

# Philippine anti-mining activist arrested for Facebook posting

Dante Pastrana  
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An anti-mining advocate in the Philippines has been arrested for libel over a year-old Facebook posting. Agents of the National Bureau of Intelligence arrested Esperlita Garcia on October 19 and detained her overnight. Garcia was released on bail the next day.

The *Philippine Daily Inquirer* reported that the 62-year-old former teacher was charged with libel for a Facebook posting in April 2011. The posting allegedly criticized the municipal mayor of Gonzaga, in the far northern province of Cagayan, for the dispersal of an anti-mining meeting held inside a school compound. The charges against Garcia lay dormant for more than a year until this month when a regional trial court justice issued a warrant of arrest.

This is the second case of alleged online libel to emerge on the national stage this year. In August, according to the *Inquirer*, 16 nurses were sacked for having “liked” criticism of the Taguig-Pateros District Hospital on Facebook.

Philippine law criminalizes libel. It imposes imprisonment and fines for any “public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person...”

Libel was criminalized during the US occupation of the country in the early part of the twentieth century to intimidate anti-colonial opposition. These statutes were retained after formal independence from the US and are used by the Philippine ruling elites to stifle dissent. Former President Corazon Aquino, the so-called “saint of Philippine democracy,” filed a libel case against a noted columnist when in power. According to a GMA News report, in 2006, Mike Arroyo, the husband of then President Gloria Arroyo “filed at least 10 different criminal libel lawsuits against 43 journalists seeking

damages totaling P70 million.”

The criminalization of libel in the country has been criticized internationally. Early this year, according to the *Interaksyon.com*—the online news portal of TV5—the United Nations Human Rights Commission ruled “Philippine laws criminalizing libel incompatible with Article 19, paragraph three of the International Covenant on Civil Political Rights (ICCPR),” which covers freedom of expression.

The UNHRC’s ruling stemmed from a complaint by radio broadcaster Alex Adonis, who served two years of a four-year sentence after a conviction for libel filed by former House Speaker Prospero Nograles. The UN body, however, did not call for the repeal of the libel statutes and simply appealed to the Aquino government to “prevent similar violations occurring in the future.”

The Aquino government, has not only refused to decriminalize libel, but has extended the criminalization of libel onto the Internet and other forms of electronic media. In September, Aquino signed the Cybercrime Prevention Act of 2012, a law which is even more anti-democratic and draconian than the proposed United States Stop Online Piracy and the Protect IP Acts, which were dropped from US congressional consideration earlier this year after coming under fire from wide-ranging public protests.

The Philippines Cybercrime Prevention Act also increases the maximum period of imprisonment from six to 12 years, and contains other provisions:

1. A so-called takedown clause that empowers the Justice Department to restrict access to or demand the removal of any web content without requiring a court order, on the basis of its own assessment that the web content violates the provisions of law (section 19);
2. A clause, that by declaring as a crime the aiding and abetting in the commission or the attempt to

commit any offense under the Act, potentially defines as criminal the hosting of the web site with the offending content and the clicking of “Like” in Facebook (section 5);

3. An increase in penalty for any offense or violation of any provisions of the Philippine Revised Penal Code and any special laws if the offense was committed using any information and communication technology (section 6); and

4. A double jeopardy clause (section 7) that allows for the prosecution of the same offense under the Cybercrime Prevention Act and the Philippine Revised Penal Code or any special laws.

On October 9, following the filing of 15 petitions from lawyers, journalists and bloggers to declare the law unconstitutional, the Supreme Court issued a 120-day restraining order preventing the implementation of the Act, pending the court’s decision.

The Aquino government has strenuously argued that the Garcia Facebook libel arrest did not contravene the Supreme Court temporary restraining order. It has asserted that online libel is in fact a crime punishable under the Philippine Revised Penal Code itself.

This argument is in direct contradiction to the justification which the Aquino administration gave for the inclusion of libel in the Cybercrime Prevention Act. It also contradicts a 2007 Justice Department finding and a Supreme Court ruling that online libel was not a crime in the Philippines.

As the WSWs previously analyzed in its articles on the anti-democratic removal of the Supreme Court Chief Justice Renato Corona, the Aquino government is on a course of accumulating ever-increasing power in the executive branch and is laying down the foundation for the return of police-state forms of rule.



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