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Popular Documentary Exposes Deeply Flawed Judicial System

by Carlos Navarro

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Rarely has a documentary film caused so much commotion in Mexico as has (Presumed Guilty), which exposed a deeply flawed and often unfair judicial system, but its release also examines freedom of expression and the right to privacy. The documentary, produced by attorneys Roberto Hernández and Layda Negrete, follows the case of young street vendor José Antonio Zúñiga Rodríguez, convicted in 2005 for a murder he did not commit.

The movie was a big hit throughout the country, with Mexicans flocking to movie theaters since its release on Feb. 18. By some accounts, this movie is already considered the most successful documentary ever shown in the country. As of mid-March, at least 1 million people had seen the movie in Mexico.

The documentary has gained wide recognition, already earning awards at movie festivals in Guadalajara, Morelia, Los Angeles, San Francisco, Budapest, Madrid, and Dubai.

Man imprisoned for murder he did not commit

Several controversial issues surrounded the movie, which might have contributed to its popularity. First and foremost, the documentary exposed a deeply flawed judicial system that easily placed a man in prison on incomplete and weak evidence. The accused, Toño Zúñiga, was sentenced to 20 years in prison for the murder of Juan Carlos Reyes Pacheco, although there is evidence he was far from the crime scene at the time the killing occurred.

Hernández and Negrete put together the documentary using videotapes of actual public proceedings as well as interviews in prison with Zúñiga and other witnesses. "The docudrama walks viewers step-by-step through faulty paperwork and sketchy evidence and brings a camera into places almost impossible to film in Mexico," said a description in .

Zúñiga was granted a new trial after an appeal. In the trial, which was part of the documentary, the accused is allowed to question his accuser, Víctor Reyes Bravo, who admits that he did not see who actually pulled the trigger. A judge upheld the original sentence despite Reyes Bravo's testimony and other evidence that Zúñiga's rights were violated in the first trial.

The movie producers managed to ensure that the case was brought before the Tribunal Superior de Justicia del Distrito Federal (TSJDF), the highest court in Mexico City. After viewing some of the documentary footage, the justices ordered Zúñiga's release from the Reclusorio Oriente prison in Mexico City. "Zúñiga was set free only after the movie producers showed scenes of the new trial to the tribunal," said columnist Francisco Gómez Maza in the online publication .

The film contained some very revealing scenes.

"A surreal 'courtroom' revolves around a tiny desk with a computer where a stenographer records witness and lawyer statements after they are repeated phrase-by-phrase by a judge. In this paper-based trial, the prosecutor refuses to discuss what she's already submitted in print," said .

In the film, Zúñiga discusses how he was not immediately told why he was being charged, nor was he read his rights. "They told me that you were the one, and that's final," Zúñiga says in a trailer for the documentary.

The movie also confirmed the sloppy work by law-enforcement officials and prosecutors. "We found a list of witnesses who saw Toño in a different place," one of the narrators says in the movie trailer.

Zúñiga said the arrest took him by surprise, as the police officers who detained him grabbed him from behind. "At the moment of my arrest, I thought I was being kidnapped," he said in an interview posted by UniversalTV, a video service provided by the Mexico City daily newspaper .

But even more importantly, the documentary pointed to one of the overriding problems with Mexico's judicial system. "The problem is that, in Mexico, one is forced to have to prove innocence," said a voice-over for the trailer.

"This movie exposes a system that does not work anymore and does not serve Mexicans," anti-crime activist Alejandro Martí told UniversalTV.

"This documentary created a consciousness among the Mexican public that was far beyond the expectations of the producers," said the blog La Comidilla. "People now realize that this type of situation could happen to anyone who is detained in our country."

While the Mexican public applauded the bold move to expose Mexico's judicial system, some observers pointed out that the case revealed another one of its major flaws: the lack of prosecution of criminals. By some estimates, 98% of crimes in Mexico are not resolved, including the killing of Reyes Pacheco. "Six years after the fact, no one knows who really killed Juan Carlos Reyes Pacheco," columnist Gerardo Galarza wrote in the Mexico City daily newspaper . "This is called impunity."

Freedom of expression, privacy issues also raised

Other problems were related to the actual showing of the documentary. Just weeks after the movie was released, Federal Judge Blanca Lobo Domínguez ordered that all showings of the movie be halted because of a lawsuit filed by witness Víctor Reyes Bravo against directors Hernández and Negrete. Reyes, who is the cousin of the victim, said he had not given his permission to appear on film.

The film producers countered that Reyes Bravo was taped while in public hearings and no special permission was necessary. "We see this as an attempt at censorship, an attempt to block the exhibition of a movie that all Mexico must see," Hernández said in a radio interview.

Judge Lobo's order on March 2 forced the distributor, the Cinépolis chain of movie theaters, to temporarily stop showing the film. But the chain immediately filed an appeal, allowing theaters to resume showing the documentary.

On March 15, a panel of judges, which included Lobo, issued a mixed ruling. On a positive note, the court upheld the right of the producers and Cinépolis to show the film. "This might very well become a landmark case on freedom of speech and censorship in Mexico," said Pablo Jiménez, an attorney for Cinépolis, which plans to donate profits from the film to legal-defense efforts in Mexico.

But there were conditions to the ruling. Lobo ordered that producers blur the face of Reyes Bravo to conceal his identity. The filmmakers replied that they would not comply with the court order. "We will not do it," a defiant Negrete told reporters on March 16.

Cinépolis, which criticized this decision as "unusual, inconsistent, and illegal," filed another appeal contesting Lobo's requirement.

Lobo responded on March 23 by giving the director of the radio, television, and cinematography unit at the Secretaría de Gobernación (SEGOB) 24 hours to demonstrate how her ruling was being enforced.

"It is not clear what action the judge will take if the producers insist on not blurring Reyes' face," said the Mexico City daily newspaper Reforma. But in theory, she could order once again that the movie be withdrawn from movie theaters."

-- End --