



NO RIGHT-TO-KNOW

It looked as if Spain was getting set to pass a law mandating the public's right-to-know, but the legislation is missing in action.

By Richard Schweid.
Illustration by Kat Cameron.

Ask Spaniards if they have a free press and most will answer yes. After all, since General Franco died in 1975 there has been no outright press censorship by the government, as there was for the 36 years of his dictatorship. But, ask Spanish reporters if they are free to cover stories about how their government operates and the conversation will soon turn to Spain's lack of freedom-of-information legislation, or what are known in America as sunshine laws.

The lack of access to information is the single greatest barrier to a press aspiring to be the eyes and ears of the Spanish citizenry. Currently, public officials are under no legal obligation to open their books, reports or statistics to inspection, and requests for them to do so, whether from citizens or journalists, are routinely denied or ignored. Reports prepared with public funds on everything from nursery inspections to crime statistics are available only to those who can prove a "need to know" and a direct relationship to the information.

Luxemburg, Cyprus, Malta and Spain are the only four of the 27 EU countries still without a law establishing the public's right-to-know. That appeared set to change in Spain when in August 2010, the Socialist government published a draft legislation recognising the public's right to access a wide range of information, and establishing guidelines for enforcing that access. Such a law has been promised since 2004, but this was the first time it was initiated. The draft legislation was strong: public agencies would have 30 days to respond to requests for infor-

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mation, and in most cases would be obligated to provide it. The law would, for the first time in Spanish history, mandate the public's right-to-know.

But, since the August release of the draft law, nothing has been done to move it through the legislature. Helen Darbishire, the director of Access Info, an NGO that has campaigned for a right-to-know law in Spain since 2006, said from her office in Madrid, that she's not holding her breath for it to become law. "At the moment [November 2010], they say it is "paralysed". Certainly, if there's no outside pressure it wouldn't surprise me if it doesn't turn up again. There doesn't seem to be a lot of political will to adopt it."

The legislation is not paralysed, according to the government, but rather in a modification process. Félix Monteiro, the Spanish Secretary of State for Communication, said: "We proposed it, and then we realised we hadn't taken some things into account. We're trying to work out the level of information and training to give the administrations of the autonomous regions and the municipalities. This law will apply only to Spain's central administration, but you also have to think that citizens will demand precise information about the things nearest to their homes. We want this law to work as an encouragement to the other public administrations to open themselves. There is a wide disparity between the size and capacity of regional and municipal governments, and we're trying to map out how that can work.

"This is a basic law in the general interest and, as part of a transformative group of laws, it will modernise the country. The government is committed to seeing this become law, certainly before the end of 2011. We see it as key to democratic behaviour and the opening of the public administrations."

Without a right-to-know law, investigative journalism in Spain is virtually nonexistent. The only exceptions are provided when opposing party members provide the press with tips about one another. Even in countries where public access is broad, investigative journalism takes time, and is labour intensive, making it a hard sell to media anywhere struggling through a great recession. Add to that the difficulties in accessing even basic data and it is not surprising that the Spanish media rarely break stories.

"We're very handicapped by the lack of access to information," Lola Galán, a reporter for the Sunday edition of *El País*, said "It can be highly labourious here just to get crumbs, fragments of data. It all depends on the goodwill of the interlocutor in the ministry, but journalists are systematically denied the most irrelevant data, things that in no way involve something like national security. There's a huge shortage of investigative journalism here. »

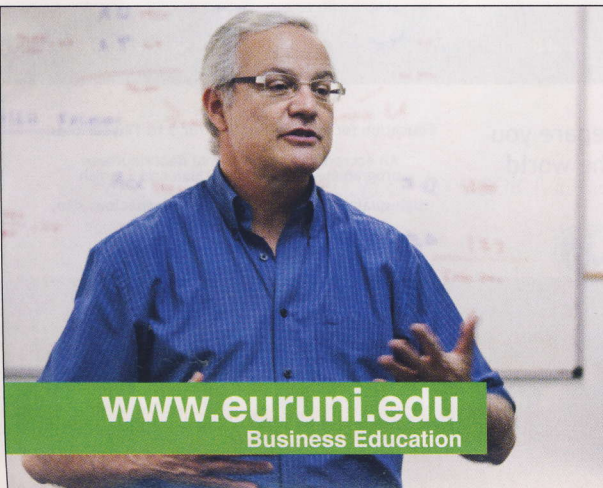


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It's expensive, hard work, and apart from that, there is no tradition of transparency in this country."

Skeptics point out that a right-to-know law will not guarantee that editors and publishers will use material, even if an industrious reporter digs it out. Spain's other big journalistic challenge—its highly politicised press—may be another limiting factor. Television, radio and newspapers, at national, regional and local levels, are generally aligned with a political party and this is frequently reflected in their news content, as well as on their editorial pages. In addition, media are often beholden to public administrations for funds. For instance, the Generalitat, in its efforts to encourage the use of Catalan, provides large subsidies to media in Catalan. Depending on their circulation, newspapers that publish in Catalan can receive more than a million euros a year from the Generalitat. Catalunya's public radio and television network received some €350 million from the Generalitat in 2010. Not surprisingly, such a subsidised media is highly reluctant to root out and reveal wrongdoing in the Generalitat.

Xavier Mas de Xasàs, a reporter with Barcelona's daily, *La Vanguardia*, said that most journalists today would not use a public access law, because their employers do not want them doing these kind of stories. News content, or lack thereof, is too strongly politicised, according to Mas de Xasàs, who was *La Vanguardia's* Washington correspondent from 1995-2002. "In Spain, the control of the media by political parties is a natural control now, the political powers don't even have to strain to maintain it. It's the media themselves that want to be controlled, because the state keeps them alive."

It was not always so, he lamented. "After Franco died, during the transition to democracy, there was a lot of energy put into informing and investigating. The people were demanding transparency. That all lasted until the mid-1980s, but it has disappeared. How could we have gotten to where we are today? It's a failure of the profession and the society."

Mas de Xasàs does, however, see a glimmer of hope in the handful of young bloggers across Spain who are beginning to publish investigative work at sites like *notecalles.info* or *wikidiario.info*, both of which he helped to establish. A new transparency law, coupled with a no-cost place to publish and a potentially huge audience, could create a new generation of investigative journalists. "Anybody that comes along with the kind of journalism that really informs the public is going to devour the Spanish market," he said. "If they begin to report and inform in the Anglo-Saxon style, simple and direct, using contrasting sources in well-structured and well-written pieces, [it] would be a huge hit. There's a market waiting." ■

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