

COMM 120**LAWS ON COMMUNICATION AND MASS MEDIA****COURSE DESCRIPTION**

Statutes dealing with communication and media and their operations and legal issues relating to freedom of the press and freedom of expression.¹ Units: 3.

PREREQUISITES

COMM 100 or consent of instructor;² previous credits in POLSC 14, POLSC 153, J 100, COMM 130, and similar are encouraged.

OUTLINE DESCRIPTION AND OBJECTIVES

This course outline seeks to develop a media law framework based on the Constitution, with a focus on human rights, human dignity, democracy, and sovereignty. Key concepts such as freedom of expression, the privileges and responsibilities of the press, media ownership and nationality, electoral regulations, and others are explored through this Constitutional framework. The outline also introduces areas of law that are of practical relevance to media workers, such as labor and intellectual property. At the end of this course, students are expected to have a holistic understanding of law and the Philippine legal system as citizens and media workers, able to competently engage with contemporary media law issues brought about by emerging technologies and socio-political developments.

CHANGELOG

• 2/28/2021:
version 0 done

REQUIRED TEXTS³

- The Constitution
- Previous Constitutions and basic laws of the Philippines
- The Civil Code of the Philippines
- The Revised Penal Code

DISCLAIMER

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COURSE OUTLINE

(subject to modification and amendments by the instructor)

1. INTRODUCTION TO LAW

1.1. Fundamental principles of Philippine law and government

The Concept of a Constitution

CONST. Preamble; art. II, §§ 1-6; art. XIV, § 3 — *Angara v. Electoral Commission* — *Manila Prince Hotel v. Government Service Insurance System*

The Concept of Law

CIVIL CODE arts. 2-4, 7, and 8 — *Tanada v. Tuvera*

The Concept of Crime

REVISED PENAL CODE arts. 3 and 21 — CIVIL CODE art. 14 — *United States v. Taylor* — *Corpuz v. People* — *Executive Secretary v. Court of Appeals and Asian Recruitment Council Philippine Chapter, Inc.*

The Concept of Right

CONST. art. III — CIVIL CODE art. 6 — *Philippine Blooming Mills Employees Organization v. Philippine Blooming Mills Co., Inc.* — *People v. Marti* cf. CIVIL CODE art. 32, *Silahis International Hotel, Inc. v. Soluta & David Kaye*, “Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: report on freedom of expression, states and the private sector in the digital age”, United Nations General Assembly (2016)⁵

The (Legal) Concept of Person

CIVIL CODE arts. 37, 44, 45, and 46

The three branches of government

CONST. art. VI, § 1; art. VII, § 1; and art. VIII, § 1

International law

CONST. art. II, §§ 2 and 7

1.2. The Philippine legal system

The legislative process

CONST. art. VI, §§ 26-27 — CIVIL CODE arts. 7-8 —
CONST. art. II, § 25 — Rep. Act No. 7610 §§ 16 and 48

The structure of the judiciary

CONST. art. VIII, §§ 1 and 4 — Batas Pambansa Blg. 129 (as amended) § 2

Judicial review

CONST. art. VIII, § 1

How to read a modern legislative act CIVIL CODE art. 2
 How to read a Supreme Court decision CONST. art. VIII,
 § 14 — *In Re: Biraogo (2009)*

2. FREEDOM OF EXPRESSION**2.1. History****Evolution of the Constitutional right**

CONST. art. III, § 4 *in rel* MALOLOS CONST. (1899) Title IV,
 art. 20 — CONST. (1935) art. III, § 1(8) —
 CONST. (1973) art. IV, § 9 — *United States v. Bustos* —
Simon, Jr. v. Commission on Human Rights

International law concept

International Covenant on Civil and Political Rights art. 19 —
 United Nations Human Rights Committee General
 Comment No. 34⁶

2.2. Basic principles

“... freedom of speech, expression, and of the press...”

CONST. art. III, § 4 — *Diocese of Bacolod v. Commission on
 Elections* — *Ayer Productions Pty. Ltd. v. Hon. Capulong*

Promotion and protection of other rights

CONST. art. II, § 11; art. XIII, § 1 — David Kaye, “Report of the
 Special Rapporteur on the promotion and protection of the
 right to freedom of opinion and expression: report on the
 adverse effect of the surveillance industry on freedom of
 expression”, United Nations General Assembly (2019)⁷

Democracy and popular sovereignty CONST. art. II, § 1
 — *Social Weather Stations and Pulse Asia v.
 Commission on Elections*
 Human dignity and human rights CONST. art. II, § 11;
 art. XIII, § 1
 Social justice CONST. art. II, § 10; art. XIII, § 1 —
Calalang v. Williams

Role of communication and information in nation-building
 CONST. art. II, § 24 — *Rappler, Inc. v. Bautista*
 Government accountability CONST. art. XI, § 1 —
United States v. Bustos — *Vasquez v. Court of Appeals*

Censorship

Reyes v. Bagatsing — *Borjal v. Court of Appeals* — *Burgos, Sr. v. Chief of Staff* — *Planas v. Gill*

Prior restraint *Social Weather Stations, Inc. v. Commission on Elections* — *Tordesillas v. Hon. Puno*
 Chilling effect & self-censorship *Nicolas-Lewis v. Commission on Elections* — *Zarate v. Aquino* — *Villanueva v. Philippine Daily Inquirer, Inc.*
 Online censorship Zeynep Tufekci, “Censorship and Attention”, in *Twitter and Tear Gas: The Power and Fragility of Networked Protest* (2017)⁸ — Zeynep Tufekci, “It’s the (Democracy-Poisoning) Golden Age of Free Speech”, *Wired* January 2018⁹ — David Kaye, “Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: report on content regulation”, United Nations General Assembly (2018)¹⁰

2.3. Limitations

“No law shall be passed abridging...”

CONST. art. III, § 4

Human relations

CIVIL CODE arts. 19–21, 26, and 32

Police power

CONST. art. II, § 5 — *Agustin v. Edu*

Tumults and other disturbances of public order REVISED PENAL CODE art. 153
 Alarms and scandals REVISED PENAL CODE art. 155
 Threats REVISED PENAL CODE arts. 282–283, and 285 — *United States v. Paguirigan* — *United States v. Estrada* — *People v. Fontanilla*
 Anti-bullying of elementary and secondary school students
 Rep. Act No. 10627 § 2

Offending religious feelings CONST. art. III, § 5 —
 REVISED PENAL CODE art. 133 *cf. Iglesia ni Cristo (Inc.) v. Court of Appeals — Celdran v. People*
 Immoral doctrines REVISED PENAL CODE art. 201 *cf. Ang Ladlad LGBT Party v. Commission on Elections — Presidential Decree No. 1986 § 3(c)*
 Flag mutilation § 34, Rep. Act No. 8491
 Destroying public monuments or paintings REVISED PENAL CODE art. 331
cf. Rumor mongering Executive Order No. 65, series of 1986

Strategic lawsuits against public participation *cf. Rules 6 and 19 of the Rules of Procedure for Environmental Cases — Mercado v. Hon. Lopena*

2.3.1. National security

Inciting to war

REVISED PENAL CODE art. 118 — *Laurel v. Misa*

Inciting to rebellion and sedition

REVISED PENAL CODE arts. 134, 139, and 140-142 — *United States v. Dorr (1903) — Espuelas v. People of the Philippines — Salonga v. Cruz Paño — Presidential Decree No. 1986 §§ 3(c)(i) and (ii)*

Threat to commit and inciting to terrorism

Rep. Act No. 11479 §§ 5 and 9

Recruitment to terrorist organizations

Rep. Act No. 11479 § 10(b) and (c)

2.3.2. Privacy

Privacy, generally

CONST. art. III, §§ 3 and 17; art. XIII, § 1 — *Morfe v. Mutuc — Ople v. Torres*

Civil actions for privacy

CIVIL CODE art. 26

Discovery and revelation of secrets REVISED PENAL CODE arts. 229-230 and 290-292
 Photo and video voyeurism Rep. Act No. 9995 §§ 2-6
 Non-disclosure of HIV/AIDS status Rep. Act No. 11166 § 44(b)

Non-disclosure of medical information Rep. Act No. 11332
 § 9(a)
 Wiretapping Rep. Act No. 4200 — *Chavez v. Gonzales*

2.3.3. Fair trial and due process

Right to criminal due process, presumption of innocence and a speedy,
 impartial and public trial
 CONST. art. III, § 14

Public trial

Re: Live TV and Radio Coverage of the Hearing of President Corazon C. Aquino's Libel Case — Re: Request Radio-TV Coverage of the Trial in the Sandiganbayan of the Plunder Cases Against the Former President Joseph E. Estrada — In Re: Petition for Radio and Television Coverage of the Multiple Murder Cases Against Maguindanao Governor Zaldy Ampatuan, et al.

Prejudicial publicity

Webb v. De Leon — Estrada v. Desierto (2001) — People v. Teehankee — Martelino v. Alejandro

Sub judice rule

Presidential Decree No. 1986 § 3(c)(vii) — *Nestle Philippines, Inc. v. Hon. Sanchez — Marantan v. Diokno — Re: Show Cause Order in the Decision dated May 11, 2018 in G.R. No. 237428*

Non-disclosure of cases of trafficking of persons Rep. Act No. 9208 § 7 (as amended by Rep. Act No. 10364)
 Regulations on reporting money laundering transactions Rep. Act No. 9160 (as amended) § 9(c)

2.3.4. Defamation

Criminal defamation¹¹

REVISED PENAL CODE Chapter 1, Title 13 — *People v. Del Rosario — Worcester v. Ocampo*

Test of defamatory character *United States v. O'Connell — Jimenez v. Reyes — Oliver v. La Vanguardia, Inc. — Orfanel v. People — People v. Suarez — People v. Sario*
 Publication *Orfanel v. People — People v. Atencio*
 Malice *United States v. Canete — United States v. Montalvo — Lopez v. Court of Appeals — Lu Chu Sing*

v. Lu Tiong Gui — Bulletin Publishing Corp. v. Hon. Noel

Privileged communication *Dorr v. United States — Orfanel v. People — United States v. Galeza — United States v. Bustos — United States v. Perfecto — United States v. Contreras — GMA Network, Inc. v. Bustos —*

Proof of truth *Tumang v. People — United States v. Sotto — Matti v. Bulletin Publishing Co.*

Slander *De Leon v. People (2016)*

Online libel Rep. Act No. 10175 § 4(c)(4) — *Bonifacio v. Regional Trial Court of Makati, Branch 149 — Disini v. Secretary of Justice — Belo-Henares v. Guevarra*

Civil defamation

CIVIL CODE art. 33 — Presidential Decree No. 1986 § 3(d)(vi)

Public officers *United States v. Bustos — People v. Perfecto — Elizalde v. Hon. Gutierrez — Tulfo v. People — Manila Bulletin Publishing Corp. v. Domingo*

Public figures *Ayer Productions Pty. Ltd. v. Hon. Capulong — Guinguing v. Court of Appeals — Villanueva v. Philippine Daily Inquirer, Inc. — Borjal v. Court of Appeals*

Private persons *Yuchengco v. The Manila Chronicle Publishing Corp. — Palad v. Solis*

Contempt of court

Rules of Civil Procedure Rule 71, § 3 — *Roque v. Chief of Staff — People v. Castelo — Danguilan-Vitug v. Court of Appeals — Cabansag v. Fernandez — Palad v. Patajo-Kapunan — Fortun v. Quinsayas*

2.3.5. False information

Defamation due to false information

Filipinas Broadcasting Network, Inc. v. Ago Medical and Educational Center Bicol — Philippine Journalists, Inc. v. Thoenen

False news REVISED PENAL CODE art. 154

Misinformation on HIV/AIDS Rep. Act No. 11166 § 22

Misinformation in food and drugs Rep. Act No. 3720 § 10(jj)
(as amended by Rep. Act No. 9711)

Obstruction of justice Presidential Decree No. 1829 § 1(i)

2.3.6. Obscenity

Obscene publications

REVISED PENAL CODE art. 201 — *People v. Kottinger — Pita v. Court of Appeals; Gonzalez v. Katigbak — Fernando v. Court of Appeals — Madrilejos v. Gatdula*

Child pornography

Rep. Act No. 7610 §§ 9 and 11 — Rep. Act No. 9775 §§ 3–5, 9, and 11 — Rep. Act No. 10175 §§ 4(c)(1) and 4(c)(2)

2.3.7. Incitement, hate speech, and discrimination

Human dignity

CONST. art. II, § 11; art. XIII, § 1

Incitement of hatred

International Covenant on Civil and Political Rights art. 20

Incitement to genocide

Rep. Act No. 9851 § 5(b)

Hate speech

Newsweek, Inc. v. Intermediate Appellate Court — MVRSPublications, Inc. v. Islamic Da’wah Council of the Philippines, Inc.

Penalizing violations of the International Convention on the Elimination of All Forms of Racial Discrimination

Presidential Decree No. 1350-A

Nondiscriminatory and non-derogatory portrayal of women in media Rep. Act No. 9710 § 16

Gender-based sexual harassment Rep. Act No. 11313 §§ 11(a), 12, and 14

Anti-bullying due to HIV status Rep. Act No. 11166 § 49(i)

Online hate speech

David Kaye, “Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: online hate speech”, United Nations General Assembly (2019)¹²

2.4. The Press

“... of the press...”

CONST. art. III, § 4 — *Chavez v. Gonzales — Arafiles v. Philippine Journalists, Inc. — Quisimbing v. Lopez*

Shield law

Rep. Act No. 53 (as amended by Rep. Act No. 11458) —
Rep. Act No. 10173 § 5

Reporting on the judiciary

*In Re: Parazo — In Re: Sotto (1949) — In Re: Jurado —
In Re: Macasaet — In Re: Canlas*

Campus journalism

CONST. art. XIV, § 5(2) — Rep. Act No. 7079 — Rep. Act No.
11440 — *Miriam College Foundation, Inc. v. Court of
Appeals* — David Kaye, “Report of the Special Rapporteur
on the promotion and protection of the right to freedom of
opinion and expression: report on academic freedom and the
freedom of opinion and expression”, United Nations General
Assembly (2019)¹³

3. MEDIA LAW**3.1. Freedom of information****Full public disclosure**

CONST. art. II, § 28 — *Senate of the Philippines v. Ermita —
Legaspi v. Civil Service Commission — Guingona, Jr. v.
Commission on Elections — Aquino-Sarmiento v. Morato —
Bantay Republic Act or Ba-Ra 7941 v. Commission on
Elections*

Right to information

CONST. art. III, § 7 — Executive Order No. 2, series of 2016 —
*Valmonte v. Belmonte — Subido v. Ozaeta — Department of
Foreign Affairs v. BCA International Corp. — Chavez v.
Presidential Commission on Good Government — In Re:
Production of Court Records and Documents and the
Attendance of Court Officials and Employees as Witnesses
(2012)*

3.2. Special regulations for elections**Election propaganda**

CONST. art. IX-C, § 4 — Rep. Act No. 9006 §§ 2–11 (as
amended by Rep. Act No. 11207) *cf. Sanidad v. Commission
on Elections — Badoy v. Ferrer — Osmena v. Commission on
Elections — National Press Club v. Commission on Elections
— Adiong v. Commission on Elections — ABS-CBN*

Broadcasting Corp. v. Commission on Elections — Social Weather Stations, Inc. v. Commission on Elections — Penera v. Commission on Elections (November 2009) — GMA Network, Inc. v. Commission on Elections — 1-United Transport Koalisyon v. Commission on Elections — Diocese of Bacolod v. Commission on Elections

Distribution of election returns

Rep. Act No. 8436 § 22 (as amended by Rep. Act No. 9369)

3.3. Institutional regulations

Communication infrastructure

CONST. art. II, § 24; art. XVI, § 10

Limitations on mass media ownership

CONST. art. II, § 19; art. XVI, § 11

Nationality requirements for public utilities

CONST. art. XII, § 11

Statutory restrictions on franchise grantees

Obscenity in broadcasting

Soriano v. Laguardia

Accessibility

Rep. Act No. 11106 § 10 — Rep. Act No. 7277 § 22

||| Movie and Television Review and Classification Board
 Presidential Decree No. 1986
 Cinema Evaluation Board Rep. Act No. 9167 §§ 10- 12,
 and 13

3.4. Commercial speech: advertising, public relations, and consumer protection

Consumer protection

CONST. art. XVI, § 9 — Rep. Act No. 10611 §§ 8(b) and 37(e)

Nationality of advertising industry

CONST. art. XVI, § 11(2)

||| Unsolicited commercial communications (“spam”) Rep. Act
 No. 10175 § 4(c)(3) *cf. Disini v. Executive Secretary*
 Regulations on tobacco advertising Rep. Act No. 9211
 §§ 4(a)(b)(f), 13-26

Prohibition on advertising mail-order brides Rep. Act No.
9655

3.5. Children in the media

Role of youth in nation-building

CONST. art. II, § 13

Protection of children

CONST. art. XV, § 3(2) — *Balacuit v. Court of First Instance of Agusan Del Norte and Butuan City, Branch II*

Employment of children in media Rep. Act No. 7610 § 12(2)
(as amended by Rep. Act No. 9231)

Restrictions on children in advertising Rep. Act No. 7610
§ 14

Children's television Rep. Act No. 8370

Prohibition against labeling and shaming children in conflict
with the law Rep. Act No. 9344 § 60

Reporting on children in conflict with the law Rep. Act No.
9344 §§ 14 and 43

Reporting on children involved in armed conflict Rep. Act No.
11188 §§ 24(a) and (b)

3.6. Labor law: rights of media workers and labor relations

Labor as a primary social economic force

CONST. art. II, § 18

Full protection of labor

CONST. art. XIII, § 3 — LABOR CODE art. 218

Classifications and rights of media workers

LABOR CODE arts. 294–297 — *Sonza v. ABS-Broadcasting Corp.* — *Dumpit-Murillo v. Court of Appeals* — *Television and Production Exponents, Inc. v. Servana* — *Consolidated Broadcasting System, Inc. v. Oberio* — *ABS-CBN v. Nazareno* — *Fulache v. ABS-CBN Broadcasting Corp.* — *Fuji Television Network, Inc. v. Espiritu* — *GMA Network, Inc. v. Pabriga* — *Del Rosario v. ABS-CBN Broadcasting Corp.*

Unions and labor organizations

CONST. art. XIII, § 3 — LABOR CODE arts. 250–251, 258–260, 263, 278–279 — *Lopez, Sr. v. Chronicle Publications Employees Ass'n* — *Bulletin Publishing Corp. v. Hon. Sanchez*

Right to absentee voting Rep. Act No. 10380
Media workers in drugs cases Rep. Act No. 9165 § 21(1) (as
amended by Rep. Act No. 10640)

3.7. Intellectual property law: copyright, trade and service marks, and related rights

Use of property

CONST. art. XII, § 6

Protection of intellectual property and creations

CONST. art. XIV, § 13 — INTELLECTUAL PROPERTY CODE
§ 2

Copyright

INTELLECTUAL PROPERTY CODE §§ 172-173, 175, 176-178,
181, 184-185, 187, 213- 217, and 221 — Rep. Act No.
10088 — Republic Act No. 9239 — *Columbia Pictures, Inc.*
v. Court of Appeals (1996)

Trade and service marks

INTELLECTUAL PROPERTY CODE §§ 121.1, 122-123, 145,
147-148, 155, and 168

Moral rights

INTELLECTUAL PROPERTY CODE §§ 193, 195, and 197-198

Art forgery

Rep. Act No. 9105

4. CONTEMPORARY ISSUES & SPECIAL TOPICS

Instructor's discretion

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- ¹ UP Course Catalogue, College of Mass Communication,
p. 371, available at
<https://our.upd.edu.ph/files/catalogue/CMC.pdf>
- ² Id.
- ³ all available at <http://www.officialgazette.gov.ph/>
- ⁴ Human readable summary:
<https://creativecommons.org/licenses/by-nc-sa/4.0/>;
full license:
<https://creativecommons.org/licenses/by-nc-sa/4.0/legalcode>
- ⁵ available at <https://www.undocs.org/A/HRC/32/38>
- ⁶ available at
<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

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- ⁷ available at <https://www.undocs.org/A/HRC/41/35>
⁸ available at
<https://www.twitterandteargas.org/downloads/twitter-and-tear-gas-by-zeynep-tufekci.pdf>
⁹ available at <https://www.wired.com/story/free-speech-issue-tech-turmoil-new-censorship/>
¹⁰ available at <https://www.undocs.org/A/HRC/38/35>
¹¹ Provisional coverage, substantially derived from Luis B. Reyes, *The Revised Penal Code Book Two* (2010).
¹² available at <https://www.undocs.org/A/74/486>
¹³ available at <https://www.undocs.org/A/75/261>