The Right to Anonymity in the Philippines: An Emerging Challenge

FOUNDATION FOR MEDIA ALTERNATIVES
Right to Anonymity

• The right of an individual to communicate anonymously (with no names) or through the use of pseudonyms (assumed names).
Significance / Tradeoffs

- It is a vital component in protecting the right to freedom of expression and the right to privacy.
  - Fosters expression without fear of reprisal. It enables whistleblowers. It allows people to disclose their innermost concerns on various issues in online platforms.
  - Many people don’t want the things they say online to be connected with their offline identities. They may be concerned about political or economic retribution, harassment, or even threats to their lives.

- It sometimes enables unlawful activities (child pornography, online scams, cyberbullying, other cybercrimes, etc.) and terrorism.
Relevant Legal Authorities
• **Consti., Art. III, Sec. 4.** No law shall be passed abridging the freedom of speech, of expression, or of the press...

• **Consti., Art. III, Sec. 3.** (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law...

• **Consti., Art. XV, Sec. 10.** The State shall provide the policy environment for... the emergence of communication structures suitable to... the balanced flow of information into, out of, and across the country, in accordance with a policy that respects the freedom of speech and of the press.

• **Consti., Art. II, Sec. 11.** The State values the dignity of every human person and guarantees full respect for human rights.

• **Sec. 26(2), RA 6770.** Ombudsman recognizes anonymous complaints.

• **Section 7(b), RA 10173.** The National Privacy Commission can commence investigations on its own.
PH Context
There is a new administration in power, led by a President whose approach or views towards human rights are peculiar—to say the least.
• 2 laws that pose a significant threat to the right to anonymity: (1) Cybercrime Protection Act (provisions on cyber-libel and surveillance); Anti-Child Pornography Act.
Many libel cases have been filed after the Supreme Court upheld the concerned provision of the law.
There have been cases of legitimate exercise of one’s right to freedom of expression that have been met with severe instances of cyberbullying and threats.
• 2 pending bills significantly impact the local exercise of the right to anonymity: (1) National ID System; (2) Mandatory SIM Card Registration.
• **Sketchy legal regime governing the PH surveillance landscape.** Many gov’t agencies operate and engage in surveillance activities w/o any clear legal bases and no oversight mechanisms to keep them in check.
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