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The influence of media on the application of precautionary criminal measures: Tensions between Freedom of Press, Judicial Impartiality and Constitutional Guarantees

The influence of the media on the application of criminal precautionary measures: Tensions between Freedom of the Press, Judicial Impartiality and Constitutional Guarantees

The influence of media in the application of criminal preventive measures: tensions between press freedom, judicial impartiality and constitutional guarantees

André Lacerda Queiroz Costa1

Osiel Carneiro da Fonseca Júnior2

Leonardo Antunes Ferreira da Silva3

SUMMARY

This paper addresses the influence of the media, often marked by selectivity and...
The spectacularization of public opinion contributes to the construction of narratives that can anticipate judgments of guilt and reinforce social stigmas. In this context, the study investigates the extent to which media activity influences the imposition or relaxation of precautionary measures by the Judiciary. The general objective is to analyze this influence, highlighting the tensions between freedom of the press, judicial impartiality, and the effectiveness of constitutional guarantees. The relevance of the research stems from the central role of the media in shaping public opinion, which can generate indirect pressure on judicial decisions, especially in high-profile cases. In these situations, media visibility can favor more stringent decisions, compromising due process. The methodology adopted is qualitative, with an interpretative approach and analysis of constitutional principles, such as the presumption of innocence, impartiality, and freedom of the press. Bibliographic review, document analysis, and case studies are used. It can be preliminarily concluded that media influence in criminal proceedings is complex and requires ethical and legal limits in order to preserve judicial independence and ensure a democratic justice system capable of balancing informational transparency and the protection of fundamental rights, avoiding premature judgments and guaranteeing decisions based exclusively on legality.

Keywords: Media influence; Precautionary measures; Freedom of the press; Judicial impartiality.

ABSTRACT

1Student in the Law course at UNISAPIENS University Center; Email: andrelqc@hotmail.com. Article submitted to UniSapiens University Center as a requirement for obtaining the Bachelor of Laws degree, Porto Velho/RO.

2Student in the Law course at the UNISAPIENS University Center; Email: junior007osiel@gmail.com. Article presented to the UniSapiens University Center as a requirement for obtaining the Bachelor of Laws degree, Porto Velho/RO.

3Professor in the Law course at UniSapiens University Center; Email: leonardo.antunes@gruposapiens.com.br

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Media coverage, often characterized by selectivity and sensationalism, contributes to the construction of narratives that may anticipate judgments of guilt and reinforce social norms. stigmas. In this context, the present study investigates the extent to which media activity influences the Judiciary's imposition or relaxation of precautionary measures. The general objective is to analyze this influence, highlighting the tensions between freedom of the press, judicial impartiality, and the effectiveness of constitutional guarantees. The relevance of this research stems from the media's central role in shaping public opinion, which may exert indirect pressure on judicial decisions, especially in high-profile cases. In such situations, media exposure may lead to stricter decisions, potentially compromising the due process of law. The methodology adopted is qualitative, with an interpretative approach and analysis of constitutional principles such as the presumption of innocence, judicial impartiality, and freedom of the press. The study is based on bibliographic review, document analysis, and examination of concrete cases. It is preliminarily concluded that media influence on criminal proceedings is complex and requires ethical and legal limits to preserve judicial independence and ensure a democratic justice system capable of balancing informational transparency with the protection of fundamental rights, avoiding premature judgments, and ensuring decisions based exclusively on legality. Thus, the study contributes to advancing legal debate by providing theoretical and critical insights into the limits of media action and its impact on the exercise of criminal jurisdiction, reinforcing the importance of safeguarding constitutional guarantees in a contemporary Democratic Rule of Law.

Keywords: Media influence; Precautionary measures; Freedom from the press; Judicial impartiality.

1 INTRODUCTION

This work addresses the theme of media influence on the application of measures.
Criminal precautionary measures: tensions between freedom of the press, judicial impartiality, and guarantees.
Constitutional decisions, often marked by selectivity and sensationalism, contribute to the
The construction of narratives that can anticipate judgments of guilt and reinforce social stigmas.

The problem guiding this study is to investigate to what extent...
Media coverage of criminal proceedings influences the imposition or relaxation of these measures.
by the Judiciary. To what extent does media coverage of criminal proceedings influence the
Imposition or relaxation of precautionary measures by the judiciary?

The overall objective of this work is to analyze the influence of the media on the application of the measures.
Criminal precautionary measures, highlighting the tensions between freedom of the press, judicial impartiality, and...
effectiveness of constitutional guarantees.

The relevance of the research is justified by the central role that the media plays in the construction
social perceptions about crime and justice. The dissemination of information, often
Partial or sensationalist accounts can put pressure on the judiciary, compromising the necessary...
neutrality of decisions. In particular, in the application of precautionary measures, it is observed that the
Media visibility can influence the adoption of more stringent decisions, with the aim of meeting...
in relation to social expectations, which raises questions about the effective observance of due process.
legal process.

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Regarding methodology, the research adopts a qualitative approach; it starts from...
analysis of constitutional principles, such as the presumption of innocence, the impartiality of the judge and
freedom of the press, seeking to understand how such principles are articulated in the face of
The influence of media in criminal proceedings. The study is developed through a literature review.
documentary analysis and examination of high-profile case studies in which the media's role was significant.
It impacted public perception of justice.

In preliminary terms, the influence of the media on the criminal process constitutes a phenomenon.
A complex issue that requires critical and in-depth analysis. The preservation of judicial impartiality and of
Constitutional guarantees depend on the delimitation of ethical and legal limits for the actions of...
The press is needed for the institutional response of the Judiciary, in order to ensure a system of justice.
truly democratic.

2. MEDIA, CRIMINAL PROCEDURE AND CONSTITUTIONAL GUARANTEES: LIMITS TO INFLUENCE ON JUDICIAL ACTION

The influence of the media on criminal proceedings in Brazil has become a central theme in...
contemporary legal debate, especially regarding the effects of journalistic coverage on the
The behavior of the Judiciary. As highlighted by Gomes (2021), in democratic states, the
The press plays a fundamental role in disseminating information and controlling...
public institutions. However, when media activity goes beyond the informative function and
It takes on a sensationalist character, and significant conflicts arise between freedom of the press and...
impartiality of the judge and the fundamental rights of the accused, notably the principle of presumption of innocence.
of innocence.

In this context, Barroso (2020, p. 101):

> It should be emphasized that freedom of expression is one of the pillars of a democratic regime, but it cannot be used as an instrument of undue interference in judicial decisions. In high-profile cases, the media frequently constructs narratives that anticipate the guilt of those under investigation, forming what is called a court of public opinion, which can influence judges to order precautionary measures, such as preventive detention, without the proper fulfillment of legal requirements.

The intense media exposure of the accused contributes to the formation of social judgments.
anticipated, in violation of Article 5, LVII, of the Federal Constitution (Brazil, 1988), which guarantees the

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presumption of innocence. By disseminating information in a biased manner, the media interferes with perception. collective and may, albeit indirectly, impact judicial action.

According to Streck (2020, p. 67), this phenomenon is called "criminal process of "spectacle," in which the trial also takes place outside of the official court records. The Supreme Court The Federal Court has already recognized, in certain situations, the nullity of decisions influenced by this type of [context]. external pressure, which highlights the need to safeguard judicial impartiality.

Operation Lava Jato is a prime example of this scenario. Numerous arrests Preventive measures were decreed amidst intense media coverage, which contributed to the anticipation of social judgments. According to Badaró (2019), many of these decisions lacked adequate technical justification. The Superior Court of Justice, when granting habeas corpus in In some cases, he acknowledged excesses resulting from public outcry, which demonstrates the influence The concrete role of the media in adopting precautionary measures.

Although freedom of the press is guaranteed by Article 220 of the Federal Constitution, it It finds limits in the defendant's personality rights, such as honor, image, and dignity. In the words of Sarlet (2021, p. 47), it is emphasized that the right to information cannot prevail over Due process of law is followed, and the media can be held civilly liable in situations of exposure. improper. The jurisprudence of the Superior Court of Justice (STJ) confirms this understanding by admitting compensation for damages. moral issues arise when there is abuse in the disclosure of information.

Another relevant example is the case of former governor Sérgio Cabral, whose preventive detention was... widely publicized by the media. The intense coverage generated strong social pressure and reinforced the Preconceived notions of guilt contribute to legitimizing the measure as an immediate response. This scenario highlights how public opinion, fueled by media narratives, can influence... judicial decisions, transforming precautionary measures, which should be exceptional, into instruments of preemptive punishment.

Given this, it is up to the magistrate to act independently and, when necessary, in a manner... counter-majoritarian. Ferrajoli (2014, p. 45) “argues that the judge’s role is to ensure the protection of "fundamental rights, even in the face of social pressure."

The jurisprudence of the STF (Supreme Federal Court) reinforces this understanding by stating that public outcry does not constitutes a valid basis for the issuance of precautionary measures (HC 95.009/STF). Thus, the judge must base its decisions exclusively on legal and constitutional criteria, preserving The legitimacy of the criminal process.

According to Gomes (2021, p. 56), “sensationalist coverage compromises the rationality of judicial decisions and strain principles such as due process and impartiality.” In the same In this sense, Carvalho (2022) emphasizes that the presumption of innocence should be understood as a guarantee.

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effective against abuse, maintaining its strength even in the face of intense social pressure.

The 1988 Federal Constitution guarantees both freedom of the press and the presumption of...
innocence, requiring harmonization between these rights. According to Sarlet (2023, p. 59), it is up to
The judiciary must ensure that public opinion does not replace the technical basis of decisions.
International guidelines, such as the Bangalore Rules, also reinforce the need for protection.
of judicial independence in the face of external influences.

2.1 The Principle of Presumption of Innocence: A Fundamental Guarantee and Challenges in Society Mediatized

The principle of presumption of innocence, enshrined in article 5, item LVII, of the Constitution.
Federal law stipulates that "no one shall be considered guilty until a final and unappealable criminal sentence is issued."
"Condemnatory." This guideline represents one of the structural foundations of the Democratic State of
Right, therefore, ensures that any individual can only be treated as guilty after the
definitive proof of their criminal responsibility.

It is, therefore, an essential mechanism for protection against state abuses and
hasty judgments, as Aury Lopes Jr. (2019) teaches, the presumption of innocence functions
as "an insurmountable limit to the state's punitive power," acting as a barrier against practices
arbitrary and against turning the criminal process into a spectacle.

In contemporary reality, marked by the intense circulation of information, the media
It plays a significant role in shaping public opinion.

> However, this action is not always limited to the objective disclosure of facts; it is common for value judgments about those under investigation and accused to be made in advance. This phenomenon results in what are called "symbolic convictions." (Zaffaroni, 2001, p. 33).

The individual is socially labeled as guilty even before the conclusion of the process.
judicial. Such a practice directly undermines the constitutional principle of presumption of innocence.
by creating a parallel environment of judgment, influencing collective perception and, at times, the
The course of the criminal process itself.

According to Luís Greco (2017), respect for the presumption of innocence must go beyond the limits.
from the Judiciary and also reach the media. For the author, public opinion cannot
to be used as an instrument of pressure on magistrates, under penalty of compromising the
Judicial independence. When the press publishes biased or sensationalist versions of the facts, the

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The accused then begins to suffer a kind of anticipated social sanction, which can affect their reputation, their dignity and even its technical defense.

The Supreme Federal Court has repeatedly affirmed the centrality of the presumption of innocence in the Brazilian legal system, recognizing it as an entrenched clause. In several In its decisions, the Court has emphasized that this principle must be observed in all phases of the process. penal, including in the provisional execution of the sentence. This position reinforces the need for a a fair and impartial procedure, in which the accused is guaranteed all means of defense and the full adversarial process.

In addition to its legal dimension, the presumption of innocence also has an ethical character and civilizing, as it is directly linked to the protection of the dignity of the human person. In a A society marked by the speed of information and the influence of the media, preserve This principle becomes even more challenging.

According to Streck (2017, p. 56), "it warns that violating the presumption of innocence is to corrode the "Democracy itself," since it legitimizes judgments based on social perceptions and not on reality. evidence produced through due legal process.

Therefore, the effectiveness of the presumption of innocence depends not only on the actions of the Judiciary. Judiciary, but also the ethical commitment of the media and society to respect the limits. mandated by the Constitution. The guarantee that no one will be considered guilty before the final judgment. A final and unappealable judgment is fundamental to ensuring justice, preventing wrongful convictions, and preserving values. democratic.

2.2 Freedom of the Press and Its Limits in the Brazilian Legal System

Freedom of the press is one of the indispensable foundations of societies. democratic rights are guaranteed by Article 5, item IX, of the Federal Constitution. This right ensures the free expression of thought and access to information, playing a relevant role in oversight of public authorities and in shaping public opinion. However, this is not a absolute prerogative, which must coexist harmoniously with other fundamental rights, such as honor, image, and the presumption of innocence. In this sense, Ronald Dworkin (2002, p. 41) states that “freedom of expression is an intrinsic value, but it must be interpreted within a system "a balance of rights."

In the Brazilian context, it is observed that the inappropriate use of freedom of the press can generate Significant distortions, especially in high-profile criminal cases. Luiz Flávio Gomes (2018) highlights that, by transforming investigations into sensationalist content, part of the media passes

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exercising a function of social punishment, unduly interfering with the impartiality of the Judiciary.
Judiciary. This phenomenon, known as "media trial," promotes the formation of a
A parallel tribunal, in which public opinion anticipates the conclusion regarding the guilt of those involved.

According to Lenio Streck (2020), ethical and responsible conduct by the press is essential.
for the maintenance of the rule of law. The author emphasizes that "freedom of the press is not
It is confused with the freedom of moral lynching," and should always respect the limits imposed by...
human dignity and the ethical principles of journalism. When these parameters are
Outdated, the damage can be profound, affecting both the individual's reputation and...
credibility of legal institutions.

National case law has recognized the importance of establishing a balance between
Freedom of the press and personality rights, especially through the application of
The principle of proportionality. In conflict situations, the aim is to ensure that the activity
Informative reporting should not become an instrument of premature judgment. Thus, it is up to the press
to perform its function of informing and overseeing, without replacing the role of the Judiciary or promoting
convictions outside of due process of law.

According to Almeida (2021), although freedom of the press is indispensable to
In order for democracy to function properly, it finds its limits in respect for truth, ethics, and legality.
In this way, a commitment to social responsibility should guide the actions of the media.
communication, ensuring that the right to information is exercised without violating fundamental rights.

Given this, it becomes evident that a balance must be struck between freedom of the press and the protection of...
Individual rights are an essential condition for the consolidation of a just society. "The press"
It should act as an instrument of information and social control, but always respecting the limits.
legal and ethical principles that ensure human dignity and the integrity of the democratic process.
(Almeida, 2021, p. 67).

Investigative journalism, while playing an essential role in strengthening...
Transparency and the fight against corruption must be exercised with caution and in observance of limits.
legal. The premature disclosure of confidential or unconfirmed information may
To compromise the progress of the investigations and prejudice the right to defense. In this sense, Luiz
Flávio Gomes (2018) warns that the sensationalization of investigations transforms the media into
an instrument of social punishment, negatively interfering with the impartiality of the justice system.

Another relevant point concerns the need to hold the media accountable when there is abuse.
In exercising the freedom to inform, journalistic activity must be guided by ethics and...
truthfulness and respect for fundamental rights, avoiding the construction of narratives that anticipate
judgments. Streck (2020) emphasizes that freedom of the press cannot be confused with practices

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that promote moral lynching, making a commitment to human dignity indispensable.
human.

According to Almeida (2021, p. 56), “the balance between the right to information and preservation
Fundamental guarantees constitute an essential element for the consolidation of communication.
"Socially responsible".

Building a media culture committed to legality and values.
Democratic practices depend as much on the ethical conduct of the press as on the vigilance of the Judiciary.
protection of individual rights.

2.3 Judicial Impartiality and the Control of Precautionary Measures in Criminal Proceedings

The impartiality of the magistrate constitutes one of the central pillars of the criminal process in a
A democratic rule of law is an indispensable condition for the legitimacy of judicial decisions.
The judge must act as a guarantor of legality, maintaining independence from external pressures.
of a political, economic, or media nature. In this sense, Ronald Dworkin (2002) conceives the figure
of Judge Hercules as one who decides based on the integrity of the law, guided by
legal principles, and not external influences or social outcry. This conception demonstrates
Judicial action must be committed to normative coherence and the protection of rights.
fundamental.

According to Aury Lopes Jr. (2019, p. 73):

> Impartiality can be compromised when the media begins to act as a parallel prosecution, influencing public opinion and pressuring the judiciary to issue harsher responses. This phenomenon contributes to the formation of premature judgments, which directly affects the neutrality of the magistrate and can result in decisions based more on social pressures than on legal principles.

In this context, precautionary measures, especially pre-trial detention, should be applied.
with extreme caution, respecting its exceptional nature. Aury Lopes Jr. (2019) emphasizes that the use
The indiscriminate use of these measures reveals a misuse of purpose, transforming instruments
procedural mechanisms of preemptive punishment. This practice violates not only the presumption of
innocence, but it also compromises the credibility of the justice system by allowing decisions
be influenced by factors unrelated to the case file.

Lenio Streck (2017, p. 56) emphasizes that impartiality should not be understood only
not only as an individual virtue of the judge, but as an attribute of the entire justice system, which must

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To resist the logic of the spectacularization of the criminal process. This implies the need for action.
An institution committed to legality and the protection of fundamental rights, avoiding
that the criminal process be transformed into a media spectacle.

The control of precautionary decisions plays a fundamental role in preserving the
individual liberties. The requirement for concrete justification and strict observance of
Legal requirements are essential mechanisms for preventing abuses. In this respect, procedural doctrine
Criminal law highlights the importance of properly reasoned decisions that demonstrate a genuine need.
of the measure adopted, in accordance with legal and constitutional parameters (Lopes Jr., 2019).

Another relevant point refers to the counter-majoritarian stance of the magistrate, especially in
contexts of strong social pressure in favor of punishment. In these cases, it is up to the judge to reaffirm his
commitment to the Constitution and fundamental rights, even if this goes against expectations.
popular decisions. Dworkin (2002) reinforces this idea by arguing that the integrity of law requires decisions
based on principles and not on majority preferences.

Judicial impartiality is an essential element in ensuring balance.
between the effectiveness of justice and the protection of individual liberties. Its preservation is fundamental.
to curb punitive excesses and reduce the impact of media influence on the criminal process.
As Streck (2017) emphasizes, resistance to spectacularization and strict adherence to principles
Constitutional principles are indispensable to guarantee a fair, democratic, and...
Committed to the dignity of the human person.

According to Lopes Jr. (2019, p. 62), “judicial impartiality is directly related to
The duty to provide reasons for decisions, enshrined in the Brazilian legal system as a guarantee.
"against arbitrary actions." The magistrate must justify their decisions based on concrete evidence.
based on the evidence in the case file, avoiding generic arguments or external influences. Lopes Jr.
(2019) addresses the lack of adequate justification, which compromises the legitimacy of the decision and
It weakens confidence in the justice system, especially regarding precautionary measures.

Another relevant aspect refers to the need for judicial review of decisions that
They restrict fundamental rights, especially through higher courts. This mechanism
It serves as a means of reviewing and correcting any excesses or illegalities committed during the course.
of the criminal process. In this sense, Streck (2017) highlights that the justice system must act in a way
integrated and vigilant, ensuring the preservation of impartiality in all procedural phases,
including in the analysis of precautionary measures.

Finally, it is important to emphasize that the ethical and legal training of judges also
It plays an essential role in preserving impartiality. Conscientious and committed action.
Adherence to constitutional principles contributes to fairer and more balanced decisions. According to

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According to Dworkin (2002), a judge must interpret the law with integrity, respecting fundamental values.
and avoiding decisions influenced by external pressures, which reinforces the importance of a stance
technically sound and independent in the exercise of jurisdiction.

3. The Pressure of Public Opinion on the Judiciary

The interference of public opinion in judicial decisions has intensified in societies.
contemporary times, especially due to the expansion of communication media and the speed of change.
dissemination of information. In this scenario, the media plays a decisive role in shaping
Collective perceptions often directly influence the environment in which the Judiciary operates.
Luiz Flávio Gomes (2018) calls this phenomenon "media-driven penal populism," characterized
through the transformation of the criminal process into a spectacle aimed at immediate social gratification. This
Logic contributes to weakening the independence of the judiciary, which then acts under pressure.
constant in public opinion.

Ronald Dworkin (2002) warns that judges should base their decisions on legal principles.
and not based on majority preferences, lest the integrity of the law be compromised. According to the author,
The legitimacy of a judicial decision stems from its rational and coherent reasoning.
legal order, and not popular acceptance. In this sense, the magistrate cannot assume the
The role is not merely that of a representative of the social will, but rather that of a guarantor of the Constitution and rights.
fundamental, even if their decisions go against collective expectations.

Lenio Streck (2020) highlights that media influence can lead to the consolidation of the so-called
"Enemy criminal law," in which certain individuals come to be treated as enemies.
social issues, lacking legal guarantees. This perspective is reinforced by the spectacularization of
investigations and the anticipation of judgments, which unbalance the relationship between punitive power
of the State and the protection of fundamental rights. In this context, precautionary decisions become
used as instruments for immediate response to social pressure, distorting their purpose.
legal.

International reports, such as those from the UN and the Inter-American Commission on Human Rights.
Humans (2020) warn that the influence of the media on the Judiciary may compromise the
Impartiality of decisions and violation of commitments made in human rights treaties. Such
The documents highlight the need for institutional mechanisms that ensure independence.
judicial, protecting judges against external interference and guaranteeing decisions based on sound reasoning.
exclusively based on legal criteria.

According to Streck (2020, p. 42):

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Judicial action must be shielded from media interference, ensuring that public opinion does not replace legal reason. Thus, the judge must act as a true guardian of constitutional guarantees, preserving the rationality of the criminal process and reaffirming the commitment to the rule of law. The consolidation of an independent justice system therefore depends on the institutional capacity to resist social and media pressures.

Furthermore, the growing influence of social media intensifies this phenomenon even further. expanding the reach of media narratives and accelerating the formation of collective judgments. The immediacy of information favors the formation of hasty opinions, often based on... incomplete or distorted data. According to Gomes (2018), this environment contributes to the strengthening of a punitive culture, in which society begins to demand quick responses and severe measures by the Judiciary, even if they come at the expense of legal guarantees.

Another relevant aspect is that public opinion pressure can affect not only the content. of the decisions, but also the institutional behavior of the courts. Judges may feel- compelled to adopt more rigid stances to avoid social criticism or questioning. Dworkin (2002) reinforces that this submission to popular expectations compromises the integrity of the law, because it shifts the focus of the legal decision to extra-legal criteria.

Finally, it is crucial to highlight that building a legal culture committed to Judicial independence requires the strengthening of institutional protection mechanisms. Streck (2020) emphasizes that resistance to media influence is an essential condition for the preservation of impartiality and legitimacy of the criminal process. Therefore, the Judiciary's actions must... to remain anchored in the Constitution and legal principles, guaranteeing fair decisions and balanced.

3.1 Public Outcry and the Need for Legal Justification in Decisions

The clash between public outcry and the technical basis of judicial decisions constitutes one of the main tensions in the criminal process today. The Federal Constitution establishes, in its Article 93, item IX, states that all decisions must be duly justified, guaranteeing Transparency, control, and rationality (Brazil, 1988). However, in high-profile cases, the Social pressure often acts as an external factor that can influence judgment, skewing it. that of its strictly legal basis.

Aury Lopes Jr. (2019) emphasizes that the magistrate must resist the punitive demands of society, which often demands quick and exemplary responses. When the judge begins to decide

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With the aim of satisfying popular demand, the criminal process loses its function as a guarantee and becomes... It transforms into an instrument for asserting power. This distortion compromises not only the The rights of the accused, but also the very legitimacy of the justice system.

Luís Greco (2017) and Lenio Streck (2020) agree that the technical foundation It is the only legitimate path to forming a judicial decision. The judge must base their decision on evidence. produced in the records and in constitutional principles, distancing themselves from external influences, such as Media narratives or social pressures. The replacement of legal reasoning with public outcry. Public policy opens the door to arbitrary actions and weakens the rule of law.

Silvio Almeida (2021) adds that the symbolic power of the media contributes to the formation from a punitive common sense, which influences not only society, but also the operators of This phenomenon reinforces selective criminalization and highlights structural inequalities, by... To demonstrate that certain social groups are more easily targeted by premature judgments. Thus, social pressure does not affect everyone equally, intensifying existing injustices.

In this context, the technical basis for decisions assumes an essential role as An instrument to curb arbitrariness. By justifying its decisions in a clear and rational manner, the The magistrate demonstrates that his actions are guided by legality and respect for guarantees. constitutional. Streck (2020) highlights that the judicial decision must be based on interpretation. appropriate to the law, and not as a response to immediate social demands.

Furthermore, the requirement for adequate justification allows for the control of decisions by higher instances, guaranteeing greater legal certainty. Lopes Jr. (2019) emphasizes that motivation The transparency of decisions is an indispensable element for transparency and protection against abuse. especially in measures that restrict fundamental rights.

Another important point is that resisting public outcry requires a firm and ethical stance. on the part of the magistrate. Greco (2017) emphasizes that the judge must act responsibly, ensuring that their decision is the result of technical analysis and not external pressures. This stance is fundamental to preserving the credibility of the Judiciary and society's trust in institutions.

Finally, the technical basis for decisions is what distinguishes the Rule of Law from arbitrary or vindictive practices. When deciding based on legal criteria, the magistrate not only It protects the accused, but also reaffirms democratic values and the centrality of the Constitution. According to Almeida (2021), overcoming the influence of punitive common sense depends on Institutional commitment to legality, equality, and justice.

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3.2 The Role of the Judge in Guaranteeing Due Process and Civil Liability and Institutional Media

The magistrate plays a central role in protecting due process, ensuring that no judicial decision exceeds the limits established by the Constitution. Article 5, paragraph Article LIV of the Federal Constitution enshrines this principle as a structuring foundation of the entire system. of justice. As Ronald Dworkin (2002) argues, the judge must interpret the law under the From the perspective of integrity, preserving consistency and fidelity to the principles that underpin the legal order.

According to Aury Lopes Jr. (2019), the judge with a guarantor function must adopt a stance active in protecting fundamental rights, preventing arbitrary actions and remaining resistant to external pressures. Due process of law presupposes the observance of guarantees such as impartiality, the right to a fair hearing, the right to a full defense, and proportionality.

Lenio Streck (2017) highlights that the contemporary judge acts under constant social surveillance and media influence, which cannot compromise his decisional independence, nor subject him to... called the "court of public opinion." Judicial action guided by populist tendencies. In the criminal context, it is incompatible with the guarantor function.

In this scenario, it is up to the judge to ensure the neutrality of the process, preventing abuses. such as the misuse of pretrial detention and the violation of the principle of presumption of innocence. As Lopes Jr. (2019, p. 56) states:

> The clear and rational justification of decisions is the instrument that legitimizes judicial authority before society. In this way, the guarantor judge does not act in favor of impunity, but rather of legitimate justice, promoting a balance between the state's punitive power and the protection of human rights.
> Their ethical and technically sound performance is essential for the consolidation of a democratic criminal justice system.

With regard to the media, its civil and institutional responsibility becomes especially This is relevant in light of excesses in the coverage of criminal cases. Freedom of the press must be... exercised in harmony with respect for human dignity and the guarantees of due process. Okay. As Zaffaroni (2001, p. 52) teaches, “the media exerts symbolic violence when "It transforms the accused into a public enemy, legitimizing authoritarian practices."

Luiz Flávio Gomes (2018) warns that the spectacularization of the criminal process can lead to Moral and material damages that are difficult to repair for those improperly exposed by the media. In this In this sense, journalistic institutions are compelled to adopt self-regulation mechanisms based on...

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For ethics and social responsibility.

Silvio Almeida (2021) proposes analyzing the media as an integral part of power structures. with the capacity to reproduce inequalities and influence state action. Thus, the Civil liability should not be limited to individual redress, but should also encompass collective and institutional dimensions.

The Supreme Federal Court recognizes that freedom of the press does not have a character... absolute, and cannot serve as justification for the violation of fundamental rights. Abusive use The act of communicating gives rise to objective liability, pursuant to article 927 of the Code. Civil. Therefore, holding the media accountable is an indispensable element in building a A democratic information system, in which the dissemination of information fulfills its function of oversight. social without encroaching on the competence of the Judiciary or disrespecting the dignity of individuals. involved in legal proceedings.

CONCLUSION

The research fully achieved its proposed objective, which was to analyze the influence of the media on application of precautionary criminal measures, highlighting the tensions between freedom of the press, the Judicial impartiality and constitutional guarantees. Throughout the study, it was possible to understand that media activity, while essential in a democratic state governed by the rule of law, can exert significant impacts on the criminal process, especially when exposure is verified. excessive and sometimes sensationalist investigations and accusations.

The investigation demonstrated that, in certain contexts, media coverage contributes for the formation of an environment of social pressure that can influence, albeit indirectly, The role of the Judiciary. This influence becomes particularly noticeable in the context of measures. Precautionary measures, since these decisions involve restrictions on fundamental rights before the final judgment. in the final judgment of the criminal conviction.

The study provided a deeper understanding of the legal aspects of the need. A balance must be found between the right to information and the protection of individual rights. This became evident. that freedom of the press cannot be understood as an absolute right, and must be exercised with responsibility, ethics, and commitment to the veracity of the facts, without compromising the dignity of people involved in criminal proceedings.

The methodological approach adopted allowed for a critical and consistent analysis of the topic. integrating theoretical foundations and the observation of concrete situations, which contributed to a A broader understanding of the dynamics that permeate the relationship between the media and the justice system.

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penal. The use of a dialectical perspective proved fundamental in identifying the contradictions between informational transparency and the preservation of procedural guarantees.

Therefore, it can be concluded that the objective of the study was not only achieved, but also This allowed for the development of a more critical and well-founded perspective on the topic, broadening the debate. Legal considerations regarding the limits of media activity and the need to protect independence. judicial.

Finally, the relevance of this study is highlighted, as it contributes to the Strengthening the democratic rule of law by highlighting the importance of ensuring decisions Judicial decisions guided exclusively by legality and the Constitution, free from external influences. inappropriate. The proposed reflection proves essential for both the academic community and for legal professionals, by encouraging more responsible, ethical and committed practices... justice and the realization of fundamental rights.

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