Justicia de Cataluña, el Consejo del Audiovisual de Cataluña, el Col·legi de Periodistes de Catalunya y la Fundació Consell de la Informació de Catalunya." Retrieved 15 November 2018 from [https://www.cac.cat/sites/default/files/migrate/actuacions/CAC\\_Recomendaciones\\_juicios.pdf](https://www.cac.cat/sites/default/files/migrate/actuacions/CAC_Recomendaciones_juicios.pdf).

<sup>21</sup> Consell de l'Audiovisual de Catalunya (2003, November 17). Protocolo de colaboración del Tribunal Superior de Justicia de Cataluña, el Consejo del Audiovisual de Cataluña, el Col·legi de Periodistes de Catalunya y la Fundació Consell de la Informació de Catalunya." Retrieved 15 November 2018 from [https://www.cac.cat/sites/default/files/migrate/actuacions/CAC\\_Recomendaciones\\_juicios.pdf](https://www.cac.cat/sites/default/files/migrate/actuacions/CAC_Recomendaciones_juicios.pdf).

<sup>22</sup> Consejo del Audiovisual de Andalucía (2013). *Derecho a la información y justicia. Guía sobre el tratamiento informativo de los procesos judiciales*. Retrieved 15 November 2018 from [http://www.consejoaudiovisualdeandalucia.es/sites/default/files/noticia/pdf/1303/guia\\_para\\_el\\_tratamiento\\_informativo\\_procesos\\_judiciales.pdf](http://www.consejoaudiovisualdeandalucia.es/sites/default/files/noticia/pdf/1303/guia_para_el_tratamiento_informativo_procesos_judiciales.pdf).

<sup>23</sup> El Mundo (2011, November 10). "Tres cadenas ignoran los consejos para evitar juicios paralelos en el 'caso Marta'." *El Mundo*. Retrieved 15 November 2018 from <https://www.elmundo.es/elmundo/2011/11/10/comunicacion/1320925108.html>.

<sup>24</sup> p. 31, Consejo del Audiovisual de Andalucía (2013). *Derecho a la información y justicia. Guía sobre el tratamiento informativo de los procesos judiciales*. Retrieved 15 November 2018 from [http://www.consejoaudiovisualdeandalucia.es/sites/default/files/noticia/pdf/1303/guia\\_para\\_el\\_tratamiento\\_informativo\\_procesos\\_judiciales.pdf](http://www.consejoaudiovisualdeandalucia.es/sites/default/files/noticia/pdf/1303/guia_para_el_tratamiento_informativo_procesos_judiciales.pdf).

should be either labelled 'imputed' (*imputado/a*, in abbreviated proceedings, those that investigate penalties up to 9 years of imprisonment) or 'indicted' (*procesado/a*, in ordinary proceedings, those that deal with penalties above 9 years of imprisonment). In civil cases, those who sue should be labelled 'plaintiffs' (*demandantes*), and those who are sued shall be named 'defendants' (*demandados/as*).

When covering cases of domestic violence, the Council encourages an activist stance on journalists, inviting them to present gendered violence as a continuum that may begin with insults and psychological violence and may end, in the most extreme cases, in murder. Domestic violence is considered a violation of human rights.<sup>25</sup>

### 3.- The media landscape in Spain

Spain is witnessing the near disappearance of its print dailies: over the past decade (2008-2018) Spanish newspapers have lost 73% of their paid daily circulation, with not a single newspaper selling more than 100,000 copies a day.<sup>26</sup> In 2008, *El País* sold 332,000 copies per day; in 2018, it sold 89,000 (-73%). *El Mundo* went from 225,397 copies sold in 2008 to 56,500 in 2018 (-75%); *El Periódico*, from 114,101 sold copies in 2008 to 32,008 in 2018 (-72%); *La Vanguardia*, from 78,992 copies in 2008 to 23,511 in 2018 (-70.3%); *ABC*, from 136,158 copies in 2008 to 54,866 in 2018 (-60%); and *La Razón* from 106,144 copies in 2008 to 60,938 copies in 2018 (-42.5%).

Legacy dailies might be dying in print, but they are widely popular online. *El País* (elpais.com) had nearly 19.7 million unique users in September 2018, winning a neck-to-neck battle with *El Mundo* (elmundo.es), with just 26,000 visitors less. But traditional brands face a harsh competition from digital natives. Among the top-ten most visited news websites in September 2018, half were legacy mastheads (*El País*, *El Mundo*, *La Vanguardia*, *ABC* – with 14.7 million visitors--, *El Periódico*), and half were newcomers: *El Confidencial* (elconfidencial.com, founded in 2001, 13.4 million visitors), *20 Minutos* (20minutos.es, online since 2005, is the digital version of a print free daily launched in 2000), *OK Diario* (okdiario.com, founded in 2015, 10.8 million visitors) and *El Diario* (eldiario.es, founded in 2012, 8.4 million users).

Having visitors by the millions online should be good news for the legacy media companies, but their success in attracting eyeballs does not translate into healthy bottom lines. Spanish media companies only manage to get 20% of the digital advertising expenditure, as global behemoths like Google or Facebook allow brands to reach customers directly, without the mediation of traditional news sites.<sup>27</sup> Consequently, the onetime all-powerful Spanish media conglomerates are now weaker than ever. The PRISA group, owner of *El País*, was rescued in 2010 from bankruptcy by a US investment group, Liberty Acquisitions Holdings, who now controls the company with a majority stake. Since 2007, Unidad Editorial, the publishing company of *El Mundo*, is owned by the Italian RCS MediaGroup. Both *El País* and *El Mundo* have since then reduced their workforce, firing some of their most well-known journalists.

Spain has no sensationalist print press, although gossip celebrity magazines, also suffering the death of print, have been widely popular, with *iHola!* (*Hello!*) becoming a global brand. There are no relevant newsmagazines anymore, as *Interviú* and *Tiempo* ceased publication in early 2018, themselves a legacy of the Spanish transition to democracy in the late 70s and early 80s,

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<sup>25</sup> p. 49, Consejo del Audiovisual de Andalucía (2013). *Derecho a la información y justicia. Guía sobre el tratamiento informativo de los procesos judiciales*. Retrieved 15 November 2018 from [http://www.consejoaudiovisualdeandalucia.es/sites/default/files/noticia/pdf/1303/guia\\_para\\_el\\_tratamiento\\_informativo\\_procesos\\_judiciales.pdf](http://www.consejoaudiovisualdeandalucia.es/sites/default/files/noticia/pdf/1303/guia_para_el_tratamiento_informativo_procesos_judiciales.pdf).

<sup>26</sup> Ossorio Vega, M.A. (2018, October 30). "Los periódicos españoles se han dejado el 73% de las ventas en una década." *Media-Tics: Información y Comunicación en la Era Digital*. Retrieved 15 November 2018 from <https://www.media-tics.com/noticia/8552/medios-de-comunicacion/los-periodicos-espanoles-se-han-dejado-el-73-de-las-ventas-en-una-decada.html>.

<sup>27</sup> Dircomfidencial (2018, November 7). "Los grandes grupos de medios españoles solo reciben el 20% de los ingresos publicitarios digitales." *Dircomfidencial*. Retrieved 15 November 2018 from <https://dircomfidencial.com/medios/los-grandes-grupos-de-medios-espanoles-solo-reciben-el-20-de-los-ingresos-publicitarios-digitales-20181107-0405/>.



when weekly news magazines were influential in the political sphere. They were owned by Grupo Zeta, the publisher of *El Periódico*, itself the object of a severe restructuring.

Television reaches 85.6% of Spaniards and is a source of news for two-thirds (76%) of the Spanish population who has access to the Internet.<sup>28</sup> The public broadcaster, TVE, is among the least trusted public televisions in Europe,<sup>29</sup> probably a consequence of its traditional dependence of the government in power. Private television is dominated by a duopoly of two conglomerates, Atresmedia and Mediaset, which attract half of the audience and amass 83% of advertising expenditure.<sup>30</sup> This is due to the Socialist government's decision in 2009 to ban advertising from public TV. Morning and late-night political talk shows have become a popular format in the past few years. Although they are not included in the sampling of this research project, it is on these programmes where the most sensational journalism is practiced, analyzing and commenting on all sorts of crimes, from sexual and domestic violence to political corruption, by way of burglaries and occupations of private property by squatters. The CNMC, following a report by the Andalusian Audiovisual Council, issued in August 2018 a warning against three TV shows, *Espejo Público* (Antena 3), *El Programa de Ana Rosa* (Telecinco) and *Más Vale Tarde* (La Sexta) for not respecting the principle of presumption of innocence, for contributing to circulating rumours and inciting hatred during their coverage of 'Gabriel case', which involved the kidnapping and killing of a young boy in the province of Almería.<sup>31</sup>

Television is now the second most-popular source of news after the Internet, which when adding social media is checked by 85% of the population who has Internet access, itself representing 87% of the total population.<sup>32</sup> Half of Internet users in Spain (53%) share news via social media or e-mail, and one-third (32%) comment on the news either on social media or news websites. Whatsapp is the most popular application, used by 82% of Internet users, but second after Facebook in the use of a source of news. 48% of Spanish Internet users access Facebook for news, whereas only 36% use Whatsapp for that purpose. Youtube (26%) and Twitter (22%), occupy the third and fourth position, respectively.

Radio is mostly a medium for middle-aged and mature individuals (85% of the audience is older than 35 years, with those above 65 being a fourth of the audience). Most them are male (60%). Apart from news bulletins, information on the radio is mainly the purview of morning political talk shows, led by recognizable voices who are largely ignored by the younger generations. The most listened-to radio network is Cadena SER, tuned in daily by more than 4 million individuals, followed by Cadena COPE (2.6 million listeners), Onda Cero (1.9 million listeners) and Radio Nacional (the public radio, 1.3 million listeners).<sup>33</sup>

The main news agency is EFE, founded in 1939 by the pro-German interior minister Ramón Serrano Súñer a few months before the end of the Spanish Civil War. The company is still owned by the Spanish State and has become the world's leading news agency in Spanish. The main private news agency is Europa Press, founded in 1957. It had a relevant role in the transition to democracy, but nowadays it is heavily subsidized by public sponsors.

Despite Spanish having more than 500 million speakers around the world, public broadcaster RTVE has missed the opportunity to become a reference in the Spanish-speaking world as the

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<sup>28</sup> Negredo, S., Amoedo, A. and Vara, A. (2018), *Digital News Report .es 2018*, Pamplona, Universidad de Navarra.

<sup>29</sup> Mitchel, A. (2018, May 14). "In Western Europe, Public Attitudes Toward News Media More Divided by Populist Views Than Left-Right Ideology." Pew Research Center. Retrieved 15 November 2018 from <http://www.journalism.org/2018/05/14/in-western-europe-public-attitudes-toward-news-media-more-divided-by-populist-views-than-left-right-ideology/>.

<sup>30</sup> Intereconomía (2018, May 14). "El duopolio televisivo copa el 83% de los ingresos con una cuota del 54,7%." *Intereconomía*. Retrieved 15 November 2018 from <https://intereconomia.com/empresas/telecomunicaciones/el-duopolio-televisivo-copa-el-83-de-los-ingresos-con-una-cuota-del-54-7-20180514-1504/>.

<sup>31</sup> Arranz, G. (2018, August 3). "La CNMC retrata a Atresmedia y Mediaset por su sensacionalismo en el 'caso Gabriel'." *Voz Pópuli*. Retrieved 15 November 2018 from [https://www.vozpopuli.com/medios/CNMC-Atresmedia-Mediaset-excesos-sensacionalismo-Gabriel\\_0\\_1159984199.html](https://www.vozpopuli.com/medios/CNMC-Atresmedia-Mediaset-excesos-sensacionalismo-Gabriel_0_1159984199.html).

<sup>32</sup> Negredo, S., Amoedo, A. and Vara, A. (2018), *Digital News Report .es 2018*, Pamplona, Universidad de Navarra.

<sup>33</sup> Asociación de Investigación en Medios de Comunicación (2018). *EGM: año móvil octubre 2017- mayo 2018*. AIMC. Retrieved 15 November 2018 from <https://www.aimc.es/a1mc-c0nt3nt/uploads/2018/06/resumegm218.pdf>

BBC is to the Anglophone countries. The publisher of *El País*, the PRISA group, has relevant stakes in Latin America, such as Caracol Radio (Colombia), W Radio (Mexico) or Ibero Americana Radio (Chile).<sup>34</sup> Perhaps the Spanish soft power is better exercised through the popularity of its football league (La Liga), whose broadcasting rights are managed by Barcelona-based Mediapro, an audiovisual company that has produced several Woody Allen movies.

#### **4.- Selected media outlets**

##### **4.1.- Selection criteria**

For this study four types of media were considered: 1) the benchmark national print dailies, 2) their online versions, 3) the main online-native news websites and 4) the nightly news bulletins from two TV channels, the national public broadcaster and one private TV channel. Two media categories present in other countries considered in this study are absent: tabloids and news weekly magazines.

Spain has no sensationalist print press. The sensational coverage of crimes and scandals does exist, but only on TV, and not on news bulletins, but on talk shows. Between 1952 and 1987 Spain had a weekly newspaper, *El Caso*, specialized in the reporting of crime, but its most successful years were under the Franco dictatorship.

News weekly magazines were highly influential during the transition to democracy. Publications like *Cambio16*, *Cuadernos para el Diálogo* or *Triunfo* were part of what historians defined as *the parliament of paper*, a sort of Republic of Letters that anticipated the coming of actual democracy at the end of the 1970s. The two last remnants of that age, the weeklies *Interviú* and *Tiempo*, ceased publication in early 2018. Therefore, Spain has no equivalent to *Der Spiegel* or *Le Nouvel Observateur*.

Although the main rationale for selecting the news outlets for this study is their reach (in terms of readership or audience), we also considered other qualitative criteria, such as their power to set the agenda (the most widely read newspapers are not necessarily the most influential) or their ideological leanings (to have a balanced representation of different shades of the political spectrum).

Part of the political debate that used to be carried by political magazines happens now online at sites like *El Español* or *Público*, and the closest outlet to a tabloid newspaper is a recent online start-up, *OK Diario*. To account for this online diversity, we selected up to five online-native outlets, paying attention to their readership and their ideological variety.

##### **4.2.- Audience measurement institutions**

Spain has three main bodies to measure print circulation, online readership and broadcast audiences.

The Oficina para la Justificación de la Difusión (OJD), participated by advertisers, advertising agencies and news companies, is since 1964 the body that measures the circulation of print periodicals. It measures both the *print* circulation (the number of issues printed) and the *paid* circulation (the number of issues bought on newsstands or by subscription).

The Estudio General de Medios (EGM), conducted by the Asociación para la Investigación de Medios de Comunicación (AIMC) provides measures of the readership of print media, as well as the audience of broadcast media outlets, be they TV or radio. Their data comes from a panel representative of the Spanish population.

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<sup>34</sup> EFE (2017, March 23). "PRISA quiere crecer en el negocio de medios en América Latina cuando baje su deuda." *El País*. Retrieved 15 November 2018 from [https://elpais.com/economia/2017/03/23/actualidad/1490284870\\_542122.html](https://elpais.com/economia/2017/03/23/actualidad/1490284870_542122.html)

The measurement of online audiences has been a matter of contention, as only a few international brands have the technological prowess to provide data from representative panels. At present the company that won the tender for measuring the audience of online media is Comscore.

Apart from this industry measurement bodies, the panel survey carried out by Yougov for the Reuters Institute *Digital News Report* (2018) also provides valuable insights which are representative of the population of Internet users in Spain.

### 4.3.- Print dailies

As it happens in a neighbouring country like France, in Spain the regional and local newspapers have a considerable success in their respective territories, but the main agenda-setters of nation-wide circulation are published in the national capital. For this study, we selected four dailies that are published in Madrid and shape the national discourse: *El País*, *El Mundo*, *ABC*, and *La Razón*. *La Vanguardia*, from Barcelona, is the daily of the record in Spain to get the view from the second capital city in the country, so it is also included in this study. This five newspapers were bought on the sampling days at newsstands (see section 5 of this report for more details on sampling selection).

The daily press reaches one-fourth of the population in Spain (23.4%) according to the EGM.<sup>35</sup> Its audience is mostly male (59.9%) and above 45 years old (55.7%). The general information dailies (excluding business dailies and sports dailies) attract an audience of 8,141,000 individuals.

*El País*, founded in 1976, was an iconic fixture of the *Transición* to the democratic regime and is still the most widely read newspaper in the country, with 1,069,000 readers. Although it was initially a centrist liberal newspaper, it became the voice of social democracy in Spain during the 1980s and 1990s, and the newspaper of the record for international observers. The flagship of the multimedia group PRISA, it has tried to rebrand itself as an international masthead online, with specific coverage of the Americas. In Spain it has lost 70% of its print circulation within a decade, struggling to sell more than 100,000 copies a day. The group, previously controlled by the Polanco family, it is now in the hands of hedge funds (Amber Capital), other media companies (Telefónica) and banks.<sup>36</sup>

*El Mundo*, founded in 1989 by a group of journalists decided to fight the encroachment of the Socialist party in the state institutions, quickly became the second most-read newspaper in the country, representing a centre-right political sensitivity. Through investigative reporting, *El Mundo* became the *bette noir* of the Socialist government of Felipe González, accused of financing a dirty war against Basque terrorism through secret police. Of particular interest here is the famous picture of González testifying at the Supreme Court in 1998, taken undercover by a journalist and published on the front page of *El Mundo* (Figure 1).

[Figure 1 about here]

The publication of another scandal, the mobile phone messages shared between the Conservative PM Mariano Rajoy and the treasurer of his political party, Luis Bárcenas, convicted for embezzlement, is said to be one of the main reasons why the owners of the newspaper, the Italian RCS MediaGroup, forced the resignation of his controversial editor-in-chief, Pedro J. Ramírez, who would use his severance payments to fund the creation of an online native

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<sup>35</sup> Asociación de Investigación en Medios de Comunicación (2018). *EGM: año móvil octubre 2017- mayo 2018*. AIMC. Retrieved 15 November 2018 from <https://www.aimc.es/a1mc-c0nt3nt/uploads/2018/06/resumegm218.pdf>.

<sup>36</sup> Romera, J. and Semprún, A. (2018, February 2). "Amber Capital redobla su apuesta por Prisa tras salir Cebrián y llegará al 24%." *El Economista*. Retrieved 15 November 2018 from <https://www.eleconomista.es/empresas-finanzas/noticias/8911016/02/18/Amber-Capital-se-refuerza-como-primer-accionista-de-Prisa-y-llegara-al-24.html>.

website, *El Español*, also studied here.<sup>37</sup> *El Mundo* has 701,000 readers and sells 56,500 copies. Its online version, however, rivals that of *El País*.

*ABC* is published since 1903, when it was born as an illustrated weekly. It has traditionally been the voice of conservative, catholic and monarchical Spain. During the Spanish Civil War the newspaper symbolized the division of the country, as the Madrid edition was taken by the Republicans and the Sevilla edition was the mouthpiece of the nationalist rebels. In this latter city, and in the rest of Andalusia, *ABC* remains highly influential. *ABC* is published by the Vocento group, itself the result of a merger between Grupo Correo, based in the Basque Country, and Prensa Española, the original publisher of *ABC*. The paper has 429,000 readers and sells close to 55,000 copies.

*La Razón* was founded by a former editor of *ABC*, Luis María Ansón, in 1998. It is published by Grupo Planeta and has a readership of 215,000 individuals, selling around 60,000 copies. Ideologically is conservative and proudly supports the national unity of the Spanish State.

*La Vanguardia* was first published in 1881 and would shortly be bought by their current owners, the Godó family, which also controls radio and TV stations in Catalonia. *La Vanguardia* reaches an audience of 612,000 readers and sells 23,500 copies, half of them through subscriptions, an exception to the norm of Spanish dailies, which are mostly sold on newsstands. *La Vanguardia* is the most influential newspaper out of Madrid, providing Spaniards with a view of current affairs from Catalonia, where most of its readers are.

#### 4.4.- Online media

Legacy media remain relevant online, but they face a tough competition from smaller news sites that were born for the web and do not have to care about printing and distribution costs in the physical world. *El País* (elpais.com, 19.7 million unique users), *El Mundo* (elmundo.es, 19.7 million unique users), *La Vanguardia* (lavanguardia.com, 17.6 million unique users) and *ABC* (abc.es, 16.3 million unique users) conform the leading group of online media outlets in Spain, with more than 15 million unique users.

They are closely followed by a second cluster of online native outlets: *El Confidencial* (elconfidencial.com, 13.4 million users, slightly surpassing 20minutos.es, with 13.3), *OK Diario* (okdiario.com, 10.8 million users), *El Español* (elespanol.com, 10.6 million users), *El Diario* (eldiario.es, 8.4 million users), and the Spanish version of the *Huffington Post* (huffingtonpost.es, 5.1 million users). Also with 5 million unique users is *Público* (publico.es), the digital version of a short-lived print newspaper (2007-2012) who now considers itself a pure online player. The digital version of *La Razón*, with 4.7 million users, is far away from the figures of its competitors in the print world.

[Figure 2 about here]

*El Confidencial* was born in 2001 as a business and financial information site, but it has now become the most popular among the online general news websites in Spain. Its contents are freely accessible, thanks to a sharp use of native advertising.

*OK Diario* is a right-leaning news website founded in 2015 by investigative journalist Eduardo Inda, formerly of *El Mundo*. In barely three years of existence it has become widely popular, thanks to its scoops on corrupt politicians and its tabloid-style writing, with sensational headlines and aggressive photo compositions.

*El Español*, founded in 2015 by the former editor of *El Mundo* and *Diario16*, Pedro J. Ramírez, tries to bring online the journalism of commentary and investigation that made his founding

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<sup>37</sup> Eldiario.es (2014, January 30). "Pedro J. culpa a Rajoy de su despido y amenaza con montar un nuevo medio si El Mundo cambia su línea." eldiario.es. Retrieved 15 November 2018 from [https://www.eldiario.es/sociedad/Pedro-culpa-Rajoy-despido-Mundo\\_0\\_223628570.html](https://www.eldiario.es/sociedad/Pedro-culpa-Rajoy-despido-Mundo_0_223628570.html).

editor famous in his print ventures. It is funded by subscribers and maintains a porous wall with advertising for regular users.

eldiario.es, founded in 2012 by Ignacio Escolar, the former editor of the short-lived print newspaper *Público*, is the voice of the young left in Spain. Its contents are open, but is supported by a membership scheme that provides early access to the paying members.

The Spanish version of *The Huffington Post* shares its ownership between PRISA, the publisher of *El País*, and the American firm set by the website founder, Arianna Huffington. This news site operates with a clickbait philosophy: intriguing headlines, some of them dealing with TV and popular culture affairs, entice the reader to read further. It was launched in 2012.

publico.es, born as the digital version of a print newspaper of the same name, is now a stand-alone digital news site, but is controlled by the same group of businessmen who founded the newspaper, led by Catalan media mogul Jaume Roures. It is left-leaning and Republican, leading campaigns to encourage student referendums against the Spanish monarchy. It is funded by advertising and has a section with TV programmes, among them one presented by the leader of leftist populist party Podemos, Pablo Iglesias.

#### **4.5.- Television**

The two television sources for this study are the nightly TV news bulletins from Televisión Española, the public broadcaster, with a 12.2% share, and Antena 3, the most popular private channel, with a 16.6% share. It should be warned that Antena 3's main competitor, Telecinco, quit the EGM in 2015, so their figures cannot be compared.

Televisión Española was established in 1956, with the same goal of European broadcasters of the time: to create a national community by following BBC's John Reith's proverbial formula ("to educate, to inform, and to entertain)."<sup>38</sup> Obviously, the freedom of information was restricted during Franco's dictatorship, although the grip was lessened somehow after the Press Law of 1966, which has not yet been formally abolished.<sup>38</sup> After the arrival of democracy, the public broadcaster was granted a new legal statute in 1980, but its dependence from the government in power continues to this day. It ran advertising until 2009, when the then Socialist government decided to ban ads from the public broadcaster, being solely funded by the nation's public budget.

Private TV in Spain is a de facto duopoly between two mega-groups, Atresmedia (controlled by Planeta and participated by Bertelsmann and Mediapro, with Antena 3 and La Sexta as its flagship channels) and Mediaset (controlled by Fininvest, an Italian group from the media tycoon and politician Silvio Berlusconi, owner of Telecinco and Cuatro). Both gather close 90% of advertising investment on TV and retain more than half of the audiovisual audience in Spain.

Sensationalism on TV news bulletins is rare, but relatively common in talk shows and variety TV magazines, which are broadcast on morning, afternoon and late-night times, especially on private channels.

The reporting style of TVE is sober and restrained. Most of the political influence that governments exert is channelled through the selection of topics instead of the tone. Antena 3, as other private news providers, is more spectacular and their presenters are proper 'anchors', with more personal news-reading styles. The pursuit of bigger audiences makes Antena 3 relatively centrist, or at least far more moderate than its sister channel La Sexta, which clearly veers to the left. The main shareholder of Atresmedia, Grupo Planeta, plays an ambivalent role: on the one hand, it owns a conservative newspaper, *La Razón*; on the other, it controls TV channel La Sexta, the favourite information source for the supporters of a radical left party like Podemos.

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<sup>38</sup> Guichot, E. (2016, coord.). *Derecho de la comunicación*. Madrid: Iustel.

Spaniards are famous for their late dining hours, so the 'prime time' segment in the country is at a late time than in many other European countries: from 9pm to 11pm.

## 5.- Keywords used for sample selection

The units of analysis of this study are the crime and suspect-related news published by the main Spanish print, online and TV outlets during two constructed weeks, formed by 14 days in the months of June, July and September 2018<sup>39</sup>.

Crime-related news were those news stories published or broadcast in the selected media outlets on those days that included the Spanish equivalents to the following English words: "police" (*policía*), "court" (*juzgado*), "prosecution" (*enjuiciamiento*), "criminal offense" (*ofensa criminal*), "investigation" (*investigación*), "authorities" (*autoridades*), "lawyer" (*abogado*), "suspicion" (*sospecha*), "crime" (*crimen/delito*), "suspect" (*sospechoso*), "defendant" (*acusado*), "accused" (*acusado*), "criminal case" (*caso criminal*), "delict" (*quebramiento de la ley*). Within the Spanish context, it was also necessary to account for those news stories that included mentions to the Guardia Civil (a police corps who operates in rural areas) and the various forms of courts (Tribunal Supremo, Audiencia Nacional, Audiencia Provincial, etc.) Also selected were the stories that mentioned specific kinds of crime, such as rape (*violación*), sexual abuse (*abuso sexual*), embezzlement (*malversación*), assassination (*asesinato*), homicide (*homicidio*)...

Print newspapers were bought at newsstands in the regions of Madrid and Galicia. In some cases, we are missing sample copies of *La Vanguardia*, as its distribution is limited to big cities in Spain and its online version has a paywall to access the contents of its print edition. Some newspapers try to increase their sales with promotions of all kinds, so we missed one sampling day of *La Razón* because it came with coupons for getting a saucepan, which made it difficult to get the print copy.

Online news sites homepages were captured using an extension of Mozilla Firefox browser that allows for the caption of the full webpage in a high-resolution image. Then the stories referred on the main page that contained crime-related stories were sought for analysis.

Televisión Española, through its website rtve.es, permits access to all its news bulletins, so the 9pm news broadcasts were analyzed after watching them on a recorded streaming. Antena 3 only allows watching the news broadcasts of the past 7 days, and in some cases the collection is not complete. On the occasions that the original 9pm broadcasts were not traceable, we sought the TV news stories through Google video search, narrowing down the search by the days of interest.

## 6.- Texts selected

After applying the filter to select crime-related news by looking at the presence of keywords on headlines and leading paragraphs, the coders found:

- 627 stories from native online news outlets (an average of 44.8 stories per day, a median of 45 stories per day).
- 260 stories from print newspapers (an average of 18.6 stories per day, a median of 16.5 stories per day).
- 59 stories from TV nightly news bulletins (an average of 4.2 stories per day, a median of 4.5 stories per day).
- 114 stories from the online versions of print newspapers (an average of 14.3 stories per day, a median of 13.5 stories per day).

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<sup>39</sup> The selected days were: Saturday 5 June 2018, Wednesday 13 June 2018, Thursday 21 June 2018, Friday 29 June 2018, Monday 2 July 2018, Saturday 7 July 2018, Sunday 15 July 2018, Monday 16 July 2018, Tuesday 24 July 2018, Sunday 2 September 2018, Wednesday 5 September 2018, Thursday 13 September 2018, Friday 21 September 2018, Saturday 29 September 2018.

For each of the media categories, the coders looked for 5 exemplary cases of dubious journalistic practice, to inform the future report with advice for media professionals.

## 7.- Findings

Spanish media might appear to be more virtuous in their coverage of criminal affairs because of the absence of tabloid (sensationalist) print press. There are sensational TV shows, but these were not part of our sample.

There are, however, practices that should be avoided to as to comply with the recommendations that journalism and judicial associations include in their ethical codes or communication protocols:

- Identifying suspects by their full name and image whenever they have some social notoriety.
  - This was the case of the news story about the arrest of several professional athletes accused of doping. The picture and the name of one of these athletes, who had won a half marathon in Madrid, was published by *El Confidencial* and *El País* online, along with the full names of the others arrested (21 June 2018). The public broadcaster TVE was far more cautious: the identities of the arrested were not revealed, although the voice over said that one of them had won a half marathon.
  - *La Razón*, when reporting on the arrest of two suspects of the raping of an underage teenager in Barcelona, published the image and name of one of them, a rap singer (5 June 2018).
- Showing suspects being led by the police in handcuffs, usually surrounded by crowds shouting for justice.
  - On 5 June 2018, several media outlets reported the killing of an Asian 13-year old girl by an adult neighbour of hers in Vilanova i la Geltru, next to Barcelona. The suspect was taken by the police to the apartment where the body of the girl was found. TV channels like Antena 3 showed the man being carried in handcuffs by the police, without his face being blurred and calling him by his given name, Francisco.
- Making references to previous convictions of the suspect.
  - This is a contentious issue, because although some international guidelines recommend not to refer to the past convictions of the suspect, especially if they are unrelated to the crime being reported, it is common practice among Spanish journalists (and among police authorities) to report on the criminal record of any suspect. This happened with the suspect of assassinating the teenager of Vilanova, who according to TVE "had a criminal record of minor threats to his ex-wife". (5 June 2018).
- Calling suspects criminals.
  - However vicious a crime might be, and however obvious the authorship might seem, journalists should refrain from calling suspects criminals. This happens mostly on headlines, not on the main text, perhaps because of lack of space. One example is the story published by *La Vanguardia* entitled "A man with a restraining order kills his wife in Lepe [Huelva] and runs away" (7 July 2018). It takes as a given that the husband has killed his wife. This was likely to be true, but the presumption of innocence before trial is not granted in the headline. Interestingly, the Spanish Supreme Court accepts this practice, if it is proved that the journalist has acted with due diligence when contrasting information, even if the suspect is found to be not guilty or the case is later filed for lack of incriminating evidence.<sup>40</sup>
- Specifying details of the suspects that are not relevant to the story.
  - Naming the race or nationality of suspects is also a contentious practice, as it might lead to the stigmatization of certain ethnic groups. In some cases, journalists (and perhaps their readers) seem to rejoice on some tangential details. When reporting on the arrest of a pervert who hid himself in dressing rooms to take videos of

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<sup>40</sup> Del Águila Barbero, P. (2018, August 23). "El Supremo permite omitir el término 'presunto' en los titulares de prensa." *El Economista*. Retrieved 15 November 2018 from <https://www.economista.es/legislacion/noticias/9344232/08/18/El-Supremo-permite-omitir-el-termino-presunto-en-los-titulares-de-prensa.html>.

women and girls changing their clothes, abc.es specified the profession of the detainee ("a mechanic") and informed that the suspect lived with his parents.

The absence of major ethical transgressions in the Spanish press might be due to several idiosyncratic circumstances. The legacy print media owe much of their restrained tone to the memory of the transition to democracy, when journalists paired with politicians to encourage civil debate and reconciliation. The benchmark daily print press, published in Madrid, is more about elite politics than street-level society. Sensational headlines about crimes were the purview of weeklies like *Interviú*, which disappeared in 2018. The native-online media outlets like *El Español* or *OK Diario*, born at a time in which referrals from social media are key to get visits, are now indulging in all the sensationalism that print media refused to engage with.

Broadcast TV reports have somehow inherited the measured tone of the print press, leaving the coverage of lurid crimes to morning and late night shows, where political talk is mixed with police reports. The programmes *Espejo Público* (Antena 3, morning talk show), *El Programa de Ana Rosa* (Telecinco, morning talk show), and *Más Vale tarde* (La Sexta, evening talk show) were reprimanded in August 2018 by the CNMC, the main content regulator, for not respecting the presumption of innocence of a suspect who was eventually not related to the crime being reported. In March 2018, while the police were searching for a missing boy in Almería, a man who had been convicted for stalking the boy's mother was detained for not respecting a restraining order. These TV shows immediately identified this man as a suspect, even though the children's parents and the police itself denied any relationship with the disappearance of the boy. The TV magazines showed pictures and videos of the suspect with his face blurred (though some online media like *El Español* did not take such care and published the pictures without any anonymising features) and took images of his residence.

Sensational reporting, therefore, has been pushed by professionals themselves to the fringes, be it online newcomers or TV talk shows, leaving print media and the main news bulletins as preservation areas where the old collegiality between the journalistic and the political class is maintained.

The identification of journalists with political elites rather than down-to-earth average citizens might explain the cautious reporting on race and religion by Spanish media. Surveys by the Centro de Investigaciones Sociológicas (CIS) on attitudes towards immigration reveal that Spaniards are far more concerned about foreigners than what a customary look at the headlines of mainstream media would lead any reader to think.

According to data from 2015, one-third of Spaniards think that the number of immigrants in the country is "high" (33.6%) or "excessive" (28.4%).<sup>41</sup> Nevertheless, the journalistic reporting of immigration in Spain is usually reflective of political elites' formal openness to immigration, which has kept steady until very recently. The new conservative leader Pablo Casado (Partido Popular) and the centrist-liberal leader Albert Rivera (Ciudadanos) have advocated for some measures of immigration control, so the centre of gravity of political correctness could sway towards the right, that is, towards a less dispassionate view of the phenomenon. If the political parallelism between the media and the political class holds true in the future, the coverage of immigration might acquire a more critical bent, getting journalism closer to popular scepticism over the reception of foreign newcomers.

Although not part of the empirical part of our report as the case sentence was made public in April 2018, any report dealing with the presumption of innocence in the Spanish press ought to mention the controversy surrounding the conviction for sexual assault of 5 young men, themselves nicknamed 'La Manada' (*the pack*). Two judges found the accused guilty of the sexual assault of an 18-year old woman during the Pamplona bull run in 2016, whereas a third judge issued a dissenting opinion defending their acquittal. The sentence has been appealed and the suspects have been released on bail. The popular reaction to the ruling, with street

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<sup>41</sup> Centro de Investigaciones Sociológicas (2015, November). Actitudes hacia la inmigración (VIII), Estudio No. 3119. Retrieved 15 November 2018 from [http://www.cis.es/cis/opencm/ES/1\\_encuestas/estudios/ver.jsp?estudio=14249](http://www.cis.es/cis/opencm/ES/1_encuestas/estudios/ver.jsp?estudio=14249)



demonstrations decrying the patriarchal sexism of the judges, brought to the fore issues relevant to this project: the pressure of public opinion over judges, the difficulties of proving sexual consent, the weight of previous unrelated convictions on at least three of the five suspects, the role of social networks in circulating rumours about the accused and the victim... The case of La Manada would certainly grant a case study, as all the matters of concern for this research were played out in the media and in online conversations.

**Figures**

Figure 1.- Former Spain's PM Felipe González at the Supreme Court, photographed by undercover journalist Fernando Quintela (*El Mundo*, 24 June 1998)

# EL MUNDO

DEL SIGLO VEINTIUNO

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AÑO X, NÚMERO 3.157. PRECIO: 125 P.TS. CON LIBRO: 225 P.TS.
La palabra dicha no vuelve atrás (Horacio)
MADRID, MIÉRCOLES 24 DE JUNIO DE 1998

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UN DOCUMENTO PARA LA HISTORIA DE ESPAÑA. El diario EL MUNDO consiguió ayer fotografíar al ex presidente del Gobierno Felipe González en la sala del Tribunal Supremo donde se juzga el caso Manoy. Nuestro redactor gráfico
Fernando Quintela, quien en el año '91 captó la primera imagen de Arce y Domínguez en la sala histórica de la Audiencia Nacional, utilizó una pequeña cámara de la marca Minox, sus metal en sus componentes, y película Kodak de 320 ASA de sensibilidad.

## González promete ante once jueces del Supremo que no tuvo nada que ver con los GAL

*Lamenta que no hubiera un pacto de Estado sobre el caso — Sema dice que hubo una conspiración contra Polanco, González y el Rey*

**FERNANDO GARCÍA AGUIRRE Y TELER**

MADRID.— Felipe González prometió ayer, ante 11 jueces del Tribunal Supremo, que no tuvo nada

que ver con los Grupos Armados de Liberación (GAL). Por segunda vez en los últimos cinco meses, Felipe González compareció como testigo en el salón de plenos del Supremo. Prometió lo

hizo, el 22 de septiembre pasado, para negar cualquier relación con el caso Polanco, que, para sustraer la responsabilidad de su Gobierno en el secuestro de Segarín Mares, el mismo narraba en el que la mitad

más uno de los magistrados de la Sala Segunda se opuso en su día a citarlo como imputado, pero no «estigmatizado».

En tres horas de declaración, el que fue presidente del Gobierno

durante casi 14 años pareció un fronsón en el que rebalsaba sus escarpados todos los proyectos.

(Sigue en página 6)

Más información en págs. 7 a 12

Fórmula en pag. 9

«Desenmascararé a los 'choricillos de la prensa», afirma Clemente prescinde de Raúl para el partido contra Bulgaria

Págs. 30 a 34

«Se me cruzaron los cables», dijo tras entregarse Un demente secuestra un avión de Iberia con un mando a distancia

Pág. 33

HOY, NOVELA FANTÁSTICA «Los cuentos oscuros» de Orson Scott Card

Milano. «Río de la muerte», de M. Laffont Esteban, por 630 000 pts. más

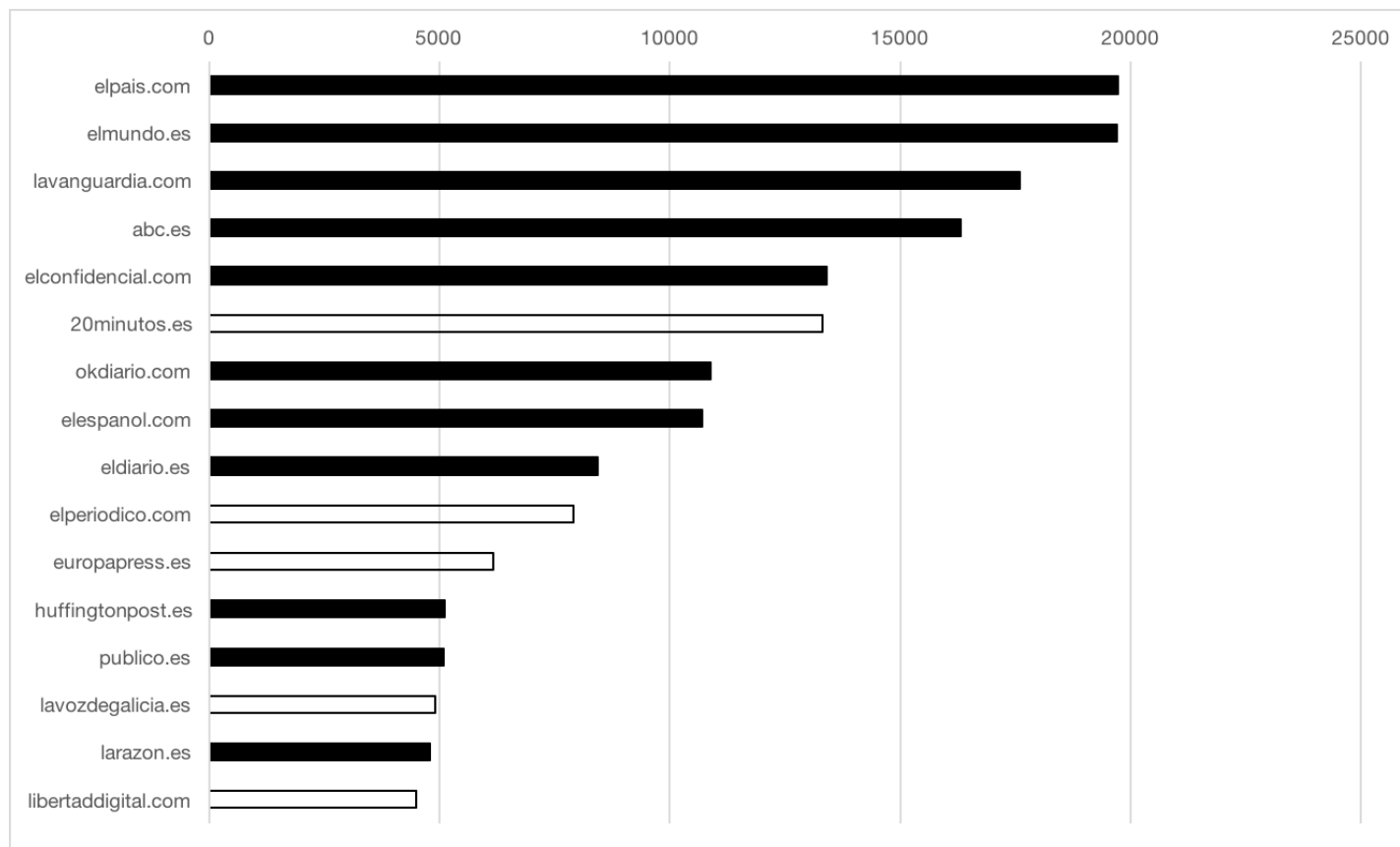
Códex en pag. 62

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Figure 2.- Most visited news websites in Spain (number of unique users, in thousands, September 2018, Comscore). News outlets covered in this report are those whose bars are in black.



Comscore data as reported by OK Diario, retrieved 15 November 2018 from <https://okdiario.com/audiencia/2018/10/23/comscore-septiembre-2018-3262706>