

A CASE STUDY FROM THE PHILIPPINES

WHEN NUDE PHOTOGRAPHS ARE DRAGGED INTO THE LIMELIGHT

Keywords: sharing photos without consent; emotional harm; harm to reputation; invasion of privacy; Facebook; Twitter; Instagram; blogs; other social networks; newspaper; abuser is unknown; many abusers; reported to law enforcement; harm to children; investigation initiated; dialogue with aggressor; reported to platform; platform takes action; legal notice; sexual harassment; survivor's age is 31-45

THE STORY AND THE VIOLENCE

Forty-year-old Martha from the Philippines began her career in show business in 1992, following which she was elected as a city councillor. She is a mother of five children, and has two sisters who are also in the acting industry. All three siblings have been featured in many media controversies over the past two decades. In 2013, during a public family feud on social media, two semi-nude photographs of Martha appeared as an Instagram page. Her children were tagged in the photographs.

The first photograph – a picture of Martha's right breast – went viral online and a YouTube video containing the images was also created. There was a huge public outcry in which Martha was blamed for posing provocatively and chastised for behaviour that was "unbecoming" of a public official. One online comment read, "She is a public figure... [in] the first place she shouldn't be doing that crazy thing."

During the ordeal Martha was very private about her feelings. It later emerged that she was deeply concerned about her children, who were also active on social media and would no doubt consistently come into contact with the slander being written about their mother. Martha also began to have anxiety attacks in public places and tried not to leave her house very often. As a well-known figure in her community, it is evident that the experience of this violation was a highly visible and therefore traumatic one.

SEEKING JUSTICE

Accompanied by her attorney, Martha approached the Anti-Cybercrime Division of the National Bureau of Investigations (NBI), who identified two of the bloggers responsible for sharing the photographs – both were located outside the Philippines. Martha's attorney immediately *issued a public letter across social media and blogging platforms*, warning that sharing the photographs was a direct violation of the Anti-Photo and Video Voyeurism Act 2009 (passed in 2010). The letter reads, "Our client did not authorise the posting of her nude photos and they were never intended for public consumption." The public demand letter was published by several news websites, and Martha's attorney directly wrote to some of the concerned bloggers as well as those responsible for creating the YouTube video. One blogger argued that the content was already in the public domain but eventually removed the photographs.

Given that *intermediaries often protect the identities of their users* and are typically not obliged by law to share this information with local law enforcement, it was interesting that both *Google and Facebook took immediate action* and removed the pictures wherever possible. One Facebook user wrote, "I also posted on Facebook, but it was removed. I was even warned about it."

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Despite the success of the public letter the perpetrators have not been found. There has been much media speculation, but given that the photographs were reposted in so many places, pinpointing their origin remains difficult. This is further complicated by the fact that *intermediaries often store aggregate data for a limited period of time*, which means that depending on the speed of the investigation, information about the origin of content may no longer exist. Moreover, there is *uncertainty around intermediary liability*, and it is likely that it was only due to Martha's well-known public status that social media platforms responded swiftly to the lawyer's demand letter.

FINDING AGENCY

As a well-connected, relatively privileged person, *Martha was able to immediately contact a respected attorney*. At the time, she was unaware her rights were being violated and simply wanted people to stop sharing the photographs. Given that her attorney was qualified and experienced, steps were immediately taken to secure justice for Martha through the public demand letter. While it is true that the photographs have been taken down from several popular online platforms, *the original perpetrators remain at large*. For Martha the case is closed. She says, "I'm not going to give anybody the power to do that to me [again]... Life has moved on. [The issue] is closed; very closed."



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