

# THE FREEDOM OF THE SPANISH PRESS

*Ingrid Schulze-Schneider*

The press in twentieth century Spain has been shaped by two crucial events: the Civil War and the nearly forty year dictatorship of General Franco. Following the victory of the Francoist forces in the Civil War in 1939, the government exercised strict control over all forms of the media. Newspapers and magazines had little opportunity to express dissent, and those that attempted to do so, most often found themselves harassed or closed.

After Franco's death in 1975, the Spanish newspaper market can be described as definitely artificial. It was characterized by the political background as well as by the uncertain future. The old official media maintained by the government still existed, just as the press law from 1966. The dismantling of the dictatorial structures got going rather slowly. At the same time, several new newspapers appeared that wanted to take into account the exceptional interest of the population in the political events.

## **The laws**

After the liquidation of the so-called press 'of the movement', a new age for the Spanish media began, which would be sanctioned in the Constitution of 1978 (La Constitución Española 1978). Freedom of speech and the press were guaranteed in Article 20 that states as follows:

### **Article 20 [Specific Freedoms, Restrictions]**

- (1) The following rights are recognized and protected:
  - a) To express and disseminate thoughts freely through words, writing, or any other means of reproduction.
  - b) Literary, artistic, scientific, and technical production, and creation
  - c) Academic freedom
  - d) To communicate or receive freely truthful information through any means of dissemination. The law shall regulate the right to the protection of the clause on conscience and professional secrecy in the exercise of these freedoms.

- (2) The exercise of these rights cannot be restricted through any type of prior censorship.
- (3) The law shall regulate the organization and parliamentary control of the means of social communication owned by the State or any public entity and shall guarantee access to those means by significant social and political groups, respecting the pluralism of society and the various languages of Spain.
- (4) These liberties find their limitation in the respect for the rights recognized in this Title, in the precepts of the laws which develop it and, especially, in the right to honour, privacy, personal identity, and protection of youth and childhood.
- (5) The seizure of publications, recordings, or other means of information may only be determined by a judicial resolution.

The Article grants four fundamental rights on information: (a) the individual right for which there is no exception; (b) the professional one which refers to the possibility of seeking, getting and spreading information and which is limited by personal or social protection rights; (c) the right to equal treatment on a national scale, which means that all autonomous regions benefit from the same rights; and (d) the information right for print and audiovisual media enterprises.

Though this Article – the longest in the Constitution – seems to enclose all important aspects of the liberty of the press, an important number of Spanish journalists united in different professional associations have criticized the wording of the Article as it does not differentiate between the right of citizens to get information and the professional rights and obligations of journalists to look for information and to transmit it (Sánchez 2006). On account of the ambiguities of the text, there have been constant problems regarding the question of whether every citizen has the right to become a journalist or if only a special title obtained through university studies enables one to practice in a journalistic profession.

Furthermore, the Law respecting the civil protection of honour, privacy and personal image, proclaimed in 1982, provoked a lot of opposition for putting private individual rights far above the information right, thus granting the courts too great a margin to intervene so that celebrities could actually profit from their ‘personal image right’ (Ley de Protección Civil del Honor, de la Intimidación y de la Propia Imagen 1982).

The Law of Rectification was passed in 1984, assuring citizens the right to public reply in the media in the case of publication of false news or statements about his/her person or the misrepresentation of his/her words (Ley Reguladora del Derecho de Rectificación 1984).

In 1995 the Penal Code was reformed in an unfavourable way for journalists (Ley Orgánica 10/1995 de 23 de noviembre 1995): Matters like insults and slander were newly and less precisely defined, leaving the judges more room for individual convictions when applying the law.

In 1997 the regulation of the law regarding the ‘Clause on Conscience’ (Clausula de conciencia 1997) followed. Due to the conscience protection guaranteed in the Constitution of 1978, journalists have the right to end the contract with their employer if the latter fundamentally changes its ideological orientation.

### Criticism

However, all of the aforementioned regulations do not satisfy most of the Spanish journalists, who have been demanding the approval of a special professional Statute from the Government, pointing out that Article 20 contains items that require more legal accuracy, and arguing that there should be mention of constitutional rights that refer especially and only to them and not to all citizens.

The professional journalistic associations require specific regulations of rights and duties. Furthermore, the creation of organs with the capacity to apply the law in possible conflicts relating to the mass media and their juridical relations with society and constituted media groups is necessary.

According to this demand, a draft of the 'Statute of the Professional Journalist' was sent to the Spanish Government in 2004 (*Proyecto del Estatuto del Periodista Profesional 2004*), but, as the Journalists' Convention has complained recently, all attempts to date to achieve the processing of the corresponding Law in Parliament have come up against a wall of managerial power and denial of the parliamentary majority groups related to these.

Therefore, it is no surprise that the *Asociación de la Prensa de Madrid* (Madrid Association of the Press) unanimously approved on 1 April 2006 a Declaration regarding the 'Liberty of Speech' (FAPE, LXV Asamblea General 2006), and denouncing the difficult situation of the Spanish journalists, in the following terms:

The information freedom is menaced in Spain, which makes the professional exercise of journalism more difficult each day. In defence of the citizen's basic right to obtain correct and true information, we denounce events that limit the freedom, degrade the journalists and damage the credibility of the media, such as:

- The opportunism of some publishers who offer something as journalism that has nothing to do with information or with the interpretation of the topical subjects.
- The abusive procedures of employment, including cases of exploitation, especially of the young employees.
- The conflicts of interests that condition the journalistic work limit the freedom and impose a kind of censorship.
- Governments' and media editor's performances, especially in the audiovisual sector, that use the media for making propaganda of people or political parties.
- The granting of licenses with criteria of ideological affinity or special interests; unjustified contracts of advertising or sponsorship and other abuses that create dependence.
- The arbitrary disqualifications and accusations against media and persons which damage the reputation of the journalists before the citizens...

For all that, the journalists claim from the company editors:

- A firm commitment to the freedom of expression and critique and firm support of the free exercise of the journalistic profession in conformity with ethic requirements and good practice.
- The accomplishment of all legal labour rules; no wage abuse and the guarantee of stable employment.

The Manifest is much longer and also contains claims directed at the government, the judicial powers and society, but all requirements end in a demand for more liberty, ethic and respect for journalists and their work.

On the other hand, the 'Annual report of the Journalistic Profession 2006' (Casanueva 2007: 61) mentions the 'yellowism' of the 'pink press' and the sectarianism as the predominant evils of the Spanish journalism.

Certainly, a look from the outside confirms many of the problems mentioned.

The activity of the press is free, subject only to the Constitution, the Penal Code and the laws protecting honour and individual privacy. Consequently, there are no limitations to the ownership of publications. However, the participation of press companies in conventional radio and television is regulated in order to guarantee the plurality of these two media and to avoid monopolization. In 1998, this limit to the ownership in terrestrial television was increased by law from 25 to 49 per cent. There is no limit for investments in digital television. In 1986, the ban on foreign capital in Spanish press was lifted (Schulze-Schneider 2005: 67-8).

Over the last decades the structures of the Spanish media landscape have changed substantially. Concentrations and fusions on a national and international scale leave the most important print and audiovisual media in very few hands. A special mention must be made of PRISA, the biggest Spanish media enterprise founded in 1972. Its principal shareholder Jesús Polanco was, until his death on 21 July 2007, the most powerful Spanish 'Media-Mogul', who maintained excellent relations with the socialist government. PRISA could then be called the 'Fourth Power' in the Spanish state, and on certain occasions it occupied an even higher political range. Some enemies do not hesitate to call PRISA 'a state in the state' (Schulze-Schneider 2005: 81).

Now things seem to be changing under the new President of the PRISA group, Polanco's son Ignacio. Lately, *El País* shows itself much more critical than before towards the Zapatero Government.

PRISA is the editor of Spain's most important daily *El País*, as well as of the sports daily *AS* and the economic *Cinco Días*, apart from its participation in the audiovisual market, especially in digital Pay-TV Channels.

Other predominant media groups are Vocento, Recolecto and Unedisa. Actually, twenty owners control about 70 per cent of the total newspaper circulation and about 60 per cent of all these newspapers are owned by regional daily press groups.

Over the past few years, the market has seen a decline in sales and circulation figures of weekly TV and political interest magazines, while the celebrity magazine market remains stable. At the same time there has been a visible increase in monthly magazines, particularly in the more recent segments such as decoration, travel and lifestyle.

#### *Distribution of the Spanish press market (2006):*

Vocento Group	25.7 %
PRISA	15.1 %
Unidad Editorial	10.0 %
Prensa Ibérica	9.3 %
Grupo Zeta	7.4 %
Others	32.5 %

(BBC NEWS 2006).

Foreign investment has entered the Spanish market with great difficulty and is much lower in the Spanish daily press than in the weekly magazines. Today, the foreign groups (for instance, Bertelsman, G & J, VNU, Hachette) have the largest magazine sales, together with some Spanish-owned companies.

### *The daily press*

In Spain, some 155 dailies exist, the majority of which are local or regional. There is no yellow press like in Great Britain or similar to the German *Bildzeitung*, but the so called 'serious press' is less serious than in other countries. Sports dailies and 'pink' woman magazines are much better adapted to the Spanish taste than sex and crime newspapers.

The major leaders in sales, *El País*, *El Mundo* and *ABC* are dailies of national circulation published in Madrid, although they have regional editions in some of the Autonomous Communities. They are followed by *La Vanguardia* and *El Periódico*, published in Barcelona and read essentially in Catalunya and, to a much lesser extent, in other parts of Spain.

Within the daily press, the sports newspapers stand out for their very high readership. Among the ten most widely sold dailies, two papers are exclusively dedicated to sports, *AS* and *MARCA*. Another type of newspaper which has experienced extraordinary success in the last few years is the economic journal. Not only have a large number of publications devoted to this theme appeared, including dailies, but the most important newspapers are also publishing special supplements centred on economic topics.

The greatest problem confronting Spain's daily press over the past years has been its technological restructuring, which was successfully surmounted by the majority of newspapers, thanks to, in great part, the financial support of the Administration that has helped to subsidize them.

Over the last few years, Spain has also seen the appearance of free newspapers, which began with the arrival of the Scandinavian groups *Metro* and *20 Minutes*. In the meantime, publishers of paid-for newspapers have started publishing free newspapers such as *Qué* (*Recoletos*) and *ADN* (*Planeta*). As the circulation figures of these free papers have rapidly increased, the paid-for dailies try to increase sales by introducing all kinds of promotional products – especially books, CDs and DVDs, which are sold together with the papers. By now, this has become normal practice.

### *Profiles of the principal daily newspapers (OJD 2007)*

*El País*

Based: Madrid

Founded: 1976

Net Average Circulation June 2006 – July 2007: 425,927 copies

Owner: Group PRISA

It is no coincidence that this daily emerged only after Franco's death and fast became the top circulation paper in the country, backing the popular socialist government of Felipe Gonzalez. Nearly 30 years later, *El País* (*The Country*) continues to support the socialists and was one of the most vociferous critics of the country's involvement in the 2003 Iraq war. Like its main

Madrid rivals, *El País* is tabloid size and comfortably straddles the line between authoritative and entertaining. It has a number of regional and international editions.

#### *El Mundo*

Based: Madrid

Founded: 1989

Net Average Circulation June 2006 – July 2007: 337,172 copies

Owner: Unidad Editorial

Another of Madrid's three major general news tabloids, *El Mundo* has managed to establish itself as a popular alternative to *El País* and *ABC*. With a right-wing political perspective, the daily was originally a virulent critic of the socialist government and a keen supporter of the Popular Party. It is now arguably the most independent-minded of the big Madrid dailies.

#### *ABC*

Based: Madrid

Founded: 1903

Net Average Circulation June 2006 – July 2007: 230,422 copies

Owner: Group Vocento

Founded in 1903, *ABC* became a daily in 1905, and sees itself as the doyen of Madrid journalism. It considers itself a staunch supporter of the monarchy as 'the most harmonious system for Spain'. During the Civil War of 1936–9, circumstances forced the publication of two editions, one in Madrid backing the republicans and another in Seville supporting Franco's forces. Now, it claims to be independent, though it has been a consistent supporter of the Popular Party, advocating the politics of a 'modern, reformist and European centre-right' Party. But it subsequently distanced itself from the Popular Party after failing to obtain the government support it had hoped for in a battle for control of the digital TV sector. Lately, the incorporation in the Vocento group and the following slight ideological turn to the left has brought about considerable reader losses to the daily.

#### *La Vanguardia*

Based: Barcelona

Founded: 1881

Net Average Circulation June 2006 – July 2007: 209,735 copies

Owner: Group Godó

Of the widely read Spanish dailies *Vanguardia* is the granddad of them all, having been founded in 1881. Its conservative line allowed it to continue publishing independently under the Franco regime, and it proved adaptable enough to become Spain's top circulation daily for a brief period after his death. It was subsequently eclipsed, especially outside Catalonia, by the success of *El País*, but still remains one of the top-selling dailies. It gives critical support to regional parties and causes. It is particularly popular among the Catalan middle classes, and is seen as providing well-balanced coverage of regional, national and international events.

*El Periódico de Catalunya*

Based: Barcelona

Founded: 1978

Net Average Circulation June 2006 – July 2007: 177,830 copies

Owner: Grupo Zeta

Barcelona's second major daily is published in Barcelona in Spanish and Catalan, unlike its venerable rival *La Vanguardia*, which only publishes in Spanish. However, unlike the latter's backing for regional parties, *El Periodico* has tended to support the socialists, although not uncritically. It has managed to capture a sizeable share of the regional market since its comparatively recent arrival on the scene, appealing to a blend of students, office workers and young professionals. Readership is largely confined to Catalonia.

*El Correo*

Based: Bilbao

Founded: 1910

Net Average Circulation June 2006 – July 2007: 119,140 copies

Owner: Group Vocento.

*El Correo* is a long-established, independent Spanish-language daily which has traditionally supported an accommodation between the Basque Country and Madrid. Its conciliatory stance has angered the Basque separatist group ETA, which has targeted it on a number of occasions. In one attack in March 2001, about twenty Molotov cocktails were thrown at its offices in Bilbao. Most of its estimated 500,000 readers are from the middle and upper classes.

*La Razón*

Based: Madrid

Founded: 1998

Net Average Circulation June 2006 – July 2007: 149,559 copies

Owner: Group Planeta

*La Razón* is the newest Madrid daily offering general information. It was created in 1998 by Luis María Anson and belongs to the group Planeta. The editorial line is liberal in economics and conservative in politics, reflecting the opinions of the classical Spanish right wing population. *La Razón* has substituted ABC as a reference paper of the right after the purchase of ABC by the Vocento group and its subsequent ideological change as mentioned above. After a very difficult start, *La Razón* is today one of the principal Spanish dailies with a consolidated place in the market, and enjoys a small but faithful readership.

*Negative aspects*

There are two especially negative aspects of the Spanish system of communications: the ideological and political fixation and the low circulation of the daily press. Less than 100 daily newspapers are sold per thousand inhabitants. In 2006 the number was 98. In order to gain an advantage, the Spanish press regularly offers other 'values' besides the daily news, such

as books, movie and music-CD's, and other collections at very low prices which raise the sales figures for a short time.

These circumstances decisively influence the relationship between journalists and their employers. Another handicap to more liberty for journalists is the fact that there are over thirty institutions – public and private universities and professional schools – offering communication studies in Spain, which means a total of more than 32,000 students in this area. The result is that the demand for jobs related to information and communication activities is much higher than the offer. 'Stubborn' journalists, who do not follow the guidelines of their bosses, have, therefore, very a low chance of keeping their jobs. The concentration of the media in a handful of large-holding groups frequently produces self-imposed censorship or slanting of coverage in the major media, favouring certain business interests or political parties.

*The audiovisual media (Schulze-Schneider 2005: 95–100)*

Post-Franco Spain inherited a broadcasting structure unique in Europe: a mixed commercial and public radio system and state-run national television, financed by both public funds and advertising. News content in all sectors was tightly regimented by the government. Newly democratic Spain broadened the scope of public television and created regional television corporations in the 'Autonomous Communities'. Despite agreement in principle that broadcasting should be democratized, in practice public television remained dominated by the political parties in power. Subsequent legislation approving commercial television led to a battle for advertising and audiences, and has sparked a financial crisis in state television as well as undermining its identity as a truly public service. The financial crisis, the growing national importance of the now federally-organized 'Autonomous Community' network, and the phenomena of local and cable television, demand a fresh approach to Spanish broadcasting policy.

The ownership of the companies operating television channels and radio stations is public and private. There is Radiotelevisión Española (RTVE), controlled by a central administration, which operates the two public national television channels (TVE-1 and La 2), TVE Internacional (broadcasting by satellite to Western Europe and Latin America), several thematic digital television channels by satellite, a teletext system, and Radio Nacional de España (RNE) which has about 459 radio stations. About 105 of these stations are AM stations working in a network and about 354 of them on FM, working in four networks. RNE also owns Radio Exterior de España, the first short wave station in the Spanish language and the third largest in the world, after BBC and Radio Vaticano.

The regional third channels are also managed by public (regional) companies and dependent on the regional (CCAA) parliaments. Basque (ETB) and Catalan (TV3) channels started broadcasting in 1983. Two years later, the Galician channel (TVG) followed. Since then, third channels have been created in Andalusia (Canal Sur), in Valencia (Canal 9) and in Madrid (Telemadrid). Second channels were established in the Basque Country, Catalonia, Valencia. The regional television channels also broadcast via digital satellite platforms. Every regional (CCAA) radio and television corporation owns a regional FM radio network.

There are about 500 local public radio stations depending on municipal councils.

In 1989 three private national television channels started to broadcast through a terrestrial network (Antena 3, Tele5 and Canal+, a subscription TV channel). All of them have frequently changed ownership and management personnel; Tele5 did so in 1996 and 1997.



In 1997, the two digital satellite platforms began operation: Canal Satélite Digital (CSD) belonging to Sogecable (Prisa) and Vía Digital. Vía Digital did not succeed and finally fused with Canal Satélite in 2002.

In the near future there will be new licences for private and public regional and local terrestrial digital television. The present terrestrial televisions also have to change to the digital system.

The cable services, which include Internet and television, began working in 1998 but its presence is very low to date. There are about 700 public and private local television stations, most of them broadcasting terrestrial but also via cable networks. In most cases their legal situation is not quite clear.

Today's proliferation of public and private channels, at national, regional and local levels, generates fierce competition for available advertising revenue. The massive deficits run up by government and community-controlled broadcasting, together with the deterioration of their cultural content, have brought about an ongoing debate on how publicly-owned broadcasting should be funded. In order to solve the problem, the Spanish Parliament passed a new Law and Statute of the Public Radio and Television in June 2006 which introduces a complete reorganization of the anterior model and aims at offering the Spaniards a truly independent public broadcasting system for the first time in history. The *State Radio and Television Act* transforms RTVE as a public institution into a state corporation with special autonomy (Council of Europe/ERICarts 2007: 36):

The new law aims, on the one hand, to provide a legal framework for public radio and television that guarantees their independence, neutrality and objectivity, and establishes organisational structures and a model of funding that enables them to carry out their mission as a public service. On the other hand, it aims to reinforce the role of Parliament and foresees the supervision of the Corporation's activity by an independent audiovisual authority.

## **Press freedom controversies**

### *Terrorism*

As the International Press Institute states (Freelance Spain 2006), Spain, a European Union member and signatory to the European Convention on Human Rights, is a modern democratic country with a 'lively media environment. However, there are difficulties for the media when reporting on certain taboo subjects; one of these subjects is terrorism.' Certainly, all information concerning the Spanish terrorist group ETA and also the Islamic fundamentalists like Al Qaeda, who committed the worst terror attack in Spain on 11 March 2004 causing the death of 173 innocent victims, is considered partly secret because of its implications for National Security.

Without any doubt, the most serious recent incidents concerning press freedom have been the attacks by the Basque terrorist group ETA on journalists critical of their ideas. Journalists both in the Basque Country and elsewhere in Spain have been the recipients of threats and letter bombs. In May 2000, an ETA gunman shot José Luis López de la Calle, a columnist for the Madrid daily *El Mundo* in his hometown of Andoain. In November 2000 a couple in the Basque city of Bilbao, both journalists, and their eighteen month-old son narrowly escaped death when a bomb planted in a flower pot outside their home failed to explode. More than

100 journalists in the Basque country are forced to use bodyguards or request police protection due to threats from ETA, according to the organization Reporteros Sin Fronteras (Reporters Without Borders).

On the other side of the dispute, in a controversial decision Spanish investigating judge Baltasar Garzón ordered the closure of the Basque daily newspaper *Egin* and its associated radio station *Egin Irratia* in 1998, on the grounds that it was a mouthpiece of the ETA terrorists. *Egin's* role has since been taken up by a new title *Gara*.

With respect to Islamic terrorism, in September 2005, Al Jazeera journalist Tayssir Alluni was sentenced to seven year's imprisonment for aiding Al-Qaeda. First arrested in September 2003, Alluni was accused of collaborating with the terrorist group by acting as the group's financial courier during his time in Afghanistan. The prosecution of Alluni has caused considerable problems for press freedom organizations, which have found it difficult to discover the truth behind the assertions and contra-assertions. Indeed, Alluni's case is symptomatic of many other cases in which specific allegations are made, but in which, because of their nature, it is extremely difficult to test the evidence.

### *The Royal Family*

Until last year, there was another taboo in the Spanish media: the taboo on the Royal Family. Very little is known about what really goes on behind the curtains in the Royal Palace and nobody talks about details regarding the financial situation of the Royals, the money they receive from the Spanish state, the obligations of the members of the Family and so on. Nearly all journalists practised self-imposed censorship on the matter. But things changed dramatically in 2007.

In January, an embarrassing incident concerning King Juan Carlos and the liberty of the press occurred, when the Basque newspapers *Gara* and *Deia* used inappropriate words referring to the King and the affair with the drunken Russian bear Mitrofán. Authorities in the Russian region of Vologda began an investigation into reports that he had shot a tame bear that had been plied with vodka to make him an easy target.

A spokesman of the Royal Family dismissed the report as absurd and refused to discuss any details. In consequence, the public prosecutor Zaragoza took legal action against both dailies, arguing that the journalists used annoying and humiliating expressions when calling the King a 'whippersnapper', 'irresponsible', and a 'relapsed bloodthirsty tourist' (Marraco 2007: 17). Though the incident was minimized, a few months later a large scandal concerning the Royal family went through the international press.

### *The facts*

On 20 July 2007 the Spanish judge Juan del Olmo ordered the withdrawal of the satirical magazine *El jueves* (<http://www.eljueves.es/>) published two days before. The cause was a sexually explicit cartoon on the front page depicting Prince Felipe and the Princess Leticia having sex in an 'irreverent' pose, and the judge argued that it contravened the law. A speech bubble issuing from the Prince's mouth made a joke about the recent decision by the Government to award mothers Euro 2,500 for each child they bear, leading Prince Felipe to say to his wife: 'Do you realize what it means if you get pregnant. This is going to be the closest thing to work that I've ever done.'

The public prosecutor's office said in its writ that the cartoon was 'clearly denigrating and objectively libellous'. Spanish police were ordered to raid newsagents across the country to remove all the copies of the magazine and also the 'printing plates'. The court also planned to issue an injunction to stop websites or other media from reproducing the cartoon, but finally refrained from doing so (Cat 2007).

Articles 491 and 504 of the Spanish Penal Code say that insults and calumnies to the King or any of his ascendancies or descendants, or the use of the image of any member of the Royal Family carry a prison sentence from six to twenty four months.

The cartoonist Guillermo expressed his amazement at the ban, saying that printing plates ceased to exist years ago and the best thing would be for the prosecutor to cut off his right hand.

Following del Olmo's ruling, news of the cartoon – containing the offending image – was immediately published in newspapers' and radio stations' websites, clearly breaking the unspoken pact among the media not to damage the image of the monarchs in a country accustomed to feasting on harmless gossip about a largely respected royal family.

The magazine's director, Albert Montey's I Homar, condemned the ban as a direct attack against freedom of expression. He added that he was surprised by the official reaction because, during its 30 years of publications, *El Jueves* had often been critical of Spain's royals without being punished. This is not quite true, however, because the magazine had been asked before by the royal household to 'reflect' on its contents, as the newspaper *El País* reported on its website (Haines 2007: 1).

Indeed, today, media censorship is rare in Spain. The last publication to be censured was another satirical magazine, *El Cocodrilo*, in February 1986, also for a reference deemed disrespectful to the head of state.

### *The reaction of the media*

The judicial ruling set off a political storm in Spain. All the papers agreed that pulling the royal cartoon only served to draw attention to it and spread it around to many more people than *El Jueves*' usual 80,000 readers. Most newspapers criticized the cartoon as crude and in bad taste but, as *El País* wrote in an editorial, 'it is hard to say it intended the sort of damage that would make it a crime'. Right-leaning *El Mundo* said the cartoon could offend people but insisted it was 'within what is permissible in a society where freedom of expression is a fundamental value'. Some days later *El Mundo* added:

The picture, which had been seen by thousands of people, was posted on numerous websites in Spain and abroad and will now have been seen by tens of millions of people. Not even the Crown's worst enemy could have had that effect.

Barcelona-based *El Periódico* went further and slammed the decision as anachronistic and a flashback to the years when Francisco Franco pulled papers for criticizing his dictatorship.

Only right wing ABC supported the ban – the first in about twenty years – saying the cartoon was symptomatic of 'a climate in which civic and moral values are ever more relaxed and seen as relative' (Agencies 2007a: 1).

Finally, on 13 November 2007, the two cartoonists were convicted of insulting the heir to the throne and fined 2,730 Euros each. The Judge, José María Vazquez Honrubia of the National Court, said that the two men 'vilified the Crown in the most gratuitous and unnecessary way', adding that they should learn that they may have any ideas they like, but cannot attack the basic institutions of the State (Agencies 2007b).

A week later, on 21 November, the International Press Institute (IPI) stated in a Press release that the 'global network of editors, media executives and leading journalists in over 120 countries, strongly condemns a Spanish Judge's decision to fine two journalists under a criminal code prohibiting insults to the King or members of his direct family' (IPI Public Statements 2007). 'Although I make no comment on the cartoon itself, the decision to publish such material is one for the editor, not the courts' said IPI Director Johann P. Fritz. 'As a result of expressing themselves, Torres and Fontdevilla have now been unfairly stigmatized as criminals. No law should turn irreverence into a crime, especially in a modern democracy such as Spain'.

### *Important side effects*

Why did the cartoon cause such media-frenzy? Until July 2007 the media tended to report only the royal family's official engagements and almost nothing negative about King Juan Carlos has made it into print since he was crowned in 1975 after the death of Franco. But now it seems that not only the journalists but many other people as well believe that Spain's three decade taboo against criticizing the Royal Family is on the point of collapse, with a huge public appetite for gossip being met increasingly by internet sites that are harder to control.

The unequal marriage in 2004 of Prince Felipe to Letizia Ortiz, a divorced commoner and former television journalist, has greatly contributed to the loss of glamour of the royal family. When Letizia's sister died earlier this year, many newspapers disregarded pleas by the Royal Family to be discreet and mentioned police theories that she committed suicide.

Far more important than the gossip is the fact that the scandal has roused in the serious press the question of the monarchy as a form of state in Spain.

In all public demonstrations republican flags appear and republican voices are also increasing in Spanish websites.

Luis Maria Anson, famous journalist and member of the Royal Spanish Academy, goes as far as accusing the Prime Minister Zapatero of ordering the ban on the magazine, knowing that the media would claim against it and thus creating a hostile climate against the royal heir Felipe, with the intention to prepare the people for a future Republic after the death of Juan Carlos (Anson 2007: 2).

Another journalist, David Gistau, said in his column in *El Mundo* on 25 July that the Spanish government intervened in the affair in order to be sure that the cartoon would not pass without receiving public attention. After the explosion of the scandal, the debate turned to general comments against monarchy as a state system (Gistau 2007: 5).

Only the summer holidays interrupted a debate in which the defendants of the liberty of speech were much more numerous than those who applauded the ban.

Victoria Burnett from the International Herald Tribune said in an article published on 11 October 2007 and reproduced in the Boston Globe (Burnett 2007):

For more than three decades, King Juan Carlos of Spain has enjoyed the unquestioning loyalty of his subjects and the discrete respect of the media. But the era of deference during which the royal family's jet-set lifestyle and personal affairs were free of public scrutiny could be drawing to a close.

### *Other incidents*

Apart from the royal scandal, the liberty of speech in the media has also been questioned in other cases.

In Catalonia, in 1998, the regional government refused to renew broadcasting licenses for radio stations sponsored by the Catholic Church, thus effectively closing them, because they allegedly did not comply with regional regulations regarding the use of the Catalan language.

More recently, the director of Spain's national library, Rosa Regas, named by the government as guardian of the country's reading heritage – including the country's newspaper archive – scandalized journalists by admitting she doesn't read newspapers and is glad their sales are flagging. 'I haven't read the press for two months. I don't watch television or listen to the radio because the tension they express upsets me so much I can't work', said Rosa Regas in an interview published in the *Tribuna de la Administración Pública*, a magazine published by the civil service union affiliated to the pro-communist Workers' Commissions. Spanish newspapers are too critical of the Government, Ms. Regas said, and added she was glad their sales were falling (R.G.G. 2007). Her comments prompted a wave of outrage from Spain's media representatives who rushed to defend the high ground of press freedom. A few weeks later, when a new Minister of Culture was named, Regas resigned her post.

These examples show that the freedom of the Spanish media, although guaranteed in the Spanish Constitution, is sometimes not accepted by public authorities. Its limits probably have to be defined more precisely by new laws. Until this happens, it is quite possible that the growing competition in the media sector and on the Internet will bring about other conflicts and will sharpen the debate regarding freedom of the Spanish press and its possible limitations.

## **References**

- Agencies (2007a), 'Spanish Cartoon prompts legal ban. Media criticism', *MWC News*, 21 July, p. 1, <http://mwcnews.net/content/view/15594/52/>. Accessed 17 August 2007.
- Agencies (2007b), 'El juez declara culpables de injurias al Príncipe de Asturias a los autores de la viñeta de El Jueves', *Estrella Digital*, 13 November, <http://www.estrelladigital.es/diario/articulo.asp?sec=med&fech=13/11/2007&name=j>. Accessed 14 November 2007.
- Anson, Luis María (2007), 'Canela fina', *El Mundo*, 27 de Julio, p. 2.
- BBC NEWS (2006), 'The press in Spain', <http://bbc.co.uk/hi/world/europe/3909491.stm>. Accessed 24 November 2007.
- Burnett, Victoria (2007), 'Free pass fades for Spanish royal family. Protests spark debate on role of the monarchy', *Boston Globe*, 11 October, [http://www.boston.com/news/world/europe/articles/2007/10/11/free\\_pass\\_fades\\_for\\_spanish\\_royal\\_family/](http://www.boston.com/news/world/europe/articles/2007/10/11/free_pass_fades_for_spanish_royal_family/). Accessed 12 October 2007.
- Casanueva, Mariví (2007), 'Informe Anual de la Profesión Periodística 2006', *El Mundo*, 4 December, p. 61.

- Cat, Thomas (2007), 'Cartoonist draws wrath of royalty with satire on sex', *Times online*, <http://www.timesonline.co.uk/tol/news/world/europe/article2112719.ece>. Accessed 17 August 2007.
- Clausula de conciencia (1997), Ley Orgánica 2/1997 de 19 junio, [http://www.noticias.juridicas.com/base\\_datos/Admin/lo2-1997.html](http://www.noticias.juridicas.com/base_datos/Admin/lo2-1997.html). Accessed 14 January 2007.
- Council of Europe/ERICarts (2007), 'Compendium of Cultural Policies and Trends in Europe', 8th edition, E-1, [www.culturalpolicies.net/down/spain.pdf](http://www.culturalpolicies.net/down/spain.pdf). Accessed 28 January 2007.
- El jueves (2007), 'Se nota que vienen elecciones, ZP. 2.500 Euros por niño', Title page 18 July 2007, <http://www.eljueves.es/>. Accessed 20 July 2007.
- FAPE, LXV Asamblea General (2006), 'Declaración sobre la Libertad de Expresión', <http://www.apmadrid.es/node/727/print>. Accessed 15 January 2007.
- Freelance Spain (2006), 'Press Freedom in Spain', <http://www.spainview.com/media3.html>. Accessed 28 December 2006.
- Gistau, David (2007), 'La viñeta', *El Mundo*, 25 July, p. 5.
- Haines, Lester 2007, 'Spanish satire mag savages over royal sex cartoon', *The Register*, 17 August, p. 1, [http://www.theregister.co.uk/2007/07/22/el\\_jueves\\_rumpus/print.html](http://www.theregister.co.uk/2007/07/22/el_jueves_rumpus/print.html). Accessed 17 August 2007.
- International Press Institute (IPI) Public Statements (2007), 'IPI condemns use of archaic Spanish criminal law to justify cartoon censorship', Press Release 21 November, [http://www.freemedia.at/cms/ipi/statements\\_detail.html?ctxid=CH0055&docid=CMS](http://www.freemedia.at/cms/ipi/statements_detail.html?ctxid=CH0055&docid=CMS). Accessed 24 November 2007.
- La Constitución Española (1978), [http://www.mtas.es/insht/en/legislation/constitution\\_en.html](http://www.mtas.es/insht/en/legislation/constitution_en.html). Accessed 23 July 2007.
- Ley de Protección Civil del Honor, de la Intimidad y de la Propia Imagen (1982), [http://www.noticias.juridicas.com/base\\_datos/Admin/lo1-1982.html](http://www.noticias.juridicas.com/base_datos/Admin/lo1-1982.html). Accessed 14 January 2007.
- Ley Orgánica 10/1995 de 23 de noviembre (1995), [http://www.noticias.juridicas.com/base\\_datos/Penal/lo10-1995.html](http://www.noticias.juridicas.com/base_datos/Penal/lo10-1995.html). Accessed 16 January 2007.
- Ley Reguladora del Derecho de Rectificación (1984), [http://www.noticias.juridicas.com/base\\_datos/Admin/lo2-1984.html](http://www.noticias.juridicas.com/base_datos/Admin/lo2-1984.html). Accessed 14 January 2007.
- Marraco, Manuel (2007), 'El fiscal se querrela contra "Gara" y "Deia" por injuriar al Rey sobre el oso borracho Mitrofán', *El Mundo*, 5 January, p. 17.
- OJD, La Oficina de Justificación de la Difusión (OJD) (2007), <http://www.ojd.es/ojdx4/diarios2.asp>. Accessed 24 November 2007.
- Proyecto del Estatuto del Periodista Profesional (2004), [http://www.congreso.es/public\\_oficiales/L8/CONG/BOCG/B/B\\_044-01.PDF](http://www.congreso.es/public_oficiales/L8/CONG/BOCG/B/B_044-01.PDF). Accessed 15 January 2007.
- R.G.G. (2007), 'El modelo "Granma de Rosa Regàs"', *El País*, 7 August 2007, [http://www.elpais.com/articulo/sociedad/modelo/Granma/Rosa/Regas/elpepusoc/20070807elpepusoc\\_7/Tes](http://www.elpais.com/articulo/sociedad/modelo/Granma/Rosa/Regas/elpepusoc/20070807elpepusoc_7/Tes). Accessed 7 August 2007.
- Sánchez, Victor (2006), Agrupación General de Periodistas de UGT, *El Estatuto del Periodista Profesional*, 23 de octubre de 2006, [http://www.agp-ugt.org/actualidad/050503\\_libertadprensa.htm](http://www.agp-ugt.org/actualidad/050503_libertadprensa.htm). Accessed 14 January 2007.
- Schulze-Schneider, Ingrid (2005), *Spanische Medienkultur gestern und heute*, Berlin: Vistas Verlag GmbH.