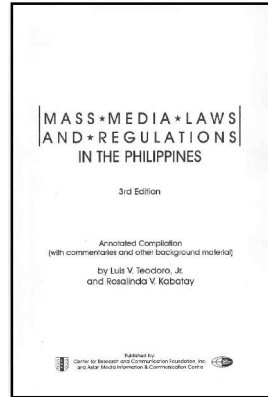


Thinking Out of the Legal Box

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Book Review of **Mass Media Laws and Regulations in the Philippines** (3rd Edition)
By Luis V. Teodoro and Rosalinda V. Kabatay
Pasig City : Center for Research and Communication Foundation, Inc.
and Singapore: Asian Media Information and Communication Centre, 2006 (502 pp)

Books that explain the nuances of the law are, in most cases, written by lawyers and are primarily meant for law students and other interested lawyers. Except for a few authors like Isagani Cruz and Jose Nolleddo who can write for general audiences, many authors of law books write for a very specific audience and they are wont to use legal jargon in explaining their points. In the process, non-lawyers are deprived of valuable information due to the inherent failure to properly understand most lawyer-authors' generally inscrutable writing style.

Aside from the non-lawyers' problem in understanding legal texts, authors of law books tend to explain the law within the framework of obeying them, providing only the necessary legal interpretation so that people can adhere to the existing laws. There are, however, authors who criticize certain aspects of Philippine laws, as in the case of the late Arturo Tolentino who laments the legislators' penchant for codifying laws in his textbook on the Civil Code. Such cases, however, are more of an exception to the general trend of giving law students and other interested lawyers the proper understanding of laws so that they may be strictly followed.

Journalists are a different lot since, in going about their work, they are guided not only by laws but also by standards and ethics of the profession. One may even argue that in times where laws go against their mandate of providing the information that the people need, journalists can – after a deep reflection and proper assessment of the consequences of their action – circumvent the law just to fulfill their duty.

The dark days of martial law from 1972 to 1986, after all, showed the imperative for journalists to even violate repressive laws to struggle against media censorship. There were even journalists like Dean Armando Malay and Eugenia Apostol who not only called for the abolition of laws that infringe on press freedom but also for the ouster of the dictator in Malacañang. Such posturing does not come as a surprise since, according to an essay by Nieva written in 1983, “Those who insist on their ‘freedom to report’ are either forced to resign, fired, slapped with harassment suits, imprisoned or even killed.” (Teodoro & De Jesus, 2001: 119) Nieva cites as an example the raid and sequestration by military operatives of the “outspoken English tabloid” *We Forum* in December 1982. Its editor, Jose Burgos, Jr. was detained with 13 of his staff and columnists, “including former Sen. Francisco ‘Soc’ Rodrigo, Dean Armando Malay, Cris Martinez and Teodoro Cecilio. They were released but placed under house arrest after one week of incarceration at Fort Bonifacio. The *Forum* had been printing articles questioning the authenticity of President Marcos’ war medals.” (Teodoro & De Jesus, 2001: 120, italics supplied) For his part, Maslog writes that when martial law was imposed, “a few took to the hills or escaped abroad. But most decided to stay to mourn their lost freedom.” (1990: 36)

The balance between the law on one hand and professional standards and ethics on the other must therefore be carefully assessed in analyzing laws related to the Philippine mass media.

Valuable Reference

The 502-page book *Mass Media Laws and Regulations in the Philippines*, 3rd edition (2006) by Luis V. Teodoro and Rosalinda V. Kabatay is a valuable reference for students, teachers, journalists, and those who value press freedom. Unlike other law books that are meant for law students and other interested lawyers, the book is written in a

manner that is understandable to non-lawyers who are interested in the subject.

The first two editions of the book were published in 1998 and 2001. As expected, the third edition analyzes selected media-related laws enacted beyond the publication date of the second edition. Among them are Republic Act (RA) No. 8792 (E-Commerce Law), RA 9211 (Tobacco Regulation Act of 2003), Executive Order (EO) No. 464 (executive privilege as an exemption to the power of legislative inquiry), EO 420 (streamlining and harmonization of identification [ID] systems of all government agencies and government-owned and controlled corporations), Presidential Proclamation (PP) No. 1017 (declaring a state of national emergency), General Order No. 5 (directing the military and police to suppress acts of terrorism and lawless violence while PP 1017 is in effect), and the Calibrated Preemptive Response (CPR) policy which justifies the dispersal of unlawful mass actions.

There are four main chapters of the book. Chapter I (Press Freedom: The Philippine Context) defines concepts like freedom of expression and the law and gives a short overview of the Philippine judicial system and the press. Chapter II (A Quick Guide to the Laws on the Philippine Communication Media) identifies and analyzes the laws affecting all forms affecting communication media, as well as laws and codes for print, broadcast, film and audio-visual media, advertising, and new media. Chapter III (Commentaries on the Philippine Mass Media System and Media Laws) discusses the media-related laws enacted from the Spanish occupation in 1521 to the so-called restored democracy under President Gloria Macapagal-Arroyo. Chapter IV (Case Law/Jurisprudence) presents selected media-related issues and problems and various cases on freedom of speech, of expression and of the press; the right to information; and limits to freedom of speech, of expression and of the press and the right to information.

There are 45 listed appendices of media-related laws and regulations. Not all of them, however, are reprinted in the current edition due to space constraints and these may be found in either the first (1998) or second (2001) edition of the book, as well as in the offices of the Movie and Television Review and Classification Board (MTRCB) and the Optical Media Board (OMB) whose office addresses and telephone numbers are provided by the authors. In the third edition, only the following are included in the Appendix section: The Philippine Journalist's

Code of Ethics; Supreme Court (SC) *en banc* resolution dated October 22, 1991 on the live TV and radio coverage of the hearing of President Corazon C. Aquino's libel case; Code of Ethics for Advertising; and Implementing Rules and Regulations of RA 9211 (Tobacco Regulation Act of 2003).

The book not only cites salient provisions of media-related laws but also analyzes their implications by citing specific cases. The authors also provide a historical context to the various media-related laws through the years, focusing on how they affected the Philippine mass media. Their background on copyright, for example, identifies the first known copyright law in the Philippines as dating back to 1887. They then discuss salient provisions of the succeeding copyright laws and present other pertinent data like the Philippines being "taken off the priority watch list" (33) of the United States Trade Representative (USTR) in the first quarter of 2006. The priority watch list, according to the book, "serves as deterrent for countries that deny adequate and effective protection to intellectual property rights." (30)

It greatly helps that Teodoro is a journalism professor and practicing journalist while Kabatay is a media law educator and lawyer who has a master's degree in communication and is currently working on her PhD in the same discipline. This collaboration between a journalist and a lawyer proves to be useful in analyzing media-related laws not in the context of how journalists can properly abide by them but of how they can maintain the highest standards of the profession.

For example, in the discussion of RA 53 (Shield Law) which protects journalists from revealing the source or sources of their stories, the authors state: "The rule is that, when called to account for publication denounced as inaccurate and misleading, the journalist has the option (a) to demonstrate their truthfulness and accuracy even if in the process he discloses his sources, or (b) to refuse, on the ground that to do so would require such disclosure. In the latter event, however, he must be ready to accept the consequences of publishing untruthful or misleading stories." (24)

The authors also argue that the media-related laws do not in any way guarantee the upholding and protection of press freedom, or for that matter the safety of journalists who are true to their profession. They write: "Beyond all these details of practice vs. the law, the Philippine

experience suggests that despite more or less liberal laws, repression, fueled by public indifference and aggressive governments, is still possible.” (394)

While one encounters legal jargon in reading the book, the authors ensure that their discussions are written in a way that is understandable to non-lawyers, defining both legal and abstract terms if necessary prior to discussing a topic. Libel, for example, is extensively defined before the particular laws are analyzed by the authors. Their discussion is not confined to pertinent provisions of the Revised Penal Code (RPC) since they also analyze specific media-related cases, one of the most recent being *Filipinas Broadcasting Network v. Ago Medical and Education Center-Bicol Christian College of Medicine et al* (G.R. No. 141994, January 17, 2005). The latter is said to be an example of a case “which failed to show that the communication was a qualified privileged communication” (316).

The presentation is well-organized because media-related laws are grouped according to the form of mass media to which they apply. Given that there are laws that cut across all forms of media, the authors also have a specific section for this. They are also wont to repeat their analyses of specific laws in other sections so that the reader can relate media-related cases to others.

As stated, the third edition is up-to-date since recent issuances like PP 1017 and EO 464 are analyzed in the context of their implications on media practice.

PP 1017 which put the country under a state of national emergency was imposed on February 24, 2006. The said proclamation cited as basis the alleged conspiracy between the extreme Left and the extreme Right “to bring down the President” and the reckless magnification of their claims by “certain segments of the national media” (284). In their analysis of PP 1017, Teodoro and Kabatay write: “During emergency, governmental action may vary in breadth and intensity from normal times, yet they should not be arbitrary as to unduly restrain our people’s liberty.” (288) According to them, among the acts that are not authorized by the Constitution, the law and jurisprudence are the “imposition of standards on media or any prior restraint on the press; and...the warrantless search of the [*Daily Tribune*] offices and the whimsical seizures of some articles for publication and other materials” (287-288, italics mine).

On the other hand, EO 464 was issued on September 28, 2005. According to the book, this became the basis for “the non-appearance of various government officials...who were summoned by Senate Committees to attend as resource speakers in public hearings” (211). Unlike their treatment of PP 1017, the authors opt to cite the SC’s decision on EO 464, particularly this part where the people’s right to information is mentioned: “To the extent that investigations in aid of legislation are generally conducted in public...any executive issuance tending to unduly limit disclosures of information in such investigations necessarily deprives the people of information which, being presumed to be in aid of legislation, is presumed to be a matter of public concern. The citizens are thereby denied access to information which they can use in formulating their own opinions on the matter before Congress – opinions which they can then communicate to their representatives and other government officials through the various legal means allowed by their freedom of expression.” (218)

Given the book’s format, a reader has the option to only read the chapters or sections that interest them. While it is still best to read all the chapters of the book, a reader in a hurry is strongly advised not to ignore Part D of Chapter IV titled “Issues and Problems in the Spirit and Practice of Philippine Mass Media Law.” As the title suggests, the authors discuss various media-related concerns including the killings of journalists and pressures on the media. They also expose legislators who proposed measures that would curtail press freedom, as well as other officials who committed acts that do not create an atmosphere that is conducive to the effective practice of the media profession. It is strongly recommended, however, that this section be updated to include pressing media-related issues under the Macapagal-Arroyo administration. Except for data on media killings, official pronouncements of government officials on how mass media organizations should go about reporting the national situation is not analyzed.

Reading this part, the last in the book, leads one to conclude that the problem is not so much the lack of government regulation of the media but rather the need to strengthen self-regulation. Media practitioners are also encouraged by the authors to be true to their calling not only by observing the highest standards of ethical practice but also by fighting for press freedom, most especially in times when it is being threatened by the powers-that-be.



Protesters denounce PD 1017 during the February 2006 rally at the Philippine Senate building. Retrieved February 19, 2007 from http://www.arkibongbayan.org/2006-02feb27-APbynPartylists/pix-hor/100_1546.JPG

It is not surprising that this book's first edition had the Supreme Court (SC) as its "single biggest purchaser" (viii). Former Chief Justice Hilario Davide says in the book's foreword that it conveniently puts in one volume the laws affecting mass media, making the third edition "an invaluable resource not only for communication students and teachers but also for lawyers concerned with mass media law" (viii). For his part, University of the Philippines (UP) Law Professor and former Dean Raul Pangalangan writes: "The authors...have contributed immensely to the `shaping and application of those wise restraints that make us free.'" (ix)

Need for a Fourth Edition

While there is no debate that the book is a handy reference material for those who want to know more about the mass media laws and regulations in the country, a fourth edition is necessary in the next few years to include new developments that have bearing on the practice of the media profession.

In the near future, students, professors, and journalists, for example, can greatly benefit from the authors' insight regarding the proposal to allow foreign ownership of mass media in the Philippines. After all, this is being pushed by proponents of charter change which the Macapagal-Arroyo administration is pushing for. It is unfortunate that this issue has not been discussed in the book's third edition.

An in-depth discussion of certain issues will also benefit readers, as in the case of the implications of the repeal of the Textbook Reprinting Law discussed in just two paragraphs (54-55). Aside from the fact that Filipinos now need to buy the original, imported textbooks and that their photocopying is now prohibited, a close scrutiny – again, perhaps in the book's fourth edition in the next few years – should lead the authors to also discuss the provisions of the General Agreement on Tariffs and Trade (GATT) being implemented by the World Trade Organization (WTO). It is hoped that the Philippine government's adherence to, say, Trade-Related Agreement on Intellectual Property Rights (TRIPS) and the General Agreement on Trade in Services (GATS) would then be analyzed in the context of the practice of the media profession, focusing on the consequences of the entry of foreign-owned and controlled mass media.

With regard to its analysis of RA 7079 (Campus Journalism Act of 1991), it may be necessary for the authors to stress that this law is ironically being used by some school administrators to shut down student publications due to the lack of a clear provision for mandatory collection of publication fees. In addition, the recent controversy involving the withholding of printing funds of the *Philippine Collegian* (official student publication of UP Diliman) must also be deeply analyzed. Using RA 7184 (Government Procurement Reform Act) as basis, the UP administration stresses that the need to subject to an administration-led public bidding the choice of printing press is just a technical matter. However, the *Collegian* editors and staff, as well as some of the

publication's alumni, claim that this is a repression of campus press freedom.

It is also advisable to analyze in the future edition of the book First Gentleman Mike Arroyo's decision to charge 48 journalists with libel for allegedly damaging his reputation. Media groups argue that his decision constitutes media repression, prompting them to file a class suit against him. On the other hand, he says that he is just simply exercising his right as a private citizen. With regard to libel, there is also a need to include the ones filed against the Philippine Center for Investigative Journalism (PCIJ) in connection with its stories on the allegedly wiretapped conversations between the President and an officer of the Commission on Elections (COMELEC).

Readers can also benefit from the authors' insight regarding the government officials' statements on how media practitioners should practice the profession. President Gloria Macapagal-Arroyo, for example, says in a speech before the Kapisanan ng mga Brodkaster ng Pilipinas (KBP) that the media should cast aside their "bad boy image" and should focus only on winners, particularly the country's economic improvement. Macapagal-Arroyo is also quoted as saying that the mass media should give equal space to good news and refrain from putting only the bad ones on the front page of newspapers.

As one reads the third edition, he or she may immediately notice typographical errors particularly in the book's first 100 pages. A meticulous proofreading of the fourth edition of the manuscript can lessen, if not totally prevent, such errors.

In addition, it would do well for the fourth edition to include all appendices and not refer the reader to previous editions for the other documents that are mentioned as part of the appendices. A recent edition, after all, is meant to be either an improvement of or an update to the previous ones, the reader being given the option to throw away the latter. That the first and second editions of the book are already "out of print" (viii) poses a problem for researchers who want to immediately get hold of the documents mentioned in the appendices but are not reprinted in the third edition due to space constraints.

It must be clarified, however, that it is not this reviewer's intention to put pressure on the publisher and the authors to produce a fourth edition just to correct the perceived weaknesses of the third. The need for future editions mainly rests on the premise that there are so many

issues and concerns that still need to be discussed that have implications on the practice of the media profession.

And as they try to make sense of the country that has the ironic distinction of having the freest press in Asia but at the same time being the most murderous place in the world to practice journalism, the authors indeed have their work cut out for them in the years to come.

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Note: Unless otherwise indicated, all quotes come from the reviewed book.

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