

Media Position Paper for the Senate's
Committee on Justice and Human Rights
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On November 29, 2007, more than 30 journalists were arrested, handcuffed and transported to Camp Bagong Diwa in Bicutan. 12 of the journalists were from ABS-CBN, detained as "witnesses and suspects," according to the police. Others were told they would be released as soon as their identities were verified. Our Head of Newsgathering, Charie Villa, went immediately to the Peninsula Hotel to identify our people; yet, she was told they would still have to be arrested and brought to Bicutan. We believe this move sets a dangerous precedence and erodes our nation's democracy.

There are two points I'd like to make about the role of media in conflict situations like the Peninsula siege. First, our democracy rests on the principle that the people have a right to know. Section 7, Article III of the 1987 Philippine Constitution recognizes "the right of the people to information on matters of public concern."

Law enforcement and government officials must be accountable to the public, and our history has shown there is no better means to do that during crisis situations than live television coverage. In a 2004 national survey by ABS-CBN, over 90% of adult Filipinos say that during any major event, they look for news, with 87% turning to TV to make sure they're informed. After the 2007

elections, that increased, hitting 92% in the National Capital Region, according to Pulse Asia.

The clamor for information increases during times of uncertainty, highlighted during nearly a dozen coup attempts and withdrawals of support in the last two decades: in 1986 and 2001, military moves turned into successful people power revolts; while failed attempts were televised during Edsa Tres, the Oakwood Mutiny and the Peninsula siege. Since these three failed, it obviously doesn't follow that television coverage automatically means success. During all these, 1986 excluded, ABS-CBN reported in a similar and consistent fashion, spurred on by the public's right to know. In performing our duty, we accepted the risks, including overturned and burned vehicles and the mauling of reporters (not by the police but by a sector of the public we serve).

While the State has the right to protect itself, the public has the right to know – and as we have seen, the Filipino has always made a choice. Focus group discussions (FGDs) conducted by ABS-CBN between December 3-5 reflect that. They expressed an overwhelming sentiment that they want to be kept informed, saying live television coverage should continue. We believe this is critical because an uninformed public makes any democracy unstable; it is in this light that media should be considered partners in promoting democracy rather than the other way around.

It is important that the public has the information it needs to make an informed decision because that is the foundation of our democracy. Yet, by

arresting our journalists, authorities effectively shut down ANC's live coverage of the post-siege situation at the Peninsula Hotel. They tried to confiscate videotapes and equipment from reporters, photographers and cameramen. The police violated their own definition of the "crime scene" by approaching our transmission facilities outside the Peninsula to try to confiscate our videotapes and stop our coverage. This is effectively censorship – at a time when the conflict had all but been resolved. To date, they still have at least one videotape and two radios owned by ABS-CBN.

The second point which has clear ramifications for the future is the role journalists play in conflict situations like Edsa, Oakwood and the Peninsula. On December 5, DILG Sec. Ronaldo Puno called the Peninsula a "crime scene" and said that journalists violated two laws at the Peninsula siege. He cited Article 151 of the Revised Penal Code which has to do with "resistance and disobedience of persons in authority" and PD 1821 for "obstruction of justice."

These statements have far-reaching consequences because now every journalist reporting on a conflict situation has to worry that he/she may be arrested and charged. Beyond that, if the journalist can be charged so can news organizations. This is no longer a threat but a reality and creates a "chilling effect" for working journalists, who can now be charged like common criminals.

Yet, we believe that the law covering the presence of journalists in conflict situations is very clear and supercedes any legislation cited by the DILG Secretary. Section 4, Article III of the 1987 Philippine Constitution states that

“no law shall be passed abridging the freedom of speech, of expression, or of the press.”

“Was there an arrest? Yes,” said Sec. Puno, “Were they charged? No. Why was there an apology? Because all of us feel bad about the way the incident materialized. We are unhappy that our friends in media had to suffer inconvenience.”

In one move, the government trivialized and dismissed a violation of the Constitution as an “inconvenience.”

While we understand the position of the Philippine National Police, by its own admission, it is using “SOPs” created in 2006. PNP Memorandum Circular No. 2006-09-01 tells the police what to do with perpetrators, hostages and witnesses. It has no provisions for journalists, who are part of the landscape in conflict situations. This may be the first time these rules were used. It is also the first time that the PNP has been the lead agency in a political conflict situation – which is how many journalists would characterize the event, not just a “crime scene” complete with overtones of bank robberies and murder. Every other coup attempt or passive withdrawals of support in the past twenty one years were handled by the Department of National Defense. Perhaps this is part of the reason why the rules were changed in the Peninsula siege.

We journalists are by no means perfect. Some of us can be arrogant at times and that is how we have been portrayed by the police in this instance. But the reason we need to hold the line is simply because if we give in, we would

have contributed to weakening our democracy by depriving the public of the information it wants and needs.

Having reported from numerous combat zones in Southeast Asia and around the world, I am very aware of the risks we face as journalists. In Indonesia, I barely survived a cross-fire between government troops and protestors. In Aceh, my team and I were detained but that's to be expected given the authoritarian regime then. In East Timor, Pakistan, India, China - despite the dangers and restrictions, you calculate the risks and always make sure the odds are high that you will survive to tell the story. What I have learned from experience is that every situation is different, and what you do depends on the system of government you're operating under, i.e. you would not make the same decision under a democracy that you would under a dictatorship.

Every journalists' and news organizations' assessment of risk varies. That is why I find it slightly ludicrous for the PNP to quote the Ethics Manuals of the CBC, BBC and ABS-CBN to bolster its point that all journalists should have left when requested – that there is a one-size-fits-all response. All these codes do in these instances is give guidance - the philosophy of the organization - but in the end, the judgement call and the decision to stay or to go – as well as the risks that entails – falls with the journalist. We balance the fear for personal safety with the duty to report the truth.

The police claim we were being used because they said some Magdalo soldiers changed clothes and put on press passes. Everyone tries to use us,

including the police and military intelligence agents who were pretending to be journalists. During the crisis, we did not report that because we did not want to compromise their work, but their presence increased the danger for us. Those agents could have easily told their superiors who were the real journalists and who were only masquerading.

We categorically state that at no instance did any journalist “obstruct justice” at the Peninsula. Mere presence and reporting the news is not obstruction of justice. Recordings made by the police of our live coverage are now being used by authorities as evidence against those it charged in court. The police even acknowledged that there was a failure of communication within their organization. They mobilized only after they were “informed” of the event through TV and radio coverage. It is clear the police benefited from us doing our job. We cannot be both obstructing and helping justice simultaneously.

Our fear is that the arrests of journalists may herald a new, more dangerous time ahead. In recent years, many developments have eroded press freedom in our country. In 2003, there were more journalists killed in the Philippines than in Iraq, and today – despite pressure from the international community - the extrajudicial killings of journalists and leftist leaders continue with virtual impunity. Intimidation tactics, indirect pressure and libel suits have been used to attempt to control journalists. In 2006, Proclamation 1017 severely curtailed press freedom after authorities threatened to shut down news organizations and stationed tanks outside tv networks.

Last year, Freedom House, an international group which conducts an annual survey of political rights and civil liberties, downgraded its rating of the Philippines from FREE to PARTLY FREE.

Given this context, the arrests of journalists is extremely alarming, especially since it has now been elevated as policy by Sec. Puno, who warns journalists that the police would do it again. To add insult to injury, after authorities apologized for the arrests, they began to publicly question the motives of our journalists. Officials maligned us by implying we were working with Trillanes' group despite the absolute lack of evidence for these statements. Now they say they will look at the franchises of television networks. All this only points out that the attempts to intimidate and harass journalists continue.

While it is inconvenient for law enforcement officials to have to contend with media in conflict zones, it is a necessity guaranteed by the Constitution and a check and balance of a vibrant democracy.

On November 29, the journalists who chose to stay and report on the Peninsula siege displayed tremendous courage and risked their safety for the public they serve. A colleague from the Foreign Correspondents' Association of the Philippines captured the spirit of our thoughts: "if someone else can deliver the Truth better, we would give way. If we chose to leave at the request of the PNP, then we would have to swallow the PNP version of the Truth because we chose to give up the access we already had."

That would be a disservice to the public we all serve.

