



BY RAFAEL HERNÁNDEZ COLÓN

“No man is an island, entire of itself; every man is a piece of the continent, a part of the main; if a clod be washed away by the sea, Europe is the less, as well as if a promontory were, as well as if a manor of thy friends or of thine own

were; any man’s death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee.”

—John Donne, from *Meditation 17*, in *“Devotions upon Emergent Occasions”*

A conversation with my barber last Friday brought this poem by John Donne to my mind and prompted me to write this column. Like most barbers, my barber strikes up a conversation when you sit in her chair to get a haircut. This time, she brought up the ongoing investigation of the murder of Carmen Paredes. She carried on for quite a while, analyzing the facts of the case as she has come to know them through the information she has received from the media. She was convinced Pablo Casellas was responsible for the murder of his wife and passionately argued the case against him as if she were a prosecutor before a jury.

I wasn’t in Puerto Rico when this investigation got off the ground, but when I returned I promptly perceived that public opinion was against Pablo Casellas. It has been three weeks since I have been back, and I have witnessed the most intensive negative media coverage of this case communicating bits and pieces of an investigation supposed to be confidential. Other recent cases also have received broad coverage. In this case, however, the coverage differs from the others. It is focused on a single suspect and is a continuously orchestrated buildup of public opinion through different elements of circumstantial evidence. It also is happening at election time. Having several voting rounds with unsolved murders and citizen insecurity as a key issue for the government administration sets the overarching framework in which this continuous flow of negative information is deposited in the collective psyche.

Since I have been back, I haven’t found one single person, who doesn’t know Pablo Casellas personally or his family, who thinks he is innocent. I also haven’t found a single person who has communicated to me any concern about the fact that, if he is accused, the state of public opinion created in Puerto Rico by the media will make it impossible to find a fair and impartial jury to

For whom the bell tolls

judge the prosecutor’s case against him and decide the case on an objective basis according to the evidence presented in court.

This is what reminded me of John Donne’s poem, and of Ernest Hemmingway, who borrowed a phrase from Donne’s poem and used it as the title of his novel based on the Spanish Civil War: “For Whom the Bell Tolls.” When the amount of negative media coverage on a suspect of a crime saturates public opinion in such a way that it makes it impossible to find jurors with an

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open mind to try the person in court, then we have trespassed on a basic right in our democracy. No one is above the law in our democracy but everyone should be convicted according to due process of law, and this requires an impartial jury to hear the evidence and decide upon it.

Conviction by public opinion, which makes a trial in court a pro forma exercise, is the stuff of

fascist and authoritarian states. It also allows for shoddy prosecutions. If Pablo Casellas is indicted and an impartial jury can’t be found to hear the case against him, but the situation is fuzzed over by prosecutors while media pressure brings a conviction against him, we will have started to walk down a slippery slope that can have dire consequences for civil rights in Puerto Rico. It can set a very dangerous precedent and can be a game changer.

The right to a fair trial lies at the very heart of our democratic system of government, as does freedom of the press. But one’s rights end where the other’s begin. So they must be balanced for a free society to function effectively. In a fair trial, the determination of the facts in the case depends solely on the evaluation of the evidence tendered to the jury by the prosecution and defense. The burden is on the prosecution to establish guilt beyond a reasonable doubt. The jurors should give no weight to information about the case received from outside the courtroom and no deference paid to the opinion about the case by outside commentators.

If Pablo Casellas is accused, the court will have a daunting task of providing a jury that hasn’t already formed opinions on the evidence brought before the Court of Public Opinion by the media.

Serious studies on pretrial publicity undertaken elsewhere have found that its effects can find their way into the courtroom, can survive the jury selection process, can survive the presentation of trial evidence, can endure the limiting efforts of judicial instructions, can persevere through jury deliberations, and even harden through them.

These effects are even more sanguine in Puerto Rico’s insular environment with its massive media infrastructure. When the media hones in on a particular case, such as it has done with Pablo Casellas, steps must be taken to produce jurors free from the effects of the pretrial publicity that has preceded the case. Leaks should be plugged. Trial coverage should be given special attention so that we don’t have a different trial going on in the Court of Public Opinion than we have in the Court of Law. Otherwise, there will be no fair trial. If there is no fair trial, and we fall on the slippery slope, then we should “never send to know for whom the bell tolls; it tolls for thee.” ■

Rafael Hernández Colón is a three-term (12-year) former governor of Puerto Rico (1973-76 and 1985-92). He served as Justice secretary (1965-67) and Senate president (1969-72). He was president of the Popular Democratic Party for 19 years. Comments on this article are welcome at caribbeanbusiness.pr. Go to the “Sign in” link on the homepage to participate. Emails also may be sent to column@caribbeanbusiness.pr.