



Philippines: Cyber-libel conviction of Maria Ressa and Reynaldo Santos a blow to freedom of expression and media online

Today, the ICJ condemned the prosecution and conviction of journalists Maria Ressa and Reynaldo Santos, Jr. after the Manila Regional Trial Court found them guilty of cyber-libel for an article published on the news website Rappler. The ICJ called for the judgment to be reversed on appeal.

The ICJ also called on the Philippines to reform its laws to remove the possibility of criminal sanction for defamation and libel offenses, in line with its international legal obligations. The ICJ recalled that imprisonment for such offenses is never permissible.

“The guilty verdict is a new low for the Duterte administration, and adds to an atmosphere of intimidation that creates a chilling effect on online expression, especially for journalists seeking to hold the government to account,” said Frederick Rawski, ICJ Asia-Pacific Director. “The conviction is not only a miscarriage of justice in this particular case; it also sets a terrible precedent for the use of criminal defamation laws to prosecute speech online in the Philippines and elsewhere in the region.”

Ressa and Santos were convicted pursuant to Section 4(c)(4) of the 2012 Cybercrime Prevention Act (CPA), and sentenced to imprisonment of up to six years and a fine of PhP 200,000 (approx. USD 4,000). Ressa is the executive editor of Rappler while Santos was the author of the article. Ressa’s conviction comes after years of legal harassment, forming part of a pattern of attacks upon the press by the Duterte government and placing the Philippines in violation of the right to freedom of expression under the International Covenant on Civil and Political Rights (ICCPR), to which the Philippines is a party.

The charges involved an article first published in May 2012 on the Rappler website, months before the CPA was enacted in September 2012. The article reported on businessman Wilfredo Keng’s alleged involvement in “human trafficking and drug smuggling.” Keng initiated the criminal proceedings against Ressa and Santos in October 2017, five years after the article was published.

However, the trial court considered the article to have been “republished” on 19 February 2014 when Rappler updated the article on its website to fix a typographical error. Further, since the CPA does not expressly mention the prescriptive period, the trial court held that Republic Act No. 3326 applies, which provides a 12-year prescriptive period for offenses punished under a ‘special law’ such as the CPA. In contrast, ordinary libel under the Revised Penal Code carries a one-year prescriptive period.

“Regardless of the merits of the case, criminal sanction involving imprisonment must never be imposed for defamation,” said Rawski. “On top of this general consideration, the judgment even sets a dangerous precedent by expanding the prescriptive period and ‘publication’ requirement for the crime of libel, contradicting well-established protections against *ex post facto* laws and that any ambiguity in penal laws must be resolved in favor of the accused.”

The right to freedom of expression under Article 19 of the ICCPR [extends](#) to political discourse, commentary on public affairs and journalism. The UN Human Rights Committee,

the supervisory body for the ICCPR, has called on States to abolish existing criminal defamation laws and reserve defamation for civil liability. The Committee concluded in 2012 that the Philippines' criminalization of defamation, including under the CPA, breaches its obligations under the ICCPR. Article 15 of the ICCPR also prohibits the prosecution of persons for acts that were not considered a crime at the time of commission.

The Committee and the UN Human Rights Council have affirmed that these safeguards apply online as well as offline, as Article 19 protects expression regardless of frontiers and through any media of one's choice. The UN Special Rapporteur on freedom of expression has consistently called for decriminalization of defamation as a criminal offence, which is inherently harsh and encourages self-censorship.

Contact

Emerlynne Gil, Senior International Legal Adviser, +662 619 8477 (ext. 206),
[emerlynne.gil\(a\)icj.org](mailto:emerlynne.gil(a)icj.org)

Background

The CPA was enacted in 2012 and was soon challenged before the Philippine Supreme Court. In 2014, the Supreme Court declared unconstitutional several provisions of the CPA but notably upheld Section 4(c)(4) on libel committed through a "computer system" or similar means with respect to the original author of the post. The Supreme Court also upheld the provision imposing a prison penalty one degree higher than that for ordinary libel under the Revised Penal Code.

In 2008, the Supreme Court provided a rule of preference for all lower courts to impose a fine rather than imprisonment for the crime of libel, in the absence of legislative amendment decriminalizing defamation and libel laws in the Philippines.

The verdict comes at a time when press freedom seems to be under attack in the Philippines. In May, the ICJ denounced the National Telecommunications Commission order forcing ABS-CBN, the largest media network in the Philippines, to go off-air. President Rodrigo Duterte has repeatedly threatened the closure of both Rappler and ABS-CBN since he assumed office. Apart from this cyber-libel case, Rappler faces several other cases for alleged tax evasion and mass media foreign ownership violations. Both media outlets have aired views critical of President Duterte's "war on drugs," which has reportedly claimed thousands of lives.

In June, the UN High Commissioner for Human Rights released a report on the ongoing human rights violations in the Philippines, including attacks on the press. Among others, the UN High Commissioner particularly urged the Philippine government to:

- Ensure that the rights to freedom of expression, association and peaceful assembly are respected and protected;
- Drop politically-motivated charges against human rights defenders, political opponents, journalists and media organizations, legal and judicial officials, trade unionists, church workers, and others;
- Take legal measures to ensure their protection, particularly following threats, including of gender-based violence; and
- Ensure there are no reprisals against those persons and entities which have engaged with OHCHR for the present report.

Related work

[Report: Curtailing Free Expression, Opinion and Information Online in Southeast Asia](#)

[Philippines: order to major media outlet to stop airing violates freedom of expression and access to information](#)