

ASIL ASSEMBLY AND KEYNOTE WITH MARIA RESSA

The Assembly and Keynote was convened at 5:00 p.m. on Thursday, April 7, 2022. Maria Ressa, co-founder and CEO of Rappler and 2021 Nobel Peace Prize Laureate was the Keynote speaker.

INTRODUCTORY REMARKS BY CATHERINE AMIRFAR

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Amal Clooney unfortunately could not join us for health reasons but sends her warmest regards to everyone.

Maria Ressa is well known to us. She is a journalist, a businesswoman, author, and global terrorism expert who serves as the chief executive officer of the online news website Rappler, which she co-founded in 2012. She was awarded the 2021 Nobel Peace Prize for her efforts to safeguard freedom of expression in the Philippines. She previously spent nearly two decades working as a lead investigative reporter in Southeast Asia for CNN. I am delighted to have her with us. I know we are in for a treat. Welcome, Maria.

Maria, you have worked as a reporter for thirty years. I want to read a bit from what the Nobel Committee said when they awarded you the Peace Prize. It was awarded to you and Russian journalist, Dmitry Muratov last year. They singled you both out as “representatives of all journalists who stand up for freedom of expression,” and they noted at the same time, with some alarm that “democracy and freedom of the press increasingly face adverse conditions.” In your Nobel lecture, you spoke about some of these adverse conditions, including the impact of social media, lack of funding for independent journalism, and impunity for crimes against journalists. What is it about today’s world that makes it so dangerous for journalists, so difficult?

REMARKS BY MARIA RESSA

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I became a journalist because information is power, and that leads to justice. If you do not have the facts, you cannot have rule of law. Part of what is happening today is that impunity reigns precisely because we have now made facts debatable. In the Nobel lecture, I talked about how disinformation exploded like an atom bomb in our ecosystem. Unlike Hiroshima and Nagasaki, it did not kill 140,000 people immediately, but it is having that same impact. This is the last six years we have lived through.

It is so incredible to see so many lawyers here, like Fatou Bensouda, Paul Reichler, and Can Yeginsu, who are trying to keep me out of prison. This is a tough question to answer, except to say that this is a pivotal moment. This is my thirty-sixth year as a journalist, and I have never lived through anything like this. What I have lived through is nothing compared to some of the cases some of you are touching. One of the things I have learned is that if you see something in front of you that is not right, in many instances, you not saying anything gives consent for the bad thing that is happening. Silence is consent. The reason I have had ten arrest warrants in less than two years filed against me is because we did not stay silent and we continue to do our jobs. In the

Philippines, a lot of journalists have been killed in the last six years, but more lawyers have been killed than journalists. That tells you both the target and the situation that we are living in.

CATHERINE AMIRFAR

You have called disinformation “corruption in the information ecosystem.” You testified to this before the U.S. Senate just last week. You have talked about the strong connection between reliable information and the rule of law as a pillar of democracy. Why do you think states have not done more when it comes to this corruption in the information ecosystem?

MARIA RESSA

Plausible deniability that it is not really your neck of the woods, but in the end, it becomes your neck of the woods. We can think about it in the world. The free world came together quickly around Ukraine, but how much more will we take? In terms of the corruption of the information ecosystem, we are all on the same page.

A lot of debate in the media surrounds content moderation, and you are going to be very good at looking at that content moderation because that is what we have been used to. But that is not really the problem. The problem that we have, which is actually the growth of technology, is how technology has shifted the way information is delivered to you, how all of a sudden the largest delivery platform for news actually is biased against facts.

Let us talk about the ecosystem that we live in now. Content moderation down here, which is what we all debate, especially in American media, but that is not the problem. It is not a freedom of speech issue. It is moving upstream here to the algorithms of amplification. What is an algorithm? It is opinion in code. A great book on this topic is *Weapons of Math Destruction*. This is the operating system of our information ecosystem, but that personalization, what determines what gets to you is actually only the operating system they get. It gets its power from further upstream, which is where the problem is, and this is surveillance capitalism. At surveillance capitalism, that means that if you have Facebook, YouTube, any app on your phone, and you put up a post, every post that you do creates this feedback loop. Machine learning comes in and creates a model of you that knows you better than you know yourself. Then artificial intelligence sucks all of that up into surveillance capitalism.

Shoshana Zuboff wrote a 750-page book that lays out that it is power and money in a different way, and keep in mind, the last time we were at something like this was in the nineteenth century with the age of industrialization, where what was commodified is labor. Now what is commodified is our personal experiences data. It is who owns your data. If it has gone through machine learning and artificial intelligence pulled it together, do the companies own that? Because based on that, they will decide. They will take your weakest moment to a message and target you. That micro-targeting is where the law should go. Everybody is down here talking about old-world problems. We talk about a supreme court for content. That is the wrong place. It is here. This is where we need the law because this is where impunity reigns.

I got in trouble because in 2016, we highlighted in the Philippines the impunity of the killings—Fatou Bensouda will know this—of the brutal drug war. The first casualty in my country’s battle for facts is exactly how many people have died in our drug war. The second impunity is a company here, Mark Zuckerberg and Facebook. One hundred percent of Filipinos on the internet are on Facebook. Facebook is our internet. An MIT study showed as early as 2018 that on American social media platforms, lies laced with anger and hate spread faster and further than facts. If you do not have facts, you cannot have truth. Without truth, you cannot have trust. Without these three, you have no shared reality. You have no rule of law. You have no democracy.

I am sorry to bring it back to Ukraine because I know you had a rousing session today, but the prologue to this book that I am writing right now started with 2014 with the annexation of Crimea, because that is the first time we saw the splintering of realities. It affected global geopolitical power, and if we had done something about it eight years ago, perhaps the same meta-narratives could not be used today, where eight years later the problem has gotten worse. Well, we know where we are.

CATHERINE AMIRFAR

Let me take you back to where you started in terms of states and state action on something that is so fundamental to democracy and is a pillar of democracy, which was plausible deniability. What do you mean by that? I know what you mean, but I want you to explain a bit more.

MARIA RESSA

It is almost like if you are playing baseball, and the ball comes your way. Who is going to catch the ball? But it is a difficult one, right? And everybody steps back because it is new, and you do not—what if the ball is a bomb? You step back, and then it falls. But it has disastrous consequences. That is one way that I think about it, because this is a global problem. My country goes to the polls in thirty-two days. But how can you have integrity of elections if you do not have integrity of facts? Every nation that will have elections will confront the same problem.

To go back to what do I mean by plausible deniability, I used to use that phrase when I did terrorism coverage for CNN, and plausible deniability is the ability to step back, have someone else do your dirty work for black ops or a terrorist attack, and then have no fingerprints on it. The problem now is, what happens when that becomes the operating system, when political parties can step back?

Let me put it in the terms of my country so it is easier for you. Ferdinand Marcos Jr. is the frontrunner for president by a long shot, thirty-six years after his family was chased out in a People Power revolt, and Ferdinand Marcos, the father, was accused of building a kleptocracy and stealing, in 1980 dollars, 10 billion U.S. dollars. It seems small today, but back then, it was big. He now looks set to become president, if you believe statistical surveys, which I am not so sure we can believe in the day and age of information abundance.

Part of the reason that has happened is because of information operations against our own people. This is something we have documented in Rappler, as early as 2014. We had historical revisionism, denialism happening with information ops, social media networks—YouTube, Facebook. On Twitter, it was pulled back a little bit. When he is asked a question about do you use troll armies, do you attack your rivals, he literally can say no. He has plausible deniability, but the data shows otherwise. These are part of the reasons I get in trouble because we give you the data. Plausible deniability means many things nowadays.

CATHERINE AMIRFAR

It does. Let me ask you, because you know that we are exploring the theme of personalizing international law this week, and we talked a little bit about that. To get personal, I want to ask you, as an individual, as experienced, obviously, in your fight for immediate freedom, how has international law helped you? How has it failed you? What are the gaps?

MARIA RESSA

First of all, I have learned a ton, and there is always an upside. I have learned a lot about international law. How has it helped us? The International Criminal Court (ICC) Commission. This is happening now in the Philippines. Will we have accountability? The call that we want is how can you have rule of law if you allow impunity, and it is not just impunity of the police or one nation's leader. It is impunity of on a global stage. I think that is the first step.

You have certainly heard President Zelensky make some very strong statements, and the question always is, how far do we have plausible deniability? First is the drug war because we have really chronicled it, and in 2016, it was quite horrific. Rappler is small. We are roughly a hundred people, and we had one reporter and camera person going out at night, every night when the drug war began. The killings began within hours of President Duterte taking his oath of office, and all I could see for a period of time were about eight dead bodies every night. That is just from one reporter in Metro Manila. It was shocking to think about it. Bodies were getting dumped on the sidewalk. Their faces were covered in masking tape. There were cardboard signs that would say "Don't Follow Me. Don't Follow Me."

What is that? That is a show. It is fear, violence, and then later on, our own police would then release numbers that said about an average of thirty-three people were getting killed every night. That went on for a while and normalized, and that changes everything. An environment of fear settles. An environment of violence settles, and then that is replicated in the virtual world, the kind of violence. We did do this coverage and we exposed the information operations on social media. I have reporters who have done the drug war. Because we did that, we came under attack. This is where it becomes personal.

My job was really to hold up this guy, and it was okay to get the cases against me because, in a weird way, it is almost like my entire career was like going to the gym. You have to laugh when it is this bad.

I knew why I did what I do. We have a great team that knows the mission. We did not have to think twice. We knew the positions we needed to take, and because I had led CNN's bureaus in Manila and in Jakarta and led the largest news group, I pretended I knew the law really well. When the charges all came my way, I spent almost 90 percent of my time. Right before I came here, I was going over our filing at the Supreme Court, because now our solicitor general has called fact-checking prior restraint and filed a petition at the Supreme Court to try to shut us down.

There were three reasons why I was attacked, because I head the business of Rappler, I head our research team, and I head our tech. And then, finally, when you are the one attacked on social media, it is a blessing and a curse because you see all the attacks, because only the person being attacked actually sees it all, and then you can study it.

But I have not answered your question. I have not forgotten. I just wanted to share with you. It gives me hope. It gives me great hope working with the international team. In some ways, the legal team in each of the countries where democracy is under attack are themselves under attack. As I mentioned, more lawyers were killed in the Philippines than journalists. The numbers, as of two months ago, sixty-six lawyers and twenty-three journalists killed. We have a woman, Senator Leila de Lima, who has been in jail for almost six years without real charges.

It is personal and it is good because working with Amal and Can and our legal team gave me hope because, despite the fact that you have the data, you also have to sit there and ask, "Am I going to jump off the cliff, and what happens if I do?" Help us hold the line. I think that is the other part. I have used the phrase "hold the line" repeatedly. If you were younger, I would say you first have to draw the line. But I think law begins with principles. People build meaning based on principles. Journalists have a sense of standards and ethics. So we hold the line.

Where has it failed me? It just takes too long, so darn long.

CATHERINE AMIRFAR

Let us talk about part of that because, as you know and I have told you, you are an inspiration. You are on the front lines. You are putting everything at risk in your fight for media freedom. You have talked about the use of legal systems, legal mechanisms, and the weaponization of the law. I want to delve into that because, unfortunately, it looks like it is turning into a playbook for regimes to go after independent media by using things like fraud and criminal liability statutes. Do you see that proliferating? Where do you see that going? And with respect to that issue in particular, how can we as an international legal community help?

MARIA RESSA

It is the norm, and this is what we hope will change in our elections, but it is strange. Even though we go to the polls on May 9, we are electing 18,000 officials, including our president and vice president. It could get significantly worse; it could get significantly better.

What can we do about it? You do not really know who you are until you are forced to fight for it. Take a position because you must. The law takes positions, and what we have seen in the Philippines is something that I call “facts first PH.” It is a pyramid. If you are not going to put laws around your tech companies, civil societies around the world need to adapt media. What we did is we tried to figure out if the lies are coming at you exponentially in information operations. What can we do if we have elections? What can you do when your country has elections?

What we did is we decided to do a four-tier pyramid. The top layer represents the lawyers, because the lawyers have been quiet for too long in my country. Well, of course, more have died. But it is these small cuts. I call it “death by a thousand cuts” because I looked at terrorism. It was exactly what was used against the United States, what al-Qaeda used, “death by a thousand cuts.” It is the same thing that is happening to the body politic.

In our case, what we tried to do is to hold the line in this four-tier pyramid. The first tier represents sixteen news organizations. News groups do not tend to work together, but you really must. This is now the people for facts versus the people who want to replace the facts with their own reality, so sixteen news groups working together, with a data pipeline that connects them.

The second layer is what we call the “mesh,” and this would include civil society, NGOs, the church, business organizations, etc. Take a position, right? Again, that plausible deniability. Sometimes when it gets to a point where bad things are happening, you really must take a position, and I think the world is at that stage now.

The third layer is an inspiration from the U.S. Election Integrity Partnership. These are all the research groups that are telling us how we are being manipulated on a weekly basis.

And then back to the lawyers. Why are the lawyers important? I should ask you because I know how you are important. You are important in our information ecosystem because when the journalists and the fact checkers stand up, we get clobbered online. There were points when I was getting an average of ninety hate messages per hour, and they would last for months.

So what about all those people doing that? Why do they get away with impunity? And here is the other part—women, LGBTQ, if you are marginalized in the real world, you are further marginalized in this situation. That fourth layer has been filing cases, both strategic and tactical litigation, and what we are trying to do there is three words: scale, impact, deterrence. If the law cannot protect you, what does your society have?

CATHERINE AMIRFAR

What people might not appreciate is that it is a literal pyramid, this structure and this facts-first initiative, I urge everyone to google it. Take a look. It is brilliant. It gives a sense or a construct of how you can marshal all resources in a whole-of-society effort to battle. I know your book is coming up, *How to Stand Up to a Dictator*, and I imagine this is part of it. But it models what societies need to do in a whole-of-society effort.

You were there at the beginning of the Media Freedom Coalition, which, for the room, is a coalition of fifty-plus countries that have determined that they are going to prioritize media freedom. They are going to go after this entrenched problem of journalists being targeted and independent media being targeted, precisely because it is such an important pillar in democracies.

There is also, of course, the High Level Panel of Legal Experts, and full disclosure, my co-chair, Can Yeginsu, and I are taking over from Amal Clooney as deputy chairs of the High Level Panel to advise this body, the Media Freedom Coalition. But all of it is to the effect of coming up with concrete recommendations to protect media freedom and urging states to take those on who are part of the coalition and beyond.

So you were there at the outset. I want you to grade them: A, B, C, F. And more seriously, what is the impact this coalition has had, and the states in this coalition? If you would ask states to do one thing, prioritize one action, what would it be?

MARIA RESSA

I mean, the easy thing—and actually, states did it very quickly after Putin invaded the Ukraine—is stand up for your values. They are non-negotiable. First, the High Level Panel went and looked at it—because there is micro and macro, right? There is the macro of what we see, what we can do, and then there is the micro of how you operationalize it. What this panel did is to actually lay out the problem, and like lawyers, you came at it. But I wanted to see more.

We live in a breaking news environment, minute per minute. This is the way I think. This is the reason I jump up and down because that is the way I have been trained. In a minute-by-minute virality kind of information ecosystem, every second counts. Every minute is a year. In this environment, we have survived six years because our community came around us. The High Level Panel did come up with these great solutions for journalists in countries where you do not have to get visas to go to them. They are great solutions, but the overall problem is the push to actually return to these principles and stand up for them.

Right now, for example, my team is just waking up, and we have thirty-two days. I do not want to sleep, eat, or do anything that will take away from what we need to do now. It is that kind of schedule. We do not have time. Our biggest enemy is time. Let me go to social media, and then you have Ukraine right in front of our eyes. I can sit back, in some ways, but every time we stop, we are at a point in the world where someone dies. If you have power, that is part of it.

What else can we do? With the High Level Panel, as you know, it is not just what you know but your own networks, your personal cloud and your passion. Bring them all. This is it. The game is now. We lose this; we lose.

CATHERINE AMIRFAR

Let me pause on Ukraine. You have talked about it a few times. I want to talk a bit about disinformation as a tool of war. You have touched on this. Obviously, we have Ukrainian and international journalists being targeted on the ground. You have hackers going specifically after journalists who are reporting on the war. You have media blocks in Russia imposed by the

Russian government cutting off Facebook, coming after international media channels. You have that on the one hand, this disinformation campaign to create a false narrative. You also have social media on the other hand, in the sense of getting information out of a war zone, focusing people's thoughts, minds, hearts on the tragedy that is unfolding before the world. When you think about citizen journalism, professional journalism, and how this is all getting mixed into with armed conflict, what role do you see media playing in the resolution of conflict when you look at it in a positive way?

MARIA RESSA

That is very complex, and let me tear apart each thread. First is traditional journalism. You have certainly seen the power of that now. You see publications like the *Columbia Journalism Review* saying "we are getting this from the correspondents on the ground." That has always been there, and that is what we do. Why was that under threat? I will go back to the information ecosystem, social media.

So let me pull the social media thread. The social media thread is by design. These algorithms amplify the worst of human nature. It amplifies lies over facts. So what does that mean? That means that when you are on a social media platform, the algorithms are designed so that it triggers an emotion out of you, takes this kind of moral outrage, ferments moral outrage, which turns to mob violence. And I say that because that is the business model. When you have that mob violence, then you are staying on the site.

We can go into this more in terms of the arousal and dominance theory, why it is a behavior modification system. In an environment like that, normally, journalists do not stand a chance. News groups do not stand a chance. If you complain that you do not trust media, it is not necessarily media's fault, but we have been targeted. And human rights defenders do not stand a chance when you get targeted.

Why is social media seeming to be a game changer here? It is not that it is a game changer. It is that people changed, and why did they change? If it was normal times, it would be the moral outrage and mob rule that would win. That wins on a daily basis in each of our societies, but what happened was Ukraine. Ukraine has been sounding the alarm since 2014 about social media. What happened was that in Ukraine, a man who played a president on TV became a hero and galvanized not just his people but the world—he inspired us. Did I mention the two emotions that spread the fastest, both on social media and in the real world, are anger and inspiration? Those are the two things. What happened then was that the systems that were actually designed against us, that create emergent human behavior, the worst of humanity, could be turned. Imagine if all of you on your own, because you were moved, you were inspired, moved in the same direction. Then you can use these algorithms for good. That does not mean that the design has changed. It means the context has changed, and all of a sudden, you want reliable information. You are seeing the traditional news groups who are again doing the job that you have ignored.

I always felt when I was with CNN that we do these stories no one pays attention to because facts are boring, but when breaking news happens and it matters—in my time, it was always that is when you have the crush—everybody turns. Ratings go high. The short answer to this is that the problem remains, and when we look away, it will surface again, and I worry about the people whose lives depend on this.

CATHERINE AMIRFAR

I am going to ask you one last question, ask you to peer into your crystal ball. What gives you glimmers of hope?

MARIA RESSA

You all.

CATHERINE AMIRFAR

Great answer!

MARIA RESSA

Rule of law gives me hope. You believe in the good. You have to because while this has created emergent human behavior that has brought us to the brink, every time we come to the brink, the goodness of human nature comes through.

I am not a naive eighteen-year-old. I wish I was. But I say it with great hope that we must stop impunity. We must restore rule of law, and it requires each of us to do this. This is what we are doing in the Philippines right now. It is a person-to-person defense of our democracy, and every lawyer in this room has four times the power. It is in your area of influence. Please. We will get through this. I just do not know in what shape we come out of it after.

I am going to quote a Russian KGB chief, Yuri Andropov, and this is where it begins. He said *dezinformatsiya* is like cocaine. You take it once or twice, you are okay. You have not really been changed. But if you take it all the time, you are fundamentally changed. Think about that, and it is ironic because of the drug war in the Philippines. Disinformation, when it is a steady diet—and it is for all of us globally—it infects us, and we are very sick. Can we bring back rule of law? How are we going to change the minds of people who have been infected by a virus. How do we heal our society so we get to a point where the goodness of human nature is allowed to thrive, where democracy and rule of law can thrive? Please do it, and thank you.

CATHERINE AMIRFAR

Everyone, I present to you Maria Ressa, Nobel Laureate.