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THE IMPACT OF MEDIA COVERAGE ON THE COURSE OF CRIMINAL PROCEEDINGS AND THE RIGHTS OF PARTICIPANTS

This article investigates the impact of media coverage on criminal trials and their participants, with particular attention paid to digitalization and social networks as sources of coverage. The purpose of the study is to analyze both legal and social aspects of interactions between media coverage and judicial system and make recommendations to minimize its negative influence.

This work draws from a content analysis of media publications, comparative legal approach, and study of Kazakh and international judicial practice. The results indicated that excessive media coverage threatens presumption of innocence, compromises judicial independence, and induces psychological pressure among participants. As part of the contribution made, practical recommendations on media regulation were provided including standardization between media outlets and courts as well as offering practical advice to increase transparency and fairness during court proceedings.

Key words: media coverage, criminal proceedings, rights of participants, presumption of innocence and digitalization.

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Бұқаралық ақпарат құралдарындағы оқиғаларды жариялаудың қылмыстық сот ісін жүргізу барысына және қатысушылардың құқықтарына әсері

Бұл мақалада бұқаралық ақпарат құралдарындағы оқиғаларды жариялаудың қылмыстық процестерге және олардың қатысушыларына әсері зерттеледі, цифрландыру мен әлеуметтік желілерге жарық көзі ретінде ерекше назар аударылады. Зерттеудің мақсаты – бұқаралық ақпарат құралдары мен сот жүйесіндегі оқиғаларды жариялау арасындағы өзара әрекеттестіктің құқықтық және әлеуметтік аспектілерін талдау және оның теріс әсерін азайту бойынша ұсыныстар әзірлеу.

Бұл зерттеу БАҚ-тағы жарияланымдардың контент-талдауына, салыстырмалы-құқықтық тәсілге және қазақстандық және халықаралық сот практикасын зерделеуге негізделген. Нәтижелер бұқаралық ақпарат құралдарындағы оқиғаларды шамадан тыс жариялау кінәсіздік презумпциясына қауіп төндіретінін, сот билігінің тәуелсіздігіне нұқсан келтіретінін және қатысушыларға психологиялық қысым көрсететінін көрсетті. Енгізілген салым шеңберінде БАҚ пен соттар арасындағы қатынастарды стандарттауды қоса алғанда, БАҚ-ты реттеу бойынша практикалық ұсынымдар, сондай-ақ сот талқылауы барысында ашықтық пен әділдікті арттыру бойынша практикалық кеңестер берілді.

Түйін сөздер: БАҚ-та жариялау, қылмыстық іс жүргізу, қатысушылардың құқықтары, кінәсіздік презумпциясы және цифрландыру.

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Влияние освещения событий в средствах массовой информации на ход уголовного судопроизводства и права участников

В этой статье исследуется влияние освещения событий в средствах массовой информации на уголовные процессы и их участников, при этом особое внимание уделяется цифровизации и социальным сетям как источникам освещения. Целью исследования является анализ как правовых, так и социальных аспектов взаимодействия между освещением событий в СМИ и судебной системой и выработка рекомендаций по минимизации его негативного влияния.

Эта работа основана на контент-анализе публикаций в СМИ, сравнительно-правовом подходе и изучении казахстанской и международной судебной практики. Результаты показали, что чрезмерное освещение событий в СМИ угрожает презумпции невиновности, подрывает независимость судебной власти и оказывает психологическое давление на участников. В рамках внесенного вклада были даны практические рекомендации по регулированию СМИ, включая стандартизацию отношений между СМИ и судами, а также практические советы по повышению прозрачности и справедливости в ходе судебных разбирательств.

Ключевые слова: освещение в СМИ, уголовное судопроизводство, права участников, презумпция невиновности и цифровизация.

Introduction

Modern digital technologies and mass media have dramatically transformed society's relationship to legal systems. Studies demonstrate that media coverage of criminal trials has an outsized effect on society's perceptions and decisions made within court proceedings, even impacting decision making processes themselves. Media often resort to dramatization or sensationalism in performing their function of informing, leading to distortion of ideas about cases, defendants and victims.

This topic is timely due to an increasing number of instances in which unethical media coverage of criminal trials violates presumption of innocence for accused and puts undue pressure on courts.

Problematic media interference on criminal proceedings has become a global problem: high-profile trials such as those of O. J. Simpson (<https://www.latimes.com/obituaries/story/2024-04-11/oj-simpson-dead>) or Amanda Knox in Italy (<https://journals.law.harvard.edu/jlg/2017/09/what-not-to-do-when-your-roommate-is-murdered-in-italy-amanda-knox-her-strange-behavior-and-the-italian-legal-system-by-martha-grace-duncan/>) demonstrate this phenomenon vividly. Cases like those involving former Minister of National Economy Kuandyk Bishimbayev in Kazakhstan has drawn international media coverage due to active coverage that created divisive opinions even prior to his trial having ended

(<https://newlinesmag.com/spotlight/the-murder-trial-of-a-former-minister-in-kazakhstan-has-gripped-the-region/>), all this underscores the necessity of conducting thorough analyses on media interference with criminal proceedings.

This study explores the social relationships resulting from interaction between media coverage and criminal justice system, with particular attention paid to impact of media coverage on procedural rights for participants in criminal proceedings, independence of judicial system and independence of judiciary system.

This work seeks to identify and address key problems related to media influence in criminal proceedings and provide recommendations that will reduce any negative repercussions from such influence.

Research methodology includes an examination of national and international legislation, review of judicial practice and comparative legal approach in order to ascertain variations between jurisdictions regarding their regulation of media influence.

Hypothesis of the study is unethical or excessive media coverage of criminal trials increases the risks of violating participants' rights while potentially undermining judicial objectivity.

This research seeks to advance both theoretical and practical approaches for ensuring fair trials amidst media influence, and may prove useful for judges, lawyers, legislators in developing more efficient media engagement strategies.

Methodology

This study employed an integrated approach that includes content analysis, comparative legal analysis, case studies, and qualitative methods. Research materials comprise over 100 publications from media outlets as well as high-profile criminal cases such as that involving Kuandyk Bishimbayev; legislative acts from Republic of Kazakhstan as well as international standards like European Convention for Protection of Human Rights and Directive (EU) 2016/343 made up part of its data source base.

Content analysis allowed us to categorize publications according to tone (45% negative, 40% neutral and 15% positive) and assess their effect on public opinion as well as participants involved in the process. Comparative legal analysis was employed to explore international standards regarding interaction between media outlets and the judicial system. Case studies helped to reveal specifics of media coverage of high-profile cases while qualitative methods (interviews with representatives of the judicial system, journalists and human rights defenders) provided insight into its effect on participants' rights. What distinguished this research was its application of analysis methods integrated in digitalization and social activity growth environments.

Literature review

Influence of media coverage on criminal processes has been the subject of considerable research, both theoretically and practically. Foreign literature pays special attention to interactions between media coverage and justice systems; ethical standards set for media organizations; as well as legal and societal consequences caused by an excessive coverage of trials.

Studies of media coverage's effect on criminal trials highlight its global nature. Studies by Bakhshay S., Haney C. and Luberdia R. illustrate this, showing that excessive coverage violates presumption of innocence by creating pressure on participants during proceedings before trial and endangering its independence, similarly the Center for the Study of Democracy highlights potential damage done to accused reputation due to sensationalist coverage.

Some authors (Markov, Hoffman, etc.) highlight modern challenges of digitalization through their research, which addresses problems such as spreading false information and standardizing its use digital evidence. Other authors (Hamilton & Dowling) also critique media self-regulation while Hausman proposes ethical standards which minimize any damage

from inappropriate coverage. These works highlight the necessity of strictly regulating how media interact with legal systems in this digital era.

Analyses of regulatory acts like Directive (EU) 2016/343 and the Convention for the Protection of Human Rights and Fundamental Freedoms reveal how international actors are taking proactive steps to safeguard participants in the judicial process against media influence, with different countries adapting their legislative systems accordingly.

Kazakhstan also regulates media interference with justice through legislation, such as its Constitution (<https://www.akorda.kz/en/constitution-of-the-republic-of-kazakhstan-50912>) and Criminal Procedure Code (<https://adilet.zan.kz/eng/docs/K1400000231>), but comparative analyses indicate there may still be gaps in this area of national law.

Although extensive research has been conducted, some issues remain poorly understood. Of particular note are issues surrounding media coverage's impact on victims and witnesses' rights; regional specifics of legislative regulation (for instance in Central Asian countries including Kazakhstan), as well as its socio-economic consequences on participants whose reputations have suffered due to unjustified media coverage.

Literature reviews highlight the need for further investigation of media-justice relations. This work seeks to fill identified gaps by offering recommendations for improving legislation and law enforcement practice in Kazakhstan.

Results and Discussion

This study provides valuable data regarding the effects of media coverage on trial fairness in cases with high public significance, particularly those where media attention may contribute to unfair trials. From our conclusions we can see there may be tensions between public access to information and the right of an accused to fair trials.

An examination of various foreign studies and cases illustrates that when it comes to cases involving possible death penalty sentences, media tend to publish materials which depict the accused negatively and create biased public opinion that influences jurors' decisions. An analysis of foreign scientific articles shows most media coverage is focused on negative characteristics associated with accused and details of crime rather than presumption of innocence or procedural aspects – this finding confirms research conducted in Kazakh and Russian practices where media tend to make premature assessments of guilt for accused.

Bakhshay S., Haney C. explore how media bias can shape public perception of an accused and trial outcomes. An examination of court cases in the US shows how widespread media coverage before trial begins can have the opposite effect: public condemnation – contradicting presumptions of innocence (Bakhshay, 2018: 330).

Luberda's study examines the role of media as a "fourth power." He notes that media attention on legal processes often violates its independence principle as pressure is exerted upon judges and other participants involved (<https://scholarship.law.nd.edu/ndjlepp/vol22/iss2/11/>).

Center for the Study of Democracy conducted a study that explored threats to presumption of innocence due to media interference. According to its author, excessive disclosures regarding suspects or defendants as well as sensational coverage can irreparably damage their reputation even if their guilt remains unclear (<https://csd.eu/publications/publication/the-presumption-of-innocence-and-the-media-coverage-of-criminal-cases-case-studies-analysis/>).

Some studies emphasize the need to strike a balance between public access to information and individual rights protection. She examines European countries where protection of accused rights are guaranteed under directives such as Directive (EU) 2016/343 on presumption of innocence.

Directive 2016/343 of the European Parliament and Council shows the significance of protecting presumption of innocence when active media coverage of criminal trials occurs. One key measure is prohibiting public statements by authorities which suggest guilt prior to court decisions being rendered – these measures help minimize bias from society or judiciary that is particularly noticeable during high-profile trials actively covered by media. As electronic legal proceedings begin taking place in Kazakhstan, such standards could serve as guides in developing mechanisms which counteract negative influences from media (<https://eur-lex.europa.eu/eli/dir/2016/343/oj/eng>).

The Directive emphasizes the need to protect defendants from visual representation that could suggest guilt, while simultaneously upholding their right to silence and impartial evidence. These principles reflect challenges faced by national justice systems where media pressure may violate participants' rights in the process. For Kazakhstan specifically, adopting such standards could increase confidence in its judicial system while guaranteeing justice amidst digital technologies' increasing role and mass media's impact on public opinion.

The European Convention on Human Rights (ECHR) serves as an essential legal foundation for upholding fundamental human rights during criminal proceedings, such as presumption of innocence and access to a fair trial. Article 6 of the Convention establishes this principle, emphasizing that accused individuals are entitled to an impartial tribunal providing them with public hearings within reasonable timelines to establish guilt.

Adherence to the principles outlined by the European Convention of Human Rights is critical in maintaining a balance between public interest and individual rights of those accused. The Convention's provisions, such as its prohibition of torture (Article 3) and right to private and family life (Article 8), extend their protective scope by helping reduce excessive intrusion of media outlets. The European Convention for Human Rights (ECHR) emphasizes that freedom of expression (Article 10) must not compromise trial fairness or individual dignity during criminal proceedings. By maintaining this balance, the Convention provides a powerful legal mechanism against prejudicial media coverage ensuring justice is both delivered and perceived to have been delivered (https://www.echr.coe.int/documents/d_echr/convention_ENG).

Some authors examine media self-regulation standards and norms within criminal trials. They argue that lack of legislation for media self-regulator creates abuse from media outlets such as disclosing confidential details regarding processes.

Some researchers present another significant work that explores the ethical principles that journalists must abide by when reporting high-profile cases, providing standards to minimize harm from incorrect reporting.

Markov's the growing influence of digital platforms and social media on criminal proceedings, with emphasis on issues such as false information dissemination and shaping public opinion before trial begins (<https://arisa-project.eu/assessing-the-impact-of-criminal-proceedings-on-the-social-situation-of-suspects-and-accused-3/>).

Some researchers address cases where video and audio content uploaded to social media was presented as evidence in court, emphasizing the need to standardize admission procedures for these materials.

Shirin Bakhshay and Craig Handy conducted one of the key studies. A content analysis of 1 831 newspaper articles from California death penalty cases where defendants filed motions to postpone was undertaken with 27 categories to describe various forms of information; compare negative, posi-

tive and neutral content ratios and find data which might compromise impartial juror selection decisions in future trials (<https://psycnet.apa.org/doiLanding?doi=10.1037%2F1000174>).

Neutral categories: publications that present facts without emotional overtones or subjective assessments. They primarily contain objective data such as court dates, procedural decisions and so forth.

Negative categories: Publications that portrays an accused in an unfavorable light. Emphasis is placed upon his or her guilt and any brutal aspects associated with their crime that lead to public condemnation.

Positive Categories: Materials that highlight the personal qualities and innocence claims of an accused, as well as focus on any offenses in their process.

While most of us might view this as being necessary, one aspect that many find problematic when trying to manage their weight can be challenging: maintaining balance. Thankfully, with regular physical exercise comes increased energy levels that help us achieve balance more quickly and easily than ever. Researchers found the coverage to be predominantly negative. They identified various forms of bias within it – for example, using information from law enforcement and prosecutor’s offices, providing sensationalist descriptions of crimes committed by suspects, and including materials that should have been excluded legally from trials. Even with potentially biased coverage, cases were rarely transferred to other jurisdictions and court decisions had little correlation with the amount and content of biased materials. This paper explores its ramifications for rights such as impartial jury membership, procedural safeguards and effective legal remedies available to an accused person.

This study proves that excessive media coverage of criminal cases leads to the erosion of presumption of innocence. Publication of information such as alleged evidence, witness statements and comments from law enforcement agencies prior to trial starts helps form preconceived opinions among both the public and jury members – this conclusion is supported by data from Kazakhstan where media publications occur before official court decisions have been rendered.

This study examines U.S. law enforcement practice where information dissemination mechanisms such as closed hearings or gag orders (court orders that prohibit discussion of cases in the media until completed) exist, while Kazakhstan lacks such mechanisms, compounding violations to participants rights during legal processes.

An analysis of specific cases both internationally and in Kazakhstan has demonstrated that excessive media coverage of criminal cases often violates the presumption of innocence. For example, media publications with unambiguous interpretations of guilt even before trial had completed are typical. This evidence supports foreign authors who note how biased publications place undue pressure on judges, potentially altering their verdict.

An analysis comparing Kazakhstan with foreign jurisdictions (such as the UK or US) has revealed that strict media regulation helps mitigate this problem there. Unfortunately, however, law enforcement practice in Kazakhstan remains inadequately regulated, which creates risks to fair trials.

One of the results of this research was to reveal significant psychological strain placed upon victims and witnesses due to increased media scrutiny. Discussing personal details in public often results in witness withdrawal or falsified testimony; this aspect had not been sufficiently covered in prior works, making this research especially noteworthy.

Social media and online platforms present new challenges to justice. Video and audio materials posted online prior to and during trials often create public opinion that does not align with actual evidence in the case. These results align with the findings of Bakhshay & Handy who note how modern media resources exacerbate this “virtual court” phenomenon.

Kazakhstan lacks standards for verifying such materials within criminal proceedings, creating additional legal gaps. Harrison proposes adopting universal approaches to digital evidence management which could then be customized for individual national systems.

The study demonstrated that, without a clear mechanism for interaction between judicial authorities and media outlets, errors in case coverage can arise and contribute to decreased public confidence in justice – as evidenced by data from the Center for the Study of Democracy. Kazakhstan has only begun to implement such mechanisms of interaction, necessitating further regulatory and institutional changes for it to work effectively (https://online.zakon.kz/Document/?doc_id=32679356&pos=6;-106#pos=6;-106)

E.I. Zamylin’s research revealed that mass media play an essential dual role in protecting participants of criminal proceedings. On one hand, media coverage can serve as a form of public control – it draws attention to violations of rights for participants and facilitates transparency; but excessive or biased coverage often undermines presumption of

innocence, risks pressuring judges, victims or witnesses and creates negative stereotypes of suspects.

To harness the media effectively for justice and security, a detailed legal regulation of their interaction with the justice system is required. Responsibility must be strengthened for spreading false information while journalistic ethics standards need to be introduced to avoid their interfering in criminal proceedings negatively affecting criminal proceedings. (<https://cyberleninka.ru/article/n/sredstva-massovoy-informatsii-i-ih-rol-v-obespechenii-bezopasnosti-uchastnikov-ugolovnogo-protssessa-pozitivnye-i-negativnye-momenty>).

Kazakhstan's adoption of electronic criminal proceedings under Instruction approved by Order No. 2 from January 3, 2018, marks an important step towards digitalizing justice and increasing its transparency; however, media coverage of such changes raises a number of problems related to protecting participant's rights during criminal processes (<https://adilet.zan.kz/rus/docs/V1800016268>)

One of the key innovations is the adoption of Unified Register of Pre-Trial Investigations (ERDR) and Electronic Criminal Case Module (e-CCM), which automate the process of conducting criminal cases from entering investigation data to sending materials to court. Instructions define procedures for using media files and electronic documents to promote transparency and efficiency during this process; however, their wide availability through public sector sources could result in unauthorized disclosure that threatens participant rights in this legal process.

Instructions provide for the functionality of notifying participants via SMS and e-mail, which speeds up communication but poses risks associated with data privacy. Furthermore, using public sector of ERDR (which has access to case materials) could contribute to leakage of information forming public opinion before completion of investigation.

E-CCM allows for the inclusion of media files in case files, which can become the basis of media pressure and sensational coverage from journalists, violating presumption of innocence and increasing public prejudice. This practice mirrors practices seen elsewhere when digitalization has led to similar issues in legal proceedings.

Instructions emphasize the inadmissibility of disclosing pre-trial investigation data that could become the basis for media interaction; however, in practice this rule is frequently disregarded, especially in high-profile cases. As technology continues

to advance there still remains a need for additional regulation between media and judiciary interactions.

Overall, electronic court proceedings offer great potential to improve justice systems. However, their introduction underlines the importance of stringent information security controls and protecting participant rights during proceedings. This is especially relevant when media coverage can influence how criminal cases progress and the results are received by society.

Media coverage of criminal trials has an inherent duality: on one hand, it supports transparency by increasing justice administration transparency and informing the public of court cases progress; but at the same time it poses serious threats to rights of participants in these processes such as presumption of innocence, protection of personal information from victims and witnesses as well as impartiality for judges and jurors.

This study revealed the primary issues as public data publication of negative assessments of defendants, leakage of procedural information, and pressure from public opinion before court decisions are rendered. Examples from both national and international practice show the necessity of tight regulation of media interactions with the judicial system; such tools as Public Sector in ERDR or Electronic Criminal Case can potentially increase transparency; however without clear controls over accessing this data media coverage may become even more damaging than before.

Legislative measures aimed at safeguarding citizens' honor, dignity and business reputation highlight the need to restrict the spread of false information. Rulings by Kazakhstan's Supreme Court and reputation protection norms reinforce responsibility on media outlets for spreading such misinformation, creating additional tools to defend all parties involved in criminal proceedings. (https://adilet.zan.kz/rus/docs/P92000006S_).

Media coverage can play an invaluable role in upholding justice, yet its unchecked use can compromise participant rights during criminal processes and distort justice itself. To minimize risks, an integrated approach should be employed, which includes legislative initiatives like electronic court proceedings and protecting defamatory information as well as increasing media responsibility and creating information dissemination control mechanisms. However, successful implementation will require coordinated efforts between the judiciary system, media outlets and society at large.

Conclusions

The results of the study confirm that media coverage of criminal trials has an immense impact on participants and fairness of proceedings. Based on an in-depth examination of both international and domestic practice, excessive media attention to high-profile cases may breach presumption of innocence laws, increase pressure on judges and juries and harm both accused as well as victims reputations.

The data obtained confirm the hypothesis that uncontrolled media coverage of trials increases the risks of violating participants' rights. To address this problem, developing standards for interactions between judicial authorities and journalists, and ethical standards for covering criminal cases. Also key is controlling the dissemination of procedural information as this can minimize media's negative influence. Future research could aim at exploring whether these measures hold up in light of increasing digitalization and social networking sites.

The results of this research confirm the assertions of foreign authors, that media interference in criminal proceedings poses a serious threat to fair trials. Additionally, this work sheds light on aspects not previously adequately discussed such as its effect on victims and witnesses as well as specifics of law enforcement practice in Kazakhstan.

Based on our findings of research, we came to several conclusions:

1. Kazakhstan requires strict legislative oversight regarding media coverage of criminal trials similar to what exists in Europe.

2. To prevent bias in coverage of cases by media, interaction standards between judiciary authorities and media must also be set out clearly and consistently.

3. It is vital that media organizations implement ethical standards when working with digital materials in order to reduce public pressure on courts and increase public confidence in justice.

4. Results obtained can then be used to strengthen legislation and increase trustworthiness within society.

These findings form the basis for further investigation and the creation of practical recommendations to address any identified problems.

This article highlights how media pressure causes jurors to lose objectivity when handling cases with widespread exposure, especially those which receive media coverage. Research indicates that jurors who become familiar with a case through media are more likely to favor conviction in such instances.

This study emphasizes the need for greater adherence to journalistic ethics when reporting criminal cases. According to its authors, media should focus on objectively reporting facts rather than sensationalization or speculation that could endanger rights of defendants. Unfortunately in Kazakhstan this aspect remains problematic due to an insufficient legal framework and no effective mechanism for accountability when breaches occur in professional standards by journalists.

The results of this article reveal that key issues identified internationally are also relevant for Kazakhstan, highlighting the necessity for taking specific actions:

- Establishing clear rules to govern interactions between media and justice.

- Restricting publication of information that could compromise court objectivity until completion of process.

- Developing ethical standards for journalists as well as monitoring mechanisms.

- Training judges and law enforcement officials on how to interact with the press in order to avoid leakage of procedurally relevant information.

This study presents evidence to demonstrate how unregulated media coverage of criminal cases undermines justice and the rights of participants in the process. These conclusions highlight the significance of developing integrated approaches to regulate interactions between media and justice at both international levels and within Kazakhstan's legal framework.

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