

As Lead Prosecutor, I have the privilege of addressing you today.

It is a privilege to represent so many brave journalists from every corner of the world. And to represent the committed relatives and loved ones of victims, non-governmental organisations and advocates who have come together to make this Tribunal possible.

It is also a tragedy that we are here today. Over the past thirty years, more than 900 journalists were deliberately killed because of the information they uncovered.<sup>1</sup> They posed a threat to corrupt politicians, powerful criminals or armed forces - who were afraid to have their crimes and misconduct exposed.<sup>2</sup>

The statistics are plainly shocking: In more than 8 out of 10 murders, there has been no justice and no conviction of those responsible.<sup>3</sup> This means that killing the truth has become one of the world's safest crimes.

Behind these anonymous statistics are the stories of real people. Journalists like Deyda Hydara in the Gambia, who kept publishing despite attacks, arrests, threats and restrictive media laws that tightened the grips on the Gambian press. He was murdered on 16 December 2004.<sup>4</sup> Behind the statistics are the stories of newspaper journalists like Novaya Gazeta in Russia, who lost six colleagues since 2000. All were murdered in retaliation for their work.<sup>5</sup> And then, there are the tireless relatives, friends and colleagues who have continued their fight for the truth. They demand and deserve the truth about the deaths of their loved ones. Many of them will share their story with you today.

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<sup>1</sup> CPJ. Database of attacks on the press [journalists killed between 1992-2021, motive confirmed: murder], <https://cpj.org/data>

<sup>2</sup> Bartman, *The Repression of Boundary-Blurring Actors in Subnational Undemocratic Regimes: Empirical Explorations in Veracruz and Gujarat* 2020, <https://hdl.handle.net/11245.1/9e36b8e8-2ba4-4754-a7e8-f86d191c959f>; ;Hughes and Vorobyeva. *Explaining the killing of journalists in the contemporary era: The importance of hybrid regimes and subnational variations* 2019. Journalism, pp. 1-19

<sup>3</sup> CPJ. Impunity Index 2021. <https://cpj.org/?p=138965>

<sup>4</sup> RSF. *The Gambia, Deyda Hydara: the murder of a journalist under surveillance* 2005, <https://rsf.org/en/reports/devda-hydara-murder-journalist-under-surveillance>

<sup>5</sup> CPJ. Chechen official and preachers threaten Novaya Gazeta journalists 2017. <https://cpj.org/2017/04/chechen-official-and-preachers-threaten-novaya-gaz/>

Death is not the price that should be paid for fulfilling an essential function in our societies: providing access to independent facts and information, and thereby holding those in power to account. And the damage is not done by killings alone. They are the canary in the coalmine: the alarming symptom of a press that is already under attack.

This is what Filipino journalist and Nobel Peace Prize-laureate Maria Ressa, one of our witnesses today, speaks about when she says: 'democracy dies by a thousand cuts'.

The first cuts are the laws that are enacted to effectively crumble long established freedoms.

More often than not, these legal attacks become an excuse for violence. For example, every time a false criminal accusation is made against Indian journalist Rana Ayyub, it comes with a wave of online hate and physical threats. Even changing her phone's SIM-card 52 times in one year could not stop the hate from reaching her.<sup>6</sup> Laws become weapons in the hands of those afraid of the truth.

These legal attacks often achieve their goals: They force journalists to censor themselves, hand in their licenses, and fight aggressive lawsuits brought against them to discourage them from investigating.

The cuts deepen when these attacks blur the lines of how societies ought to treat their journalists. Politicians reinforce this trend when they publicly attack journalists and incite violence against them. Despite states' international human rights obligations to protect journalists and publicly defend their safety, too many political leaders have trampled on those protections. They did so when they called media 'the enemy of the American people'; when they waved mock rifles at journalists during press conferences, and when they announced that being a journalist 'does not make you exempt from assassination'.<sup>7</sup>

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<sup>6</sup> Washington Post. *An Indian journalist has been trolled for years, Now U.N. experts say her life could be at risk*. 2018. <https://www.washingtonpost.com/news/worldviews/wp/2018/05/26/an-indian-journalist-has-been-trolled-for-years-now-u-n-experts-say-her-life-could-be-at-risk/>

<sup>7</sup> New York Times. *'Enemy of the People': Trump Breaks Out This Phrase During Moments of Peak Criticism* 2017. <https://www.nytimes.com/2018/07/19/business/media/trump-media-enemy-of-the-people.html>; OCCRP. *Czech*

Attacks and violence have led thousands of journalists to flee their countries, drop their pens or change their beat. The ones that persist in their investigations and reporting have to fearfully look over their shoulder and find that their work is being made to look suspicious. Thereby, the spiral of attacks and violence against journalists enables lies to be spread unchecked. This is what allows disinformation to enter and spoil our information systems.

The killings of journalists are the final, deepest and bloodiest cuts to our societies, to our public debate. They happen when the system is crumbling under the weight of legal and physical attacks on the press. They happen where states fail to protect journalists.

The murders of Miguel Ángel López Velasco, his wife Agustina, his son Misael and Yolanda Ordaz de la Cruz in Mexico are a painful example. Miguel, his son Misael and Yolanda worked at the Mexican newspaper Notiver, covering organized crime and drug cartels. Before Miguel was murdered together with his son and wife on 20 June 2011, he had received many threats. Despite those threats, their colleague Yolanda started investigating their murders. Then, one month later, she was found murdered too. Their colleagues at Notiver suspect Yolanda's murder is connected to her investigation into the deaths of Miguel and Misael. None of them received protection from the authorities and all of their murders remain unresolved to date.

In other cases, it is the state authorities themselves who play an active role in the elimination of critical voices in their country. Whether in times of war or peace, in hundreds of cases, state authorities are linked to ordering or executing the murders of journalists. The case of Nabil Al-Sharbaji is a striking example. Nabil was a journalist and activist in Syria. On 26 February 2012, he was arrested for the second time after identifying himself as a journalist to the authorities. He was detained in three different state prisons. His lawyers could not visit him, his family could only visit once. Then, in May 2015, they were officially notified that Nabil had died in prison. His cellmates have

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*President Flashes Mock Rifle "at Journalists" 2017.*

<https://www.ocrp.org/en/daily/7167-czech-president-flashes-mock-rifle-at-journalists>; RSE, *Rodrigo Duterte*. 2021.

<https://rsf.org/en/predator/rodrigo-duterte>

testified about the torture and maltreatment he sustained in state detention that led to his death. No one has been arrested for his murder, and no one has been convicted.

Often, states carefully hide their tracks. Sri Lankan journalist Lasantha Wickrematunge investigated the President of Sri Lanka, Mahinda Rajapaksa and the Secretary of Defence, Gotabaya Rajapaksa. His reporting upset them. They retaliated. They filed defamation suits, ordered his arrest, and publicly attacked his reputation. In the final days of his life, Lasantha was followed by members of Sri Lanka's armed forces. On 8 January 2009, he was assassinated on his way to work. Despite the strong indications that his attackers were associated with the army, the investigation into his death was obstructed. Evidence was destroyed, witnesses were attacked and investigators were told to halt their investigations, or forced to flee.

This is the context in which I bring this indictment, including the three cases on behalf of Miguel, Nabil and Lasantha, before this Tribunal.<sup>8</sup> No authority has investigated their deaths. No court has heard the evidence. No court has opened its doors to their relatives, friends, colleagues and witnesses. No court has convicted their killers. And no court **can** examine the pattern of attacks that their deaths signify. Their deaths are part of a pattern of systemic violence against journalists in Sri Lanka, Syria and Mexico. A pattern we see in countries all over the world. A persistent culture of impunity prevents accountability for these crimes.

States' international obligations in these cases are crystal clear. In the indictment that I present to you today, we therefore ask you to not only pronounce a judgement on the role and responsibility of states for the cases of Lasantha, Nabil and Miguel, but to examine the systems of abuse of journalists that their cases represent: repeated violations committed by states against the press and the people's right to access to information. The witnesses at this opening hearing will testify to the causes and impact of this systemic abuse.

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<sup>8</sup> Case details can be found in the indictment (<https://ptmurderofjournalists.org/indictment/>)

No court to date could, or wanted, to hear or decide these matters. That is why an international, historic and unique effort was undertaken to establish this Tribunal. You can hear the evidence, listen to the witnesses and pronounce a meaningful judgment in these matters. You can make the voices that were silenced heard.

I would like to conclude by reading to you from Lasantha Wickrematunge's final article, published on the day after his death.

*"When finally I am killed, it will be the government that kills me. I hope my assassination will be seen not as a defeat of freedom but an inspiration for those who survive to step up their efforts. Indeed, I hope that it will help galvanise forces that will usher in a new era of human liberty in our beloved motherland. I also hope it will open the eyes of your President to the fact that however many are slaughtered in the name of patriotism, the human spirit will endure and flourish. Not all the Rajapaksas combined can kill that."*

Lasantha was right. Maria Ressa, Rana Ayyub and many others continue to publish. Our witnesses today continue to fight for justice. Some have done so tirelessly for more than forty years, and continue to do so until the day of today. Thousands of citizens continue to raise their voices.

States continue to underestimate their strength and resilience. Today we start a process that will expose their actions. Their failure to protect. Their failure to investigate. Their failure to hear the evidence in open court. We stand in solidarity with all those who have suffered from these violations.

Thank you for your commitment to listen to their stories and pronounce a judgement. I will now turn the floor over to today's witnesses, who will set forth to Your Honours and to the public the case we present.