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Paris, June 2017

First of all, I would like to express my gratitude for allowing me to take part in such an important event. It is a real honor for me as a simple journalist to have the opportunity to transmit my thoughts on such a relevant subject that I consider to be at the center of the impartation of Justice for the benefit of the citizens, that this impartation of Justice is carried out by the judges without them having to be alienated in a glass bubble, away from the opinions of society and without being conditioned by the very aggressive criticism from the media or from unfair conclusions from political powers. We can say that the problem is this: What can a judge do when he must decide on a matter that involves adverse conditions generated by uncontrolled campaigns of the media or pressures from the political powers?

In my opinion, the judicial system and not only the system but each individual judge should change the way they see things and the way they act if they are genuinely interested in honoring the principles of independence and impartiality, and if these values are to be considered as such by the citizens. I think the system as well as the judges must change in four different areas simultaneously: 1) they must change their way of interacting with the press and with political powers; 2) they must change their way of communicating with society; 3) a powerful institutional structure that shelters them from the campaigns that try to condition their verdicts must be created and 4) the urgent implementation of measures that specifically eliminate the delays in judicial responses. Not all but almost all of the problems of Justice (including the duration of campaigns to discredit, which are not exactly unimportant) could be fixed if the judicial system were able to resolve the problems that come up in a reasonable time frame.

As you can see, I haven't mentioned an interior change on the part of the judge, or a change in the mental and emotional strength when he is publicly mistreated. I haven't done this because after 25 years dealing with matters of Justice as a journalist and after witnessing campaigns of discredit that have been orchestrated in my country against judges (including judges from the Supreme Court) I have reached the conclusion that, aside from everything, they have been able to withstand the attacks because of their interior strength and their strong convictions in doing what is right. There have been judicial processes in Spain where the judges in charge of sentencing have been labeled as obstructors of justice in the media, and have been publicly insulted and pressured to quit their jobs and hang up their togas. Obviously, these things have been hard, irritating, and uncomfortable for them but they have had to deal with them knowing that their responsibility was to apply the law from an impartial point of view and with independence from others in awareness that this stand is what validates their genuineness. I am sure this could be said of all of the judges of the European Union who share these essential values as well.

### **The Principle of Disclosure**

I think that our judges are prepared to resist pressures. Resilience is interior resistance, and this in fact is the first surmise in the ability to adapt to adverse situations.

I am also sure of the validity of the principle of disclosure in judicial proceedings, this being one of the bases of the judicial system. The disclosure of judicial proceedings is an alienable of public

scrutiny. Judges have enormous power over the citizens and they must be held accountable for exercising their power.

However, it worries me that the media is taking advantage of the disclosure of judicial proceedings. Disclosure is considered to be one of the great accomplishments of The Enlightenment, a step up from the dark practices of the Old Regime. It was conceived as a guarantee to the arbitrary administration of justice by the King and his delegates. But 300 years later, and standing in the same place, I would love to know if Count Mirabeau would still hold true to his famous line: "Let me have any judge you want: biased, venal, even my worst enemy. Little do I care as long as what he can do nothing but face the public".

Regarding judicial proceedings in the media, the disclosure of Justice is no longer a guarantee, but rather a tormenting ordeal. Some public media are violating the fundamental rights related to a fair trial. Primarily, the presumption of innocence of people involved in a penal investigation. They speculate about a case and create a morbid show by which conclusions are drawn and the sentencing of the individual prior to the judge's decision. The judge is the only one who has the competency to decide sentencing. This media has forgotten the fundamental values of journalism, the contrasting of information. This includes information that could be coming from institutional sources such as the Police, who might be interested in taking a particular stand. They must give a fair chance to all the different views without excluding those that are contrary to their own interest or theory about a case; media that spread news from police files or judicial information even during the investigative process, media that is so powerful that nobody can contradict them.

This situation certainly affects judges. When the verdict is not as expected or is different from the preestablished opinion of the media then it is not that the media has made a mistake or should humbly rectify their point of view. The problem is then with the judge who –it's said- is wrong or has applied the law unfairly.

The pressure placed on the judges to change their decisions can affect them, no matter how hard they try. We cannot expect them to always be heroes and be immune to these things. Even when they do manage to accomplish it and stay impartial to the media's opinion or pressures, their decision can be interpreted as a biased decision with one side or other, and therefore undervalued.

It is disappointing to see judges as they are left completely impotent. Judges who have studied for years and have undergone difficult selection processes, and who work with limited resources, and work hard.

What can be done? It would be very pretentious on my part to try to solve a conflict that has been going on for so long in many of our surrounding countries. This problem has been studied by scholars more qualified than I and a universal recipe doesn't exist. Each situation will require a particular solution. What I am trying to do is to convey my point of view, that of a person who has worked in journalism and has dedicated many hours to the observation of the judicial world, and who believes that there are actions that could be taken that could be worth it.

## **The relationship with the Press**

Before I was talking about change. The first one dealing with the relationship with the press. I believe that you should lose your fear of the press. It is true that unfortunately judges aren't trained to deal with journalists and I imagine they don't consider this a priority. Let me just say that, as I see it, this is a mistake. In our democratic society, there is no possibility of exercising a strong state power as is the judicial power without being subjected to public scrutiny. And, given that it is the media who tells the citizens what Justice is doing, it matters a lot what information gets out to the journalists, who provides it and who controls it because -like it or not- the judges and their decisions will occupy the headlines of the press.

One of the techniques that can be used for resilience is to identify the strong points and take advantage of them. The disclosure of judicial proceedings should stop being the Aquiles Tendon and should become an empowering tool used to reinforce judges and their verdicts. For this, we need a change in the culture of the judicial power. One which doesn't demonize the media. One that doesn't put them all in one bag of despicable people who cannot be trusted, but rather makes them a part of the system.

Not all of the media is the same. There is the sensationalist press and the serious press. There are journalists with no scruples and many others who care about the truth and work hard to spread the honest reality of things. These are the ones we have to refer to in order to guide the Plan of the European Council for the Strengthening of the Independence of Judicial Law, in which judges are asked to work closer with the press.

We know from experience that the way news is first spread about an event affects how public opinion is established. This is important because if the judicial power controls the news from the beginning (as soon as it happens or is about to happen) and spreads it on time (this means when the press needs it, not later) then the quality of the contents of the news spread by the media would greatly improve.

Obviously, the effort of judicial forces to anticipate the diffusion of the messages would not change things overnight, given that it must be an effort over time and tenaciously worked on. This wouldn't guarantee that certain members of the media would not receive the information and then use it wrongly. But experience shows that when there is good intelligent communication the majority of the press take the information provided by the judicial powers as their own.

This is what we have been trying to do in Spain for the past few years, and what the present General Council of Judicial Power has been promoting. I hope that this is not seen as chauvanistic but I think the experience that Spaniards have in this area could be of interest. I will try to explain this based on a real case. In 2013 there was a scandal when funds were taken from the General Council of Judicial Power and used for personal weekend trips by the President of the Council. Even though the Council tried to not give out any information, it leaked that there were a total of eight trips valued at 2.944 euros, which the President returned. Naturally, just returning the money was not enough and the President of the Council had to resign. He claimed that those trips could be justified and payed for with public funds given that he was partaking in official activities during those weekends.

He was accused before the Supreme Court who found no reason to act against him. The climate of public scrutiny created by the media became unbearable for him. In my opinion, the General Council of Judicial Power did not do a good job informing about this situation, which contributed to all of this. They could have provided the bills and validations of those trips in a timely manner, and this did not happen. When the Council finally decided to offer explanations it was too late.

Well then, one of the first things the current President of the Council has done is to upload all of the trips, expenses and other activities incurred by him and other members on the institutional webpage. This webpage can be seen by the public. There have been no further problems. Property and all asset documentation can also be seen. If any of you would like to see the value of his home, if he has a car, the balance on his accounts and whether or not he has asked for a loan, all you have to do is enter the webpage. We can also see other information, as the results of disciplinary actions taken against judges. The Communication Department of the General Council tries to always be a step ahead in the spread of this information so that there is no margin for error or exaggerations.

The same dynamic can be applied to judicial matters. We have communication offices in Spain that depend on the Courts in all regions and also in the national jurisdiction tribunals, such as the Supreme Court. Journalists have direct access to sentences, and when one of them is of relevance the press office provides a summary and puts a headline on it. This headline provided by the Judicial Power is a great technique to guide the journalists. You all know that many people only read the headlines and that is why it is so important to control them.

I believe that the fact that the Supreme Court and the National High Court are the tribunals best dealt with in the press is directly connected to the communication policy. Many of the magistrates have a flowing communication with journalists specialized in the Courts. They have press offices whose task consists not only of communicating the work of the Court, but also in unmasking the news that is untrue. This is an important part of the policy of communication that must be done with at great speed. We must not be afraid of correcting the media. In my opinion, it wouldn't be right or desirable that any judge would enter a one on one with the media. There would have to be a structured system that would carry this out for him. But in any event this task of rectifying must be done, because it is urgent that we unmask bad journalism.

### **Justice Updating**

In the end, the judicial power must learn to control the tools of communication if they want to contribute to the image that they will give to the media. By doing so they will make sure that it is a true and not distorted image, and they will get the real facts out to the citizens, without bias from the media. In order to do this, they need to establish their own channels of communication and they need to anticipate the information and spread it in an efficient manner. Especially when the matter at hand is socially relevant or controversial. All of the judges who have been assigned a case in which the media took particular interest know which decisions are going to generate controversy, and which ones could be delicate matters because of their political repercussions, social or economical. These are the cases when it is most important for the judicial power to be transparent and to give clear explanations and valid arguments that facilitate this information of special interest. Even though it is very unfair, public opinion is based on the criteria of the Courts on ten or fifteen cases that become very popular.

Nowadays having good arguments is not enough, you have to know how to make them count. And in our very globalized world, it would be very naive to think the resolutions taken by the Courts will only be of interests to jurists or to those who partake in the processes. The judicial system have to take advantage of the new technologies, needs to get updated, need to be faster and more efficient in spreading their message and in making their language more understandable to the public.

### **Politicians**

Just a note on politicians. The attacks launched by certain politicians against judges making them look incompetent or putting their fairness in doubt is of further concern to me. This is even worse than the attacks from the media, because politicians are in a position of power before society. These attacks are more hurtful. How can we ask citizens to have trust in these judges that are being vilified by their political representatives?

In these cases I think we need a serious reaction from the institution, not just a reaction from the judge that is affected. The government bodies of the judicial powers or in their case the Supreme Court are the ones who have to weather this shaming straightforwardly without appease. There is no place for silence.

On this topic I must confess that I was delighted by the public declarations made by Lord Thomas on the disappointing passiveness of the Secretary of Justice who did not come out in public defense of The High Court when it was labeled as a public enemy of the people due to the sentencing of the Brexit. Nevertheless, in general terms, I think the institutional structures should be the ones to come forward on the attacks from the politicians and from the press, so that the judges feel protected. My country is not a good example of this. When problems like this arise, the most that happens is that the General Council of the Judicial Power releases a weak statement calling for caution and restraint.

In short, I could summarize my thoughts on judicial resilience on these main points:

- Stop being afraid of the media. Do not be afraid of the ones that need to be corrected. Be ready to act quickly whenever necessary.
- Take on the task of having a policy of communication with the media as a part of the job of the Courts, handling it with expertise.
- Learn to identify the cases that could be delicate or controversial, and be the first ones to spread information using an ad hoc strategy.
- Accept criticism and don't beat yourselves up with it. No matter how big an effort you make, it is impossible to convince everyone. Freedom of expression doesn't protect the most intelligent and educated expressions, but rather those that are not.
- Not all of the media is the same. Identify the ones who work rigorously and professionally and use them to spread good news and to contrast the negative tides. Judge Pettiti said it better than me when he disagreed with a solution given by the European Tribunal For Human Rights in the case of Prager and Oberschlick vs. Austria: "The best way to guarantee a better diffusion of objective information for the education of the public is to insure that there is an honest and thorough cooperation between the authorities of the judicial power and the media".
- Try to resolve controversial issues in a timely manner. The delays in judicial response give way to the most discrediting campaigns.

And I will finish. The judicial power cannot be bothered with public opinion, but they should listen to it, because judges are also a part of society, not entities below or above it. They certainly shouldn't be subjected to what public opinion dictates (if in fact we could identify what it is beyond what we hear in the media). The only obligation our judges have is to abide by the laws established by our democratic Parliaments, and only by respecting the law can we have the

guarantee that our rights will be guaranteed without arbitration. When a judge is faced with a controversial public matter, and when he knows that by applying the law he will generate negativity amongst the public opinion, his efforts to support his decision and to explain his reasons must be multiplied. If the judges sentence is far from what the public expects and an effort is not made on behalf of the judicial power to justify it, then, the decision will be discredited and the public will loose trust in their judges.

I think we have a chance of turning things around. I think at least we should try.

I hope for your kindness if I have failed to transmit some useful ideas to improve the relationship between judges and media. In any case, I sincerely appreciate your attention.