

**ATTORNEY PABLITO A PEREZ**

The repression or punishment of any form of action or conduct that amounts to a crime, or which results in injury or harm to others, or which creates risk of greater social injury is widely recognised as a valid public goal. The press is not exempt from the general set of laws and rules that governs the public in their dealings with the state, the society and other persons. The press right "has never been construed to accord newsmen immunity from torts and

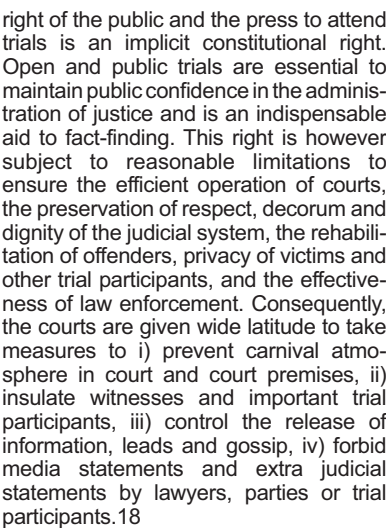
Newsworthiness is not a defence to unlawful behaviour and does not create immunity for felonious conduct. Several years back, a Philippine broadcast journalist registered herself as a voter twice precisely to prove the very point and thus add credibility to her report on election fraud. She made news all right, not because of her article but because she was threatened with criminal prosecution for violation of election laws. Similarly, even if done in the pursuit of a valid media report, the unauthorized removal of evidence from a crime scene, or participation in an illegal business like smuggling of aliens or maintaining a child pornography site, or unlawful entry into a restricted government facility would not excuse the crime committed.

The private individual has three basic rights— the right to life, the right to liberty and the right to property. Media may infringe on any of these rights in varying degrees. Common violations of private rights may be

In the law on privacy, there still however remains the ambiguous dichotomy between the public figure and the private figure. You may still recall the 1986 People Power Revolt in the Philippines. When an Australian movie outfit tried to film a documentary of those events, ex-Defense Secretary Enrile and Col. Gregorio Honasan who both played indispensable roles in these events sued to prevent any

The media has a duty of restraint when a man's honour or reputation is at risk by public disclosure. It is this duty that the law on libel imposes. Libel is primarily trespass on a person's honour, more than on his privacy. By definition, libel is committed by publicly and maliciously imputing a crime, a vice or defect or any act, omission, condition, status or circumstance tending to cause dishonour, discredit or contempt of another. Criminal libel punishes the public disorder that the defamation or dishonour caused, independently of any relief for violation of personal rights. In this sense, criminal libel is not purely a private wrong, and state resources and machinery are expended to prosecute and punish the defamer in order to preserve public peace. The essence of libel is a defamatory imputation made publicly and with malice. Of these elements, malice is the most problematic. By definition, malice is evil intent, a motive to do harm, or to commit wrong on another. In some cases, malice is proved by evidence of a reckless disregard for truth, or when publication is made regardless of whether the matter being published is true or not. The judicial difficulty is who among us can claim the evil that lies in a man's heart? Let me discuss some rules that have emerged with respect to the rule on malice:

In 2001, some media networks petitioned to allow the live video coverage of the trial of former President Estrada for the capital offense of plunder. Previously, the televised impeachment proceedings that led to his overthrow did not serve Estrada well, and the Supreme Court agreed with Estrada this time, denied live coverage and ruled that ... "the rights of the accused and the power of the court to control its own proceedings are superior to the press right and the public right to information". This is not to deny that the



1. Is there a relevant law or rule?
- Professional advice may be necessary.
2. Am I reporting news or making news?
3. Does the public have a right to know of these facts?
4. Is there a risk of harm or injury to any person?
5. Is the safety, dignity or welfare of children or some other protected class at risk?
6. Is there a more compelling social need that overcomes personal privacy or private rights?
7. Is there a less intrusive way to gather or access the same information?
8. Are any of the rights of the accused weakened or prejudiced?
9. Do I have a good motive?
10. Will my publisher defend me if I am sued?

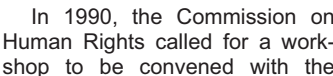
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National Human Rights Institutions (NHRI) is a relatively recent phenomenon, the original dates back to 1946 when the issue was first addressed by the United Nations Economic and Social Council (ECOSOC). The Council asked the Member States to consider the desirability of establishing information groups or local human rights committees within their respective countries to collaborate with them in furthering the work of the Commission on Human Rights.

In 1960, the Economic and

(d) To advise on any questions regarding human rights matters

The guidelines were subsequently endorsed by the Commission on Human Rights and by the General Assembly. The commission invited all the Member States to take appropriate steps for the establishment, where they did not already exist, of national institu-



**The Paris Principles:** The Paris Principles are the principal source of normative standards for national human rights institutions. So far

?The Principles are broad and general. They provide that a national institution should be established in the national Constitution or by a law that clearly sets out its role and powers and that, its mandate should be as broad as possible.

- The Principles address the methods of operation and by implication, the powers of national institutions. They are entitled to consider any issue falling within their competence without authorization from any higher authority. They are entitled to hear any person or gather any evidence needed to consider matters falling within their competence.

The role of NHRI is very important in the protection and promotion of human rights as they bridge between the state and its citizens. Thus, NHRIs should be completely independent and at the same time capable to address any human rights issue with adequate effectiveness and competence.

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