



Trials by media: some cases. The civil restitution in the Wanninkhof case

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Abstract

This article deals with different trial-by-media cases. First of all, some paradigmatic cases are cited that occurred in the United States where the media played an important role in spreading ideas to the population that later had consequences on judicial proceedings. Secondly, a Spanish example is given where a person found guilty of murder was later exonerated. The Spanish case, the media, although many years later, represents an interesting form of civil reparation. The Rocío Wanninkhof case is one of the most important cases of miscarriage of justice in the history of the country. In this case, the alleged perpetrator of the crime, Dolores Vázquez, was imprisoned. This is a very interesting case for the Law & Media field of analysis. The role played by the media in the resolution of the case can be considered as a paradigm of violation of the principle of the presumption of innocence of citizens. Likewise, the role of the media years later, producing a documentary on the case, can be considered a sort of a civil restitution of the alleged guilty and convicted. This element of restitution can also be considered as a socio-legal element to be taken into account in the future for similar cases.

Key words

Parallel trial; law and media; social restitution; Wanninkhof; Dolores Vázquez

Resumen

Este artículo aborda diferentes casos de juicios mediáticos. En primer lugar, se citan algunos casos paradigmáticos en Estados Unidos en los que los medios de comunicación desempeñaron un importante papel en la difusión de ideas entre la población que posteriormente tuvieron consecuencias en los procesos judiciales. En segundo lugar, se cita un ejemplo español en el que una persona declarada culpable de

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asesinato fue posteriormente exonerada del mismo. El caso español, aunque muchos años después, representa una interesante forma de reparación civil por parte de los medios de comunicación. El caso de Rocío Wanninkhof es uno de los casos de error judicial más importantes de la historia del país. En este caso, la presunta autora del crimen, Dolores Vázquez, fue encarcelada. Se trata de un caso muy interesante para el campo de análisis de Derecho y Medios de comunicación. El papel jugado por los medios de comunicación en la resolución del caso puede ser considerado como un paradigma de vulneración del principio de presunción de inocencia de los ciudadanos. Asimismo, el papel de los medios de comunicación años después, produciendo un documental sobre el caso, puede considerarse una especie de restitución civil de los presuntos culpables y condenados. Este elemento de restitución puede considerarse también como un elemento sociojurídico a tener en cuenta en el futuro para casos similares.

Palabras clave

Juicio paralelo; derecho y medios de comunicación; restitución social; Wanninkhof; Dolores Vázquez

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1. Introduction

Many examples of the influence of the media on the judicial verdict can be cited. Here we will cite some of them, to the extent that there are different elements at work in each case. For instance, in the case of Aileen Wuornos, even though she was guilty, the way she was portrayed by the media was a fundamental element in her subsequent conviction. Teresa Halbach's case shows how a television docuseries was instrumental in mobilizing the population to ask for a pardon from the President of the United States himself. In the Adnan Syed case, a journalists' podcast was the channel where citizen pressure for the re-review of a murder case was formalized. In the famous Amanda Knox case, which was a case known worldwide, the alleged culprit was portrayed as a person with defined criminal characteristics, which led to the spread of an image of her fabricated and modulated by the different media. After the case, several books were published, and documentaries and films were made about the case.

In Spain, the Rocío Wanninkhof case is considered to be the most important case of miscarriage of justice and parallel trial of the democratic period in the country. As a consequence of the murder of young Rocío Wanninkhof in 1999, Dolores Vázquez, a woman close to the family, was arrested as the alleged murderer. The case was widely covered in the media. The news drew a very definite profile of the alleged murderer, who was imprisoned, tried and found guilty of the murder. In 2003, Sonia Carabantes, a young woman from the same area of Malaga as Rocío Wanninkhof, was murdered, and at the site of her murder a DNA clue was found which indicated that the perpetrator of Carabantes' death was the same as Wanninkhof's, four years earlier. Dolores Vázquez was released from prison and exonerated of a murder she had never committed, but in which the media played a decisive role in her being declared responsible. In 2022, the production company Mediaset, made a documentary about the case of Dolores Vázquez as a trial account of the parallel trials and as a form of social restitution to the person who was subjected to a media lynching and who was unjustly imprisoned.

2. Parallel trials

Publicity in the criminal process is an essential element, so the media do a necessary job bringing process closer to the public. But we do know that spectacular cases have an additional interest for the media, since can cause large audiences. The point in relation to parallel trials, is to what extent can be tolerated freedom of the media, when there are suspicions that given information, may be violating procedural rights.

The media enable information and the formation of public opinion. They have taken on the role of forums for exposing and debating the main social problems: they select the events that are going to become news (Carrillo 2012). They establish what is newsworthy, how and with what content it should be presented, and then establish the news that will be the subject of social discussion. They encourage this debate through opinion articles and editorials that present different approaches and perspectives for analysing and solving a problem. They propose measures to solve it with the status of experts. The media are real agents of social control, recognising and delimiting the "social problem" while generalising approaches, perspectives and attitudes towards a conflict (Fuentes 2005, p. 16).

“Information is not innocent.” The media are at the service of their own economic interests in terms of screen share: reducing costs, increasing fees, financing to the public, and the media’s own interests. These objectives are achieved by reducing the quality of the news (no cross-checking of sources, superficial analysis of the issues, terminology, etc.) the constant flow of information (creation of news and distortion of events), an emotion-oriented mode of communication, etc. Information is not innocent, also, because the media are not limited to being a source of information. The media are not limited to being a reflection and transmission channel for daily events, nor of the cultural and ideological manifestations existing at a given historical moment, they are also instruments of persuasion and propaganda, and a way of doing politics (Carrillo 2018).

The role of the media in how society perceives certain crimes, and the criminal justice system has become increasingly important in recent years. This process has run parallel to the expansion of the criminal justice system (Toharia 2001, p. 17). The expanding law has been accompanied by increased interest in crime on the part of the media. Crime has gained an important position in the media agenda, and even though there are not any compelling studies on the subject, it appears that this type of news has a powerful impact on people’s conversations and public opinion (Barata 2003, p. 51).

Since the appearance of the modern press some 120 years ago, much of what society knows or imagines about crime is largely due to the media. The media transformed society’s experience of crime, leading to a fundamental change in which we went from the old public-punishment rituals to the new media rituals. The media has become a mediator; not a neutral mediator or a mere bearer of news, but rather a mediator who also produces the messages. Society’s experience of crime is recorded by the media and is therefore above all a media experience.

This visibility becomes more apparent in the face of what Frances Barata calls “media crime waves” (Barata 2003, p. 51). These waves are artificial because the emphasis given in the news is disproportionate to the true incidence of the problem. But they give problems about crime a social dimension that is not accurate, where the most worrying aspect is that they end up shaping the real perception of crime. It is not that the media invents the crimes, but it gives them a certain shape and content that determine society’s perception of them. The media does not stop at introducing certain images into people’s minds, but goes further, to establish something more serious in society. Even though ‘media crime waves’ are essentially psychological experiences, they end up becoming real because the consequences they produce in society are real (Barata 2003, p. 52).

From many decades ago, a positive relationship was found between consumption of news and public fear of crime. Public perception of crime is important because reactions to these perceptions can impact policy, societal norms, and even individual behavior. Scholars have agreed that news media plays a major role in informing the public about the criminal justice system and in shaping public attitudes towards crime. The rise in sensationalism in mainstream coverage of crime stories and the frequency of news coverage of high-profile criminal cases in the late 1990s and early 2000s had to declare to some scholars that the United States had entered into an era of “tabloid justice” (Rose and Fox 2014, pp. 775–776). The media’s coverage of the judicial system had eroded the general public’s trust and confidence in the system. Institutional confidence and trust are seen as vital to maintaining a culture of law and order in a democratic society.

Our legal system allows journalists the right to freely communicate, as well as the right of citizens to receive truthful information. Publicity throughout the criminal process is an essential element, so the media do a necessary job bringing process closer to the public (Carrillo 2008). But, we know, that spectacular cases have an additional interest for the media, since can cause large audiences. The point in relation to parallel trials, is to what extent can we tolerate freedom of the media, when there are suspicions that given information, may be violating procedural rights. The legislator would in some way have to establish direct control mechanisms to attack these parallel trials or, on the other hand, it will have to be the journalists who should reflect on the consequences or damages that may derive from what they write.

According to some legal roots the definition of Parallel trial could be something similar to this: "Set of information on a substantive matter, on which the media, intend to examine and assess the evidence carried out and the individuals involved in the facts under investigation." After a certain period of time, in which information about the events has been appearing, accompanied by editorial value judgments, the affected people appear to public opinion, as innocent or guilty.

Damages that are committed with the parallel trials that culminate in a popular verdict are irreparable. There would be no such thing when the journalistic investigation, discovers illegal matters and situations that later, end up in the courts, since, in such a case the media fulfill their constitutional function, that is to collaborate with institutions and constitutional values. However, the great problem that we find is to demonstrate the causal link between the pressure of the media and the result of the trial, and the final decision adopted by the Court. This is especially important in those cases in which the verdict is on a popular jury.

There are some specific rights at stake in parallel trials. In Spain, there are two fundamental rights in the Spanish Constitution.

On one hand, there is the article 20 of the CE, regarding the right to information, includes freedom of expression and freedom of information. This right is recognized as the stone of democracy and, therefore, has special protection. The article implies the right to communicate and receive information, including the dissemination of information about trials.

On the other, the article 18.1 CE, on the right to honor, privacy and self-image. If the information provided is injurious and unnecessary, it may violate this right.

We also have the general principle of publicity of judicial proceedings in relation to the Justice. Public trial is one of the guarantees of rule of law, which is embodied in article 120 CE.

The right to the presumption of innocence is included in article 24.2 CE. And of course, we are very aware that, this is an essential right in any international legal body, as the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, among any others.

The impartiality of judge is also, an essential guarantee included in the fundamental right to trial of article 24.2 CE. In which the judge must avoid any kind of inclination towards one of the parties, and must remain always as an impartial party. The judge has

to be like a neutral spectator, that is why, in criminal law cases in Spain, the instructing judge is different from the sentencing judge.

When there is a parallel trial, it is because there is an inadequate exercise of press freedom. Parallel trials consist of information that has arisen as a result of a judicial process that is still awaiting a final and firm ruling, which is why the mass media devote special treatment and coverage to them, in which constancy stands out. The media, in addition to reporting the facts, proceed to make value judgements in a veiled or explicit manner, through commentaries, editorials or analyses by alleged experts, where they directly or indirectly show the persons involved before public opinion, or an important sector of it, as guilty or innocent of the facts investigated, or try to persuade the judges about the way in which they are supposed to rule, which not only affects their privacy, but above all, the right to have an impartial judge (Harbottle 2017, p. 9).

Today, we find that problems linked to parallel trials are highly complex since there is no regulation of this phenomenon, which makes it almost impossible to avoid them. This is so, because the great problem that we find is to show the causal relationship between the pressure of the media with the parallel trial, and the final decision adopted by the Court.

This is especially important in those cases in which the verdict is on a popular jury, since the Law does not solve the problem of media campaigns that can affect the impartiality of the jury members. What we have, is only that the parties can recuse certain individuals to take part on the jury. In Spain we only find as a solution to this problem through summary secrecy, however, this is not enough regulation to solve the problem, since it is ineffective against the media. In Spain, only public officials and authorities can violate the summary secrecy. For this reason, in the absence of express regulation in our legal system of parallel trials, it will be necessary to analyze case by case if the right to honor, privacy and self-image is violated, but only as a civil action, not as a criminal action.

The parallel trial is especially worrying when we find that the one who has the function giving the verdict is the jury. Jury members can read in the press or watch news on television about the matter they have to decide. The media may make references to evidences not previously admitted by the Court, and influence members of the jury through opinions that has nothing to do with the conclusion of the evidence practiced in the trial.

Because of all of this, the presumption of innocence may be affected. Judges can also be influenced by the media. However, it is said, that, judges tend to distance these opinions and hypotheses, while a popular jury, as they normally have no legal training, are more likely to be affected by parallel trials. No matter how often the companies that manage Facebook, Twitter and Instagram claim to monitor and police their platforms, the reality is that once someone is held up before the global judges of the wifi-enabled, opinions spread and seep everywhere making the collection of non-contaminated evidence and the selection of a jury (Rogers 2022).

Another formula that we have found in our legal system is the confinement of the jury. This is based on the fact that no member of the jury may be subjected to any type of pressure, threat or coercion that goes against their impartiality. But this has also two relevant problems, the first is that the isolation of the jury it is regulated during the jury

deliberation, once the trial has ended, and does not take into account information and opinions given previously in the media, which may have already influenced before the oral trial. The media brings out pre-trial information and it may influence the Court. The second problem we find, is that the law speaks of a lack of communication with other people, but does not say anything about a lack of communication with the media. Then it is understood that members of juries can get information from newspapers, television, radio that can also influence them. So, the few formulas of our legal system to protect the impartiality of the jury court, due to news and opinions given by the media, are quite ineffective. So, we see here how, presumption of innocence may be affected easily by the media.

3. Trials by social media

The lack of regulation of online news has created worries over the possible effects of social media on public discourse and democracy. The unregulated content of social media news coverage, the impact of public postings on social networking sites, and the ability to consume news through social media have generated concerns in a social media environment. Although the Internet is often praised as an invention capable of providing information at your fingertips, misinformation can be found in abundance online. Public knowledge of politics and the judicial system has fallen in recent decades despite the influx of information available in the new media environment. This could be damaging to public discourse and democracy. These trends have inspired new questions about the education the public is receiving through social media (Rose and Fox 2014, p. 777).

Cyber vigilantism is a rather novel term that has emerged in the context of the widespread use of online crime news reporting. The concept has surfaced in public debate in recent years as cyber-attacks and cyber terrorism have also risen to the forefront of discussions about national security. The term is used in various ways, but cyber vigilantes have been distinguished from other actors that participate in cyber-attacks and cyber terrorism by their motive of delivering justice (Juliano 2012, p. 47). However, a noble motive does not exempt the actions from causing harm to society. In examining the development of the cyber vigilante, Juliano summarizes the issues we see with the shift toward social media: "As the world embraces the accessibility of the Internet, we create a "virtual space" where the law becomes muddled by issues of jurisdiction, accountability, and responsibility" (Juliano 2012, p. 49). This virtual space, absent of clear legal rules and responsibilities, is what lends itself to the rise in cyber vigilantism. Social media has gone beyond other online forums by providing opportunities for citizens to engage with criminal justice, and to feel ever empowered by their ability to influence others or enact justice as they see fit. Describing the public fervor surrounding the search for suspects in the Boston bombings in 2013, Andrew Leonard talks about how this trend of cyber detectives and cyber vigilantes "makes everyone a sleuth, and a suspect." Leonard quotes Alexis Madrigal, senior editor of the Atlantic, and writes: "This is vigilantism, and it's only the illusion that what we do online is not as significant as what we do offline that allows this to go on (...). This is not how civil society works (...). Due process is important" (Rose and Fox 2014, p. 787).

The lawyers and judges involved face the invidious task of dusting the case down of all the debris that remains of a trial by social media, to ensure that access to a fair trial is preserved. The first of these is that the moment we have to deal with the capricious

whims of social media, we enter very problematic waters. Those who operate behind the protection of a keyboard often lose all sight of accountability or common sense, this statement can be applied to everyone. So, when material that has clear potential to require police involvement appears on social media, the obvious concern must be to preserve the right to a fair trial and to prevent the modern equivalent of a witch trial. Actually, on closer inspection, a witch trial was sometimes much fairer than trial by social media (Rogers 2022).

The use of social networks contributes strongly to amplifying the effects of information/opinion on justice, and distorts the information-criminal justice relationship, accentuating the influence of parallel trial. Today, the public does not want to have a passive role, all of us aspire to create opinion. Everyone has their point of view about mediatic events. It may happen that influencers, who have a large number of followers can generate authentic opinion trends. Likewise, social networks contribute to the creation of confronted states of opinion about judicial cases (defenders against detractors of those investigated, witnesses, victims, the way of conducting the investigation, etc.), and these mediatic states can be exacerbated by the activity on the social network.

The vast majority of users who contribute to parallel judgment are not professionals of information or justice. What they do is to express opinions based on their belief in how things should be. The combination is, of course, explosive. For a more or less prolonged period of time, a criminal case can be the focus of many programs in various media, it can be treated on social networks, and so, will feed the parallel trial. Sometimes everything ends abruptly, because it is no longer interesting and does not generate benefits or audience. And, sometimes everything stops to start over, as soon as some news about the case serves to revive it, and generate audiences and benefits again.

Social networks have also an impact on the right to personal intimacy. As said before, there are a huge number of social network users that are not professional, of information or legal, and therefore are not subject to codes of ethics or disciplinary responsibilities. They are not covered, by the laws that apply to journalists or legal professionals. For these cases, the only way, are civil lawsuits or, going to criminal proceedings, when the comments made infringe the rights of the individuals related to the criminal case that is the subject of the information. This task can be made difficult by some of those characteristics of anonymity, high virality (a large number of possible offenders). Here is a whole field to regulate.

Social network and presumption of innocence. Determine whether the presumption of innocence has a social and extra-legal side, is complex (Ovejero 2017). But the answer seems to be positive. Doctrine and jurisprudence suggest that this social aspect of the presumption innocence already exists (Ovejero 2006). That social networks are an instrument especially harmful in this regard. To create states of public opinion that present as guilty of a crime who is not yet legally guilty, and for this they scrutinize until nausea, in the personal life of the accused, to highlight the aspects that contribute to that guilt. Although this has no legal significance, it is a situation that the accused should not bear in any way, since it entails an unjustified stigma (Bustos 2016).

Actually, the dimension of the problem derived from the existence of parallel trials is more qualitative than quantitative. Taking into account the hundreds of thousands of

criminal cases that are resolved by sentence, the vast majority of them are out of the informative focus. Therefore, parallel trials affect a very small number of criminal cases. But there is a very vast field to regulate here.

An important role will be played by the “right to be forgotten” to erase from social networks the negative trace caused by parallel trials. Finally, measures are necessary such as restricting anonymity in social networks, greater control over bots or automated accounts that replicate information and opinions in a massive way, as well as over trolls and a more rigid monitoring of influencers with greater capacity to influence and create states of public opinion, given that their responsibility in generating parallel trials and violating rights is greater than that of other users.

4. Some trials by media in the United States

We can cite some cases where the opinion generated by the media was crucial to determine the outcome of a trial. We can look at a few examples, all of which occurred in the 21st century.

4.1. The Aileen Wuornos Case

Aileen Wuornos, branded as America’s first female serial killer by the media (a label used as the defining theme of her trial coverage), is a good example of media coverage and influence. Media coverage of her crimes helped sway the public against her, painting her in the image of a “man-hating murderer” before the case was closed. She held constant her belief that the media had created a bias against her. Before to her initial trial, she requested a change of venue due to the publicity already surrounding her case. This was denied. After the initial trial, she claimed that the media coverage was out to get her, leading to her being found guilty. Aileen Wuornos was sentenced to death, carried out by lethal injection in 2002. Although there is little-to-no doubt about her guilt, the media likely played an influential part in her receiving the death penalty.

4.2. The Murder of Teresa Halbach

Netflix’s documentary TV series *Making a Murderer* garnered massive attention for the trials and convictions of Steven Avery and Brendan Dassey in the 2005 murder of Teresa Halbach. The ten-episode TV docuseries, released on December 18, 2015, led to a petition with over 500 000 signatures to be presented to the White House asking for then-President Obama to issue a pardon for Avery and Dassey for their wrongful conviction in the connection to the murder of Teresa Halbach. As the pair were state prisoners, President Obama had no authority to issue a pardon, which would need to come from state authorities in Wisconsin (the Governor declined to issue a pardon as well). This can be considered a very interesting case on the relation between fiction and reality.

4.3. The Adnan Syed Case

The podcast *Serial* was an investigative journalism podcast hosted by Sarah Koenig that gained massive popularity in 2014 and 2015, when its first season covered the 1999 case against Adnan Syed. Syed has been in prison since his arrest and conviction for the murder of his classmate and former girlfriend Hae Min Lee. Since October 2014, the podcast was the fastest podcast to ever reach 5 million downloads and reached an

estimated 40 million downloads by December 23, 2014. Each installment was a new chapter in the case and the attention spread worldwide.

Having all eyes on this case, a Maryland lower court judge vacated Syed's conviction in 2016 and granted a retrial. The argument from his current representation was that Syed's assistance from prior counsel was ineffective due to his previous lawyer's failure to investigate a potential alibi witness. The ruling was appealed; but, in March 2018, the second-highest court in Maryland upheld the ruling to grant a retrial to Syed. Indisputably, *Serial* produced laser focus on this case, ultimately leading to a re-examination of the previous trial, scrutiny of the American justice system and racial discrimination, and granting of a retrial for Adnan Syed.

4.4. *The Amanda Knox Case*

But we can say without any doubt that one of the most talked about cases of media trial was the Amanda Knox case (Linder 2020).

Amanda Knox (Seattle, USA, 1987) spent nearly four years in prison accused of stabbing her roommate, British-born Meredith Kercher to death in collusion with her boyfriend, Italian engineering student Raffaele Sollecito. The conviction, in December 2009, stated that Meredith died in an orgy of sex, drugs and alcohol. The 22-year-old Knox's image had already been trashed by the tabloids for two years while she rotted in prison. Another 20 years awaited her.

In October 2011, a review of her sentence restored Knox and Sollecito's innocence and they were released from prison. Amanda flew to the US and began her psychological recovery process. However, in March 2013, the Supreme Court ordered a retrial. On 30 January 2014, Knox and Sollecito were again found guilty.

Finally, an appeal filed in March 2015 before the Supreme Court definitively determined that they were exonerated. The judgement speaks of "glaring failures" in the investigation and "culpable omissions" in the face of a feast of contamination of DNA evidence. It was September 2015. The third accused and convicted collaborator in the murder and perpetrator of the rape, the Ivorian Rudy Guede, is still serving a prison sentence, whose appeal was reduced to 16 years.

Seattle-born Amanda Knox was a good student, Jesuit-educated, and very enterprising: she worked three jobs while attending the University of Washington to save money. Five years later, in 2007, she settled in Perugia, enrolled at the University for Foreigners. She shared accommodation with Meredith. Something horrible happened to Meredith in the early hours of 1 to 2 November 2007. Knox explained that when she returned to the flat, she found the scene: blood everywhere and her friend's half-naked body stabbed to death. Police questioned Meredith Kercher's entire entourage and Amanda and Raffaele were placed under arrest. With them, Rudy Guede went down.

The young American explained that she spent that night with her boyfriend, as her boss, the Congolese musician Patrick Lumumba, sent her an SMS freeing her from her shift as a waitress in the pub she ran (at the same time, Knox received a three-year sentence for defamation against her boss, whom she implicated in the crime). Amanda assured the police that she had been alone with Raffaele. The young woman later explained that her testimony was flawed because her Italian was not sufficient and she was led to believe

that she was only an important witness, not a prime suspect. For his part, the boy supported Amanda's statement, although later, according to the police report, he changed his version and admitted that his girlfriend left the house at 1am.

Amanda's candid appearance was then trashed by the tabloids and "Angel Face" became "Foxy Knoxy", all because someone found a *MySpace* profile of her under that nickname. A profile like hundreds of thousands of other young people, with pictures of her dancing or drinking and some horror story. Thus, the angel was conveniently turned into a fox and even the actress Hayden Panettiere played her in a film while she was in prison, *Amanda Knox: Murder on Trial in Italy*.

It later emerged that the nickname came from her cunning and quickness with the ball when she played football in high school. In 2009, it was much more palatable to draw a criminal portrait of Amanda that would fit the stabbing death of her roommate. Thus, it was assumed that Knox, Sollecito and Guede organised a ritualistic game with Kercher as the victim.

The case received unprecedented media coverage in Italy and the English tabloids - Meredith Kercher was British - joined the pyre on which Amanda Knox's image was burning. In the US, the opposite view was taken: this was an outrage against a good Christian woman who had been pushed into the confusing Italian judicial system, which made mincemeat of her. Even Hillary Clinton, the Secretary of State at that time, was concerned.

"The case against Knox, full of holes, is so tied to the career of a powerful Italian prosecutor under indictment for professional misconduct that any impartial jury would have thrown out months ago," wrote *The New York Times* columnist Timothy Egan (2009). For him, the whole trial was orchestrated by megalomaniacal prosecutor Giuliano Mignini in order to get a medal for himself. The truth is that, although the crime scene was a real massacre, no blood was found in Amanda's room or in Raffaele's home. Nor were there any injuries caused by a victim's defense. Rudy Guede's DNA was found in Meredith's room: a drug dealer who fled the day after the crime and, after being captured, insisted on accusing the couple of organising the sex crime.

After her acquittal, Amanda returned to Seattle, and while in her home country, she was offered millions of dollars to tell the story of her ordeal, in Italy the press wondered whether her beauty had influenced the verdict that got her out of prison. She agreed to speak to Mediaset's Italian programme *Quarto Grado*:

I was convicted because of a sensationalist press. Obsessed with sex and violence, evil, manipulative (...). This image of me was sold without any evidence against me. If I had participated in an orgy and the stabbing of a person, there would be some trace of me. And there is not. The court of cassation has ignored the evidence of my innocence. I am not going back to Italy. I don't have the financial resources to do so, my family sacrificed everything to pay for my defense. But, above all, because I see myself capable of withstanding a new trial. I have been in prison for four years unjustly and I can't even bear the thought of going back.

Finally, Amanda and Raffaele were free since September 2015. Some time later, an appeal filed by the American triumphed at the European Court of Human Rights (ECHR), which condemned the Italian state to pay her 18,000 euros in compensation: her defense was violated when there was no lawyer or translator to help her during her interrogation

by the police. During the long period after the murder, four books were published on Amanda Knox case, a film and three documentaries have been published also, the last of which can be seen on Netflix.

5. Trial by media and civil restitution: the Rocío Wanninkhof case

Which are the dangers of the media on juries? Jury members can read in the press or watch news on television about the matter they have to decide. The media may make references to evidences not previously admitted by the Court, and influence members of the jury through opinions that has nothing to do with the conclusion of the evidence practiced in the trial. This is precisely what happened in the Wanninkhof case, which is considered the biggest case of miscarriage of justice in contemporary Spanish history. But the Spanish case, unlike the previous cases, involves a form of civil reparation, although many years after the fact, it is intentionally sought by the media.

Let us go back to 1999. A 19-year-old girl disappears and she is found days later with obvious signs of violent death. The media impact in Malaga and on the Costa del Sol is huge. The local newspapers and television channels put the spotlight on the story. The police investigations were directed towards a person close to the murdered girl, Dolores Vázquez, a very close family's friend, who had been partner of the girl's mother and who had taken care of her on many occasions. The suspect was publicly investigated in the media, which, day after day, showed her as a cold and calculating woman. She was finally arrested by the police, and tried by a popular jury which found her to be the perpetrator of the death at the end of 2001 and sentenced her to 15 years in prison. The public prosecutor also defended her imprisonment during the trial.

In 2003, however, another young woman was murdered in the same circumstances and evidence was found that the murderer was the same as Rocío's murderer, and Dolores could not be the murderer because she was in prison. Tony King, a British serial killer, who Scotland Yard had tipped off the Spanish police that he was in Spain years before, was the killer of a new girl, Sonia Carabantes, and DNA tests showed that the killer of Rocío Wanninkhof was the same of Sonia Carabantes.

During the media trial of Dolores Vázquez, a series of violations of her fundamental rights to privacy, honour and her own image were committed. Countless news items were published with clear accusatory bias against her. To cite some of the incredible things that happened during her media process, we can take some, which are very representative of the case: first, the very same Home Minister of the Spanish Government declared in a press conference that "Dolores complied with all the criminal elements of a guilty woman." Second, when it was known that the murderer was Tony King, the civil guard spent some time investigating King's possible link with Dolores. And third, a media outlet published, once Dolores was found innocent, a headline calling Dolores the "false murderer."

A Mediaset presenter, Toñi Moreno, convinced Dolores Vázquez twenty years after the events to do an interview, which would serve as the basis for the HBO Max documentary *Dolores. La verdad sobre el caso Wanninkhof*. The documentary brings to light what Dolores is really like and her relationship with the victim's mother, who continues to doubt her innocence.

In addition to being the victim of a chain of judicial errors during the investigation and the public hearing, the parallel media trial showed Dolores as a perverse and manipulative woman, some of these traits clearly influenced by having maintained a homosexual relationship with the victim's mother. It was a time when a homosexual relationship between women was not accepted by the community.

Once Dolores Vázquez was released, she had to move to her hometown, Betanzos (A Coruña), where she lives today with her sister. She had to sell her house in Mijas (Málaga) to pay her lawyers. Twenty years ago, she had an affluent life, with jobs such as hotel manager because of her fluent English. Today, she has no job and no pension and lives on a monthly allowance of 300 euros. Dolores Vázquez never got over the parallel trial and the experiences in prison where she was for more than 500 days, and where she was a victim of harassment by the other inmates. She was unable to rebuild her life and was unable to return to work.

Dolores Vázquez's lawyer requested a compensation of 4 million euros for his defendant, for having spent 520 days in prison being not guilty. The Spanish government ministry rejected the compensation, which was appealed to the Audiencia Nacional. This court understood in 2012 that the lawyer should have appealed to it by means of another article of the law of the Procedural Spanish Law, given that the Supreme Court had modified its jurisprudence in relation to similar cases in 2010. Dolores Vázquez received generous offers, for going to celebrity television programmes. In 2015, the Spanish Supreme Court dismissed the cassation appeal to the National Court's ruling of 2012. In the rejection, it was stated that compensation was not applicable again due to procedural errors. This case shows that the most serious case of miscarriage of justice during the Spanish democracy has not been economically compensated.

The years went by, and Vázquez only broke his public isolation in 2013, when, after rejecting million-dollar offers to sit on all kinds of stages and tell his story, he finally got in front of a camera. It was at an event at the Centro de Estudios Políticos y Constitucionales in Madrid on the presumption of innocence and parallel trials. Dolores Vázquez was a speaker for a day. She was listened in silence by an audience of jurists, prosecutors and lawyers.

In the view of the said before we can consider the Wanninkhof case and the way it turned into the Dolores Vázquez case, as one of the greatest judicial tragedies in the history of justice in Spain, but also as a form of media restitution for the victim of a parallel trial. In this sense, and within the tragic and bizarre nature of the case, the fact that a private television channel wanted to recount, years later, this particular and terrible case is something to be taken into consideration.

6. Conclusions

The breach of the presumption of innocence is the first step in parallel trials, something that took on special significance in Spain at the start of the 1990s with the Alcasser case. What happened is a phenomenon that some writers call "the return of events" (Barata 2003). The bloody details and criminal facts were given new and greater coverage, and had a lot to do with the appearance of private television stations in Spain. Gruesome details became instrumental in the battle for audience share and continue to be used today by some of the media.

We can draw some conclusions from the Wanninkhof case also:

The media coverage of the Wanninkhof case revealed some of the most worrying practices in the media treatment of criminal events. News overload increases social alarm, and publicising the identity and personal lives of people devalues the right to the presumption of innocence. A media circus always has a negative influence on the people involved in the criminal justice system. The public humiliation increases social stereotyping and contributes to what the German sociologist Ulrich Beck calls a “scapegoat society” (Barata 2003).

Firstly, paradoxically, a journalist who covered the crime took the initiative to promote the documentary on Dolores and broadcast it at prime time on one of the most important channels in the country, Tele 5. This lack of economic compensation as a spark for a civil compensation is very interesting.

Secondly, the documentary is valuable in raising awareness of the extent to which parallel trials in the media can undermine the most basic constitutional principles and more importantly cause damage that is difficult to predict. In this sense, the emotional, physical, psychological, and economic wounds of Dolores Vázquez are brought to light and show the irreparable consequences of those.

Finally, beyond the will to do justice of a journalist who covered the case, such as Toñi Moreno, it may mark the way for future cases of parallel trials in the future. Nowadays, students and young people in general are habitual consumers of television series and documentaries on cases with a media impact. I have also witnessed different works at university on the Wanninkhof case by students who were not even born when the events took place.

The media restitution of media victims is therefore a very interesting development in the relationship between Law and Media. We see now that the media can condemn an innocent person, but they can also, although many years later, retribute the victim to some extent. We see also the media not only in the harmful way but in the restorative one. Then, Toñi Moreno’s initiative could be a mirror to restorations in similar cases of miscarriage of justice in the future.

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