Freedom Of Expression And Contempt Of Court

In a collection of essays from selected European jurisdictions, this book assesses the legal situation of the offences associated with the criticism of judges. It undertakes a comparative study of the management of the conflicting demands between freedom of expression and the independence of judiciary within a European context.

What kinds of expression and behavior should be treated as "speech" for constitutional purposes? Must freedom of speech include the right of access to the media? And what is its relationship to obscenity cases, libel actions, and contempt of court proceedings? This book examines the legal protection of speech in the United States, Great Britain, and Germany under the European Convention of Human Rights. The author contends that in order to understand the meaning and scope of liberty of expression, we must turn to the moral and political writings which initially called for its protection.

The common law offence "contempt of court" is the legal mechanism dating back to the early 1100 s by which the judiciary ensures its independence, effectiveness and dignity. It is the means by which the court avoids interference with the administration of justice thereby ensuring that the accused has a fair trial. It is the means by which the court punishes scandalous acts . With the rising of the new constitutional era by which all laws, be they common or statutory, are to conform to the deemed contemporary values of a new democratic society, the offence of contempt has to be in conformity with the values of the Namibian Constitution. One of these values is the fundamental right to freedom of speech and expression bestowed upon the media. The media includes the press, radio, the Internet, and the television. The essence of this book is thus to examine to what extent the common law crime of contempt is in conformity with these constitutional values. In other words, does this offence reasonably restrict the free legal speech of the media as required by a democratic society such as ours? Or is the restriction unwarranted?

Freedom of speech and a free and fair justice delivery system are two most important components of democracy, and striking a balance between them is a must for its smooth running. The law of contempt of court in India has assumed immense social and political significance due to growing judicial tendency to gag and often to subjugate the democratic aspirations and dissent. This book presents a critical assessment of the freedom of speech as enshrined in the Indian Constitution and encroachment on it by the proactive approach of judiciary through the instrument of the law of contempt of the court. Tracing the history of the contempt of court, it discusses at length the various aspects of democracy and freedom of speech, the status of contempt of court in various countries, the law of contempt and constitutional guarantees, and judicial accountability. It also tries to explore gender biases in the delivery of justice in the cases related to the contempt of court.

Media Law for Journalists functions as both an introduction and a reference guide to the main legal issues facing U.K. journalists. It is intended as a course textbook for students, first and foremost. However, it is also intended to help keep journalists out of jail and on the right side of the law. The book presumes no prior legal knowledge but covers all the relevant areas including: defamation, privacy, contempt of court, freedom of expression, and intellectual property. It also looks at the difference between the English and Scottish legal systems as they pertain to the media. functions as both an introduction and a reference guide to the main legal issues facing U.K. journalists. It is intended as

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Fully revised and updated, this title examines topical issues such as free speech and freedom of the press, as well as considering other important developments and legislation.

Scandalising the court is a form of contempt of court and a consultation paper (No.207 ISBN 9780118405324)) was published and ended in October 2012. An amendment to the Crime and Courts Bill designed to abolish the offence brought the Commission's consideration forward in order to produce recommendations in time to be considered within this legislative process. This report looks at the arguments for and against abolition as well the conclusions the Commission comes too.

The Law Commission's work on scandalising the court forms part of its wider project on contempt. Work on this aspect of contempt has been brought forward to tie in with the Government's consideration of the possible abolition of the offence under the Crime and Courts Bill. A well-publicised case in spring 2012 highlighted the historic common law offence of scandalising the court. This offence covers conduct likely to undermine the administration of justice or public confidence in the administration of justice, where the conduct does not impinge on particular proceedings. Scandalising the court has been defined as "any act done or writing published calculated to bring a Court or a judge of the Court into contempt, or to lower his authority". There has not been a successful prosecution for scandalising the court in England and Wales since 1931, although it has been used more recently in other common law jurisdictions. The controversy surrounding this offence is in relation to: the lack of clarity about both the conduct element and the mental element; the lack of clarity about the defences available; the justification for retaining such an offence in a well-established democracy; and the compatibility of the offence with freedom of speech and the European Convention on Human Rights. The consultation considers whether the current offence of scandalising the court should be abolished or, in the alternative, whether it should be retained but modified and, if so, how

In authoritarian states, the discourse on freedom of speech, conducted by those opposed to non-democratic governments, focuses on the core aspects of this freedom: on a right to criticize the government, a right to advocate theories arid ideologies contrary to government-imposed orthodoxy, a right to demand institutional reforms, changes in politics, resignation of the incompetent and the corrupt from positions of authority. The claims for freedom of speech focus on those exercises of freedom that are most fundamental and most beneficial to citizens - and which are denied to them by the government. But in a by-and large democratic polity, where these fundamental benefits of freedom of speech are generally enjoyed by the citizens, the public and scholarly discourse on freedom of speech hovers about the peripheries of that freedom; the focus is on its outer boundaries rather than at the central territory of freedom of speech. Those borderline cases, in which people who are otherwise genuinely committed to the core aspects of freedom of speech may sincerely disagree, include pornography, racist hate speech and religious bigoted expressions, defamation of politicians and of private persons, contempt of court, incitement to violence, disclosure of military or commercial secrets, advertising of merchandise such as alcohol or cigarettes or of services and entertainment such as gambling and prostitution.

The essays discuss the restrictions imposed by contempt of court and other laws on media freedom to attend and report

legal proceedings. Part I contains leading articles on the open justice principle. They examine the extent to which departures from that principle should be allowed to protect the rights of parties, in particular the accused in criminal proceedings, to a fair trial, and their interest in being rehabilitated in society after proceedings have been concluded. The essays in Part II examine the topical issue of whether open justice entails a right to film and broadcast legal proceedings. The articles in Part III are concerned with the application of contempt of court to prejudicial media publicity; they discuss whether it is possible to prevent prejudice without sacrificing media freedom. Another aspect of media freedom and contempt of court is canvassed in Part IV: whether journalists should enjoy a privilege not to reveal their sources of information.

European Convention on Human Rights – Article 10 – Freedom of expression 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. In the context of an effective democracy and respect for human rights mentioned in the Preamble to the European Convention on Human Rights, freedom of expression is not only important in its own right, but it also plays a central part in the protection of other rights under the Convention. Without a broad guarantee of the right to freedom of expression protected by independent and impartial courts, there is no free country, there is no democracy. This general proposition is undeniable. This handbook is a practical tool for legal professionals from Council of Europe member states who wish to strengthen their skills in applying the European Convention on Human Rights and the case law of the European Court of Human Rights in their daily work.

Vols. for 1933-1936 include "The Law journal supplement to the New Zealand law reports."