

IPI PRESS FREEDOM MISSION TO THE PHILIPPINES

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Mission Participants

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Introduction

Between 20 and 23 September 2011, a delegation from the International Press Institute (IPI) travelled to the Philippines to assess the state of press freedom and discuss concerns with representatives of the media, the government, and other relevant institutions.

For many years the Philippines has been among the most dangerous countries for journalists. Attacks against journalists in retaliation for their reports are not only common but usually remain unpunished.

According to the IPI Death Watch, 99 journalists were killed in the Philippines between 2000 and 2010, most probably as a consequence of their journalistic activity. Most of the journalists killed in the line of duty were based in the provinces. The southern Philippines island of Mindanao registered the highest number of work-related killings, followed by Luzon and the Visayas. In what is broadly considered the most infamous single media killing case, on 23 November 2009 32 journalists who joined an electoral convoy were massacred in Maguindanao province.

Convictions in the killings of journalists are extremely rare in the Philippines. The outcome of this situation is a perception by those who want to silence journalists who expose corrupt or other illegal activities that murder is the easiest option and they will most probably never be brought to justice. Legal steps to address reports perceived as offensive are time-consuming and may not bring about the desired results.

Failure to convict the killers of journalists promotes self-censorship on critical,

sensitive issues, and thwarts investigative reporting.

The nine years of President Gloria Macapagal Arroyo's government between 2001 and 2010 were the bloodiest for Philippines journalists since the restoration of democracy in 1986. The Philippines Centre for Media Freedom and Responsibility (CMFR) counted 79 cases of journalists and media workers killed during Arroyo's administration, and hundreds of murders of human rights workers and political activists. By the end of Arroyo's administration, only five out of 79 cases had been resolved, and only partially.

When Benigno Aquino III was elected president of the Philippines in 2010, promising to ensure respect for press freedom and bring an end to impunity, many observers hoped that a new era would begin, in which the problem of violence against journalists would be addressed seriously and with a view to implementing the necessary reforms to stop the killings.

Unfortunately, over one year after Aquino came to power, journalists continue to be killed, the country's justice system remains unequal to the task of bringing perpetrators of crimes against journalists to justice, and even the prosecution of the perpetrators of the infamous Maguindanao massacre has been extremely slow and has not about brought the desired results, in spite of the broad attention and resources the trial has received.

Amidst growing disappointment among journalists groups, who had been waiting for a strong sign of the president's stated intention to bring an end to violence against journalists, the IPI mission met with high representatives of President Aquino's office as well as of his administration's justice and interior departments to review ongoing reforms aimed at fighting impunity and to underscore the importance of prioritising reforms aimed at stopping violence against journalists.

"We need to change the climate of impunity," a senior Philippines journalist told IPI. When a journalist is killed, "it is not enough for the President to issue a statement. IPI should hold him accountable."

While attacks against, and killings of, journalists remain the most serious concern in the Philippines, as they inevitably lead to self-censorship and the loss of public interest information, other problems affect Philippines journalists and their ability to practise their profession.

Defamation is a criminal offense in the Philippines and has been widely misused against journalists there. During the government of former President Gloria Macapagal Arroyo, her husband Miguel Arroyo filed 43 complaints seeking a total of 70 million Philippine Pesos (approx. 1.2 million euros) against editors, publishers and reporters in 2006 and 2007 alone. It is the highest number of defamation cases that a single person has filed against journalists in the Philippines. But the practice is widespread and has continued during the current government.

Convictions for criminal defamation, under which truth alone is not a defense, can result in a jail term of four years. While very few charges result in convictions and

the courts tend to express judgments in support of the right to freedom of expression, the economic burden of a legal defense in cases which are often drawn out over many years can pose an existential threat for smaller publications, and induces self-censorship among journalists who do not want to risk having criminal charges filed against them.

Also of great concern to journalists working in the Philippines is the government's failure to ratify a Freedom of Information bill, which has been pending in Congress since 2001.

In February 2011, President Aquino stated that he wanted the proposed bill revised, which is the reason he says he did not include the FoI bill on the list of priority measures that the Palace wants lawmakers to fast-track. Aquino said that, while he did not want to hide anything that is of public interest, he was also not comfortable with the notion that all "raw information" on government affairs should be made public, ABS-CBN News reported.

In meetings with journalists and press freedom organisations in Manila, the IPI delegation also discussed concerns about the quality of journalism in the country and the frequent charge that media reporting in the Philippines, in particular in the regions outside Metro Manila, lacks professional and ethical standards.

However, suggestions that this lack of professional standards is at the root of attacks against journalists have been rejected by press freedom groups in the Philippines and around the world. State institutions, they stress, must ensure that journalists are able to carry out their work without fear of being attacked.

Findings of the IPI Press Freedom Mission to The Philippines

1. Attacks against journalists: murders and impunity

The issue of violence against journalists, and the impunity that characterises it, were at the centre of discussions that IPI participated in during its mission to the Philippines.

In a media landscape generally perceived as free and diversified, the shockingly numerous killings of journalists and other civil society actors, and the state's even more disturbing complete failure to do anything to stop the killings, have not only affected journalism in the country but contributed to an international image of the country as an immature and imperfect democracy.

In various meetings, IPI sought to analyse the different aspects of attacks against journalists and the impunity connected to them, including:

- Reasons behind the attacks against journalists
- Weaknesses in the police investigation process
- Weaknesses of the judicial process and failure to convict perpetrators

A. Reasons Behind Attacks Against Journalists:

Since democracy was restored in 1986, when the People Power Revolution toppled Dictator Ferdinand Marcos, journalists have been killed in the Philippines with chilling regularity. Some 145 journalists have been killed in the line of the duty in the Philippines since 1986, a respected senior journalist told the IPI delegates in Manila.

During the nine-year government of President Gloria Apagal Arroyo, widely considered the bloodiest years for journalists in the country, IPI counted a total of 95 journalists killed because of their profession, including the 32 journalists killed in the Maguindanao massacre, while in a convoy accompanying representatives of an opposition candidate for local elections in the Maguindanao province.

The IPI mission to the Philippines sought to identify the root of the problem and analyse why the Philippines, in spite of comparatively well-established democratic institutions by regional standards and years of international focus on the issue of violence against the media, continues to be among the countries with the highest number of murders of journalists.

Representatives of media and civil society generally agreed that widespread impunity was perpetuating violence against journalists. A journalist told IPI that of the 145 journalist killings since 1986, only seven cases had been solved by police – with the perpetrators brought to justice. Although the killers were jailed, in most cases the masterminds were never identified.

“President Aquino has pledged to reverse the nation’s record of unpunished, anti-press violence,” a media executive told IPI, before adding that a number of elements would render the task a difficult one.

He added that incompetence and corruption [on the part] of the investigators; threats and bribes targeting witnesses; a weak justice system; negligence [on the part] of government officials in investigating and prosecuting such crimes; lethargic processing of cases by the office of the Ombudsman; and trial delays prompted by legal maneuvering were the main obstacles to bringing perpetrators to justice.

Numerous people IPI met in Manila identified incompetence among police forces, corruption [on the part] of both policemen and the judiciary, and bribery of witnesses as the core reasons behind impunity.

Opinions differed, however, as to whether the situation had improved during the administration of President Aquino III. One journalist said: “Aquino has not shown any radical change or departure – in terms of policy – from the last administration.” Others expressed confidence that Aquino’s intention to end impunity was sincere and may still offer positive results.

Aquino’s spokesman, Edwin Lacierda, told IPI that bringing the perpetrators of the Maguindanao massacre to justice had been a top priority of the current

administration.

“The President has said that this case is a litmus test for the Philippines government,” Lacierda told IPI.

On 23 November 2009, 32 journalists in a convoy travelling to the town of Ampatuan in Maguindanao province, on the island of Mindanao, with mayoral candidate Esmael Mangudadatu (who was due to challenge Mayor Andal Ampatuan) were killed. A total of 58 people were slain.

Andal Ampatuan Jr., Andal Ampatuan Sr., and several other members of the Ampatuan clan have been charged with murder. However, in September 2010 the *Philippines Daily Inquirer* quoted Sen. Joker Arroyo as stating that, “with nearly 200 defendants and 300 witnesses listed by the Department of Justice in the multiple murder case against the Ampatuans, [...]it could take 200 years for justice to come to the victims of the Maguindanao massacre”.

While most representatives of media and civil society with whom IPI met in the Philippines agreed that impunity was fuelling violence against journalists, others, including top representatives of the interior and justice departments, told IPI that unprofessional and unethical journalistic practices were prompting the violence.

“Some people get angry about the way media portray people [...] and take matters into their own hands,” Jesse Robredo, Secretary of the Department of Interior and Local Government told the IPI delegates.

Robredo also pointed out that journalists, in particular outside Metro Manila, often carried out other activities besides journalism, and police investigations in some cases had shown that their murders were in connection with those activities rather than their reporting.

“Of the 28 murders of journalists since the president took office, nine cases have been linked to their [journalistic] work,” Aquino’s spokesperson Lacierda told IPI in July.

The practice of ‘block-timing’, which is widespread in the Philippines, is also perceived as problematic by different representatives of the Philippines government and media. Block-timers are radio announcers who buy air time with a view to broadcasting their own programmes, without the editorial supervision of the radio station that sells the airtime. Attacks against them are comparatively high.

Block-timers are generally not trained journalists and tend not to employ a journalistic methodology in reporting on issues of concern. Their programmes are often interpreted as personal attacks on powerful local people, and they are frequently attacked.

Journalist groups in the Philippines, while underscoring that any attack against a block-timer is a violation of freedom of expression, have also expressed concern that the practice of block-timing undermines standards of journalism, as some

block-timers are paid by political parties or other powerful groups.

Journalists' associations in the country have often called on block-timers to fully disclose the nature of their programs, to be transparent about any political funding, and to observe ethical norms for the broadcast news media.

One journalist even told IPI that he believed that "there is a direct connection between bad journalism and attacks against journalists in the Philippines".

While acknowledging the importance of high standards of journalism, the promotion of which is among IPI's core goals, the IPI delegation also stressed that the right to press freedom exists independently from ethical standards and professional norms and that attacks against any kind of media and journalists erode press freedom and independent reporting.

Under strong international pressure to address the issue of attacks against journalists, the government of President Arroyo on 13 May 2006 set up the Task Force Usig (TFU), with a mandate to investigate political killings, including those of journalists, in the Philippines.

Five years later, observers agree that the TFU has not been effective in solving attacks against journalists or other extrajudicial killings.

During the Arroyo administration, critics stated that since the TFU was comprised solely of members of the police it was unlikely that it would hunt down members of the police or of the military - with which the police closely cooperate - suspected of extrajudicial killings.

B. Weaknesses in the Police Investigation Process

Government and independent observers who spoke to IPI generally identified a serious lack of forensic skills and a degree of corruption among police forces as the main reason for the failure of police investigations into attacks against journalists.

"Much of the issue is that police are incompetent; also, a number of suspects are police officers themselves," a journalist told IPI, adding that even when the police were successful in identifying a suspect and pressing charges, and handed over the case to the Department of Justice, there was a general tendency to consider a case closed once charges were pressed.

Manila-based representatives of the European Union, who are currently running an EU-funded programme aimed at addressing the problem of extrajudicial killings by enhancing the capacity of the criminal justice system, told the IPI delegation that less than 5% of Philippines' police force had received any kind of training on how to conduct an investigation. The reason generally given for this lack of training was a scarcity of resources, which led the EU to become involved with a programme under which 3,000 police officers have been provided basic investigative skills.

Additional activities carried out as part of the EU-Philippines Justice Support Programme (EPJUST) aim at increasing understanding between police investigators and public prosecutors by showing the extent to which their work is interlinked, and that the successful outcome of any prosecution is greatly dependent on the information and the evidence provided by the investigators to the prosecutors.

Representatives of the EPJUST programme in the Philippines told IPI that meetings with representatives of both sides had often been “eye-opening” both to police investigators and public prosecutors.

In terms of police skills, the problems identified by the EU representatives were: poor investigations; a complete lack of forensic capacity; and an over-reliance on testimony.

Other journalists and civil society representatives also raised concerns about incompetence, corruption and bribery among the police.

In response to these allegations, Interior Secretary Jesse Robredo told IPI that the police were doing their job and that charges had been filed in five of the nine cases of journalists killed in connection with their work since President Aquino came to power.

Robredo also appeared to agree with concerns expressed by journalists and press freedom advocates that once suspects were charged with a crime the case was considered closed and that those responsible for the crime were only rarely convicted.

“In so far as how fast the wheels of justice are, it’s a little slow,” Secretary Robredo told IPI.

In addition, a representative of the EPJUST programme noted that when police carried out investigations leading to charges being pressed against key suspects, the police investigation information handed over to the prosecution was often so poor that it was extremely difficult to convict anybody. Evidence was often corrupted due to a lack of forensic skills and important information that would have allowed the prosecution to build a strong case against a suspect was often missing.

Representatives of the Philippines Centre for Media Freedom and Responsibility (CMFR) told IPI that they had long been advocating for a stronger Witness Protection Program and the creation of a Quick Response Team (QRT) to address attacks against journalists. Such a team would have to be multi-sector and include representatives of the police, lawyers, and advocates from civil society, CMFR suggested. “The creation of such a team would be an important sign that the current administration is willing to implement reforms to find a speedy solution to the problem of violence against journalists,” CMFR told IPI, noting that the proposed team would have to be under the direct supervision of the president’s office.

In a meeting with Interior Secretary Jesse Robredo and Police Chief Superintendant Clarence Guinto, members of the IPI delegation noted the extent to which investigative journalists could support the country's justice system if allowed to work independently and free of harassment. IPI also stressed the importance of an exchange of information between police investigators and investigative journalists, as long as this was done in full respect of journalists' right to keep their sources confidential.

In response to this, Secretary Robredo suggested that Atty. Guinto come up with a plan to establish a hotline through which members of the media could inquire about the state of investigations into attacks against journalists. Robredo also suggested that updated information about each media-related case investigated by police be posted on the DILG website.

C. Weaknesses of the Judicial Process and Failure to Convict Perpetrators

Both civil society and government representatives agreed that the most problematic element of the justice system were the courts.

"Courts are the real problem," one journalist told IPI. "There is a backlog of cases. There is also a climate of violence against lawyers and judges."

Another journalist said: "Bringing cases to a close is ridiculously slow."

While admitting that police investigators lacked proper training, which weakened their role, representatives of the EPJUST programme told IPI that "the adjudication phase is the real problem".

The need for overall reform of the Philippines' justice system was expressed to IPI by all sides, including journalists, and government and civil society representatives.

The Freedom Fund for Filipino Journalists, an independent coalition of civil society actors led by CFMR, and the National Union of Journalists of the Philippines, in particular, have long been calling for an urgent review of the rules of court, which allow for endless trials and have been abused to delay the prosecution of cases and court proceedings in general.

Presidential spokesperson Edwin Lacierda expressed frustration at the slow pace of the judiciary, in particular in the proceedings related to the Maguindanao massacre. "The judiciary is often not in step with the presidential office," Lacierda stated, stressing that the executive branch had no control over the judiciary.

In a meeting with IPI, Geronimo Sy, Assistant Secretary of the Department of Justice, agreed that the Philippines criminal justice system needed to be "more responsive and more responsible". He added: "The system needs to be radically transformed."

The IPI delegates stressed the urgency of carrying out some necessary reforms as a matter of urgency in order to prevent other journalists from being killed and thereby send a strong signal to the killers that violence would not be tolerated. Sy insisted that a reform process was necessarily slow as it needed a holistic approach.

Sy expressed confidence that the reform process would be terminated before the end of the current administration. To this end, he added, the Department of Justice had developed a 10-point good governance plan covering the six years of the Aquino administration.

In the closing of the gap between the Philippines' police and the country's judiciary and the improvement of communication between the two arms of justice, Sy noted that a first important step would be the creation of a building hosting both the DOJ and the DILG.

"Often it takes weeks for a document to go from the DILG to the DOJ and this creates further delays in the process," Sy told the IPI delegates.

2. Freedom of Information

A draft Freedom of Information Bill has been in front of the Philippines parliament for the past nine years and no government has yet been able to turn it into law.

When President Aquino came to power, he promised that the passage and implementation of the Freedom of Information Bill would be among his administration's priorities. Over one year later, the draft Bill has been amended to the point that freedom of information advocates and some parliamentarians believe the current version of the bill would not fulfill its stated purpose.

Journalists told IPI that President Aquino was sending mixed signals about freedom of information. On one hand, his government appeared to have encouraged access to information and transparency among public officials: The Philippines was one of eight governments to formally launch, in September 2011, the Open Government Partnership, a multilateral initiative seeking to secure concrete commitments from governments to promote transparency, empower citizens and fight corruption.

On the other hand, the Freedom of Information Bill has stalled in Parliament and recently appears to have been removed from the list of priorities of the Aquino administration.

Both Interior Secretary Robredo and presidential spokesperson Lacierda told IPI that, although the bill had not been passed, the Aquino administration had already started implementing it, by promoting a culture of open government.

Assistant Secretary Sy said: "The Freedom of Information bill needs to be passed, but even without that, there are a lot of things that can be done."

Recommendations:

In order to end impunity:

- The government should work to change the rules of court as fast as possible in order to ensure faster court proceedings and easier conviction of perpetrators of crimes.
- The Department of Justice and the Department of Interior should develop closer cooperation between Philippines police and public prosecutors in order to ensure reciprocal understanding of their work and needs.
- The President should set up a multi-sector Quick Response Team to address crimes against journalists, under the direct supervision of the President of the Philippines.
- The Department of Interior should make funds available to ensure that police investigators are properly trained and have the necessary forensic skills.
- The Department of Justice should look into ways to ensure swift conviction of the perpetrators of crimes against journalists.

In order to bring Philippines' law in line with international standards;

- The Department of Justice should decriminalise defamation by removing articles related to it from the Philippines Penal Code.
- The President's office should prioritize implementation of the [Access to Information law](#) and stress the [need for such a law to be](#) in line with international standards.

In order to prevent attacks against journalists:

- The practice of block-timing should be revised: radio stations that sell time to block-timers should make them aware [of](#) the safety implication of their broadcasts.
- Media outlets should do everything in their power to raise awareness among their journalists and stringers about safety concerns both in relation to news-gathering techniques and editorial standards.