School of Journalism and Mass Communication
University of Iowa
Law, Media and Communication (19:140).
Spring 2012

Lyombe Eko, PhD (Instructor).
Office Hours: MW: 1-3 p.m.
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Office Hours:
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Office Hours:
Course Description:
This course will cover the fundamental principles of mass media law. Emphasis will be placed on the legal privileges and regulatory limitations affecting each branch of the media, depending on its unique nature. We will focus on how the First Amendment and its press and speech clauses shape artistic endeavors and professional activities in the traditional media as well as on the Internet.

Required Textbook


Readings:


**Scope and Purpose**

**A. The First Amendment**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment I, Constitution of the United States (1791).

The First Amendment protects many types of “speech” expression and assembly. The nature of the media led the courts to apply the First Amendment to them in different ways. This course will explore the application of the First Amendment to different circumstances of freedom of expression and assembly as well as to the different circumstances of the traditional and online media.

The purpose of this course is to enable the student with no previous knowledge of mass media law to appreciate the American constitutional and judicial system, as well as understand how judicial decision-making has defined and shaped media practice under the First Amendment. Students will also be introduced to the basics of case briefing.

**B. The Universal Declaration of Human Rights**

* Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

* Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Articles 18 & 19, Universal Declaration of Human Rights (1948).**

The United Nations’ Universal Declaration of Human Rights sets forth the international standard for freedom of opinion and expression through the media of mass communication. Unfortunately, there is no universally accepted definition or standard of freedom of speech and expression. Some countries have freedom of speech while many do not. Since we live in the age of globalization—the interconnection, interaction and fluid exchange of information and knowledge between peoples and cultures around the world—
our course will survey the major free speech instruments of the world from a comparative perspective. Knowledge of the freedom of expression traditions and perspectives of the peoples we encounter, report on, do business with, or even go to war with, is essential in our globalized world. The first part of this course will therefore compare and contrast the different conceptualizations of freedom of expression in a number of representative countries and regions, and analyze the adherence of these countries to the universal humanistic standards spelled out in the Universal Declaration of Human Rights.

The textbook and readings provide the necessary background information and much of the source material for discussion. Students are expected to come to class prepared. This means doing the required readings and being prepared to discuss them in an informed manner. The law comes with its specialized vocabulary. Students will be required to know the most common legal terms used in mass media cases. The textbook contains an excellent glossary, which will be supplemented by lectures.

**Freedom of Expression in Class.**

“Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas.”


Simply put, all ideas are welcome. Free speech is the stock-in-trade, nay, the very life-blood of communication in democratic societies. Under the First Amendment, the United States is considered a marketplace of ideas (*Abrams v. United States*, 1919). Therefore, freedom of speech means freedom for all. No idea is too controversial to be expressed in the right context. In this course, students are encouraged to freely express their ideas, even if they are unpopular, unorthodox, unconventional, liberal, conservative, or offensive, provided such ideas are expressed in a civil, professional manner. Since we will be discussing some legal and ethical issues on which most people have very strong personal opinions, and over which reasonable people often disagree, students are to treat their colleagues, even those with whom they differ, with respect. If you do not like an opinion, feel free to advance a counter opinion. If you want to express an opinion, even
one contrary to that of the professor or the teaching assistants, do not hesitate to raise your hand and speak your mind! All opinions are welcome.

Though Freedom of speech is very important, freedom of thought is just as crucial. The world needs more thinkers and fewer talkers. As Danish philosopher, Søren Kierkegaard put it: "People demand freedom of speech as a compensation for the freedom of thought which they seldom use." **One of the aims of education is to help students become independent thinkers who have a thoughtful and critical attitude towards the world and towards popularly accepted ideas. The worst clones are intellectual and political clones.** To become an independent thinker is indeed a noble aspiration; to become an intellectual or is a deplorable condition.

**The professor and the teaching assistants will grade all written work purely on its academic merits. No student will be penalized or otherwise disadvantaged because of opinions he or she expressed in class or in a written assignment.**

**Administrative Home**
The College of Liberal Arts and Sciences is the administrative home of this course and governs matters such as the add/drop deadlines, the second-grade-only option, and other related issues. Different colleges may have different policies. Questions may be addressed to 120 Schaeffer Hall or see the CLAS **Student Academic Handbook**

[www.clas.uiowa.edu/students/academic_handbook/index.shtml](http://www.clas.uiowa.edu/students/academic_handbook/index.shtml)

**Electronic Communication**
University policy specifies that students are responsible for all official correspondences sent to their University of Iowa e-mail address (@uiowa.edu). Faculty and students should use this account for correspondences. (Operations Manual, III.15.2. Scroll down to k.11.)
Understanding and preventing Sexual Harassment

As defined by the Supreme Court of the United States, sexual harassment is an unwanted sexual advance made towards a person of the same or opposite gender. It takes two forms:

1) Creation of a hostile work environment through sexual jokes of the same or opposite sex, display of pictures of a sexual nature, sexting (sending people unwanted indecent images through text message functions), off-color humor involving people of the same or opposite sex, groping and the like.

2) Quid pro quo (Latin expression meaning “this for that”) sexual harassment where a person in a position of power or authority demands sexual favors from subordinates in exchange for a good grade, promotion, salary increase, or other advantage (Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998)). Sexual harassment is a violation of the Civil Rights Act of 1964. It subverts the mission of the University of Iowa and threatens the wellbeing of students, faculty, and staff. All members of the UI community have a responsibility to uphold this mission and to contribute to a safe environment that enhances learning. Incidents of sexual harassment should be reported immediately.

See the UI Comprehensive Guide on Sexual Harassment at:

Reacting Safely to Severe Weather

In severe weather, class members should seek appropriate shelter immediately, leaving the classroom if necessary. The class will continue if possible when the event is over. (Operations Manual, Part IV <http://www.uiowa.edu/~our/opmanual/v/16.htm#1614>, 16. See items e, h, and i.)
Class Etiquette and Student Complaints.

The statement of student rights and responsibilities is set forth in the Student Academic Handbook (found at the College of Liberal Arts Web site: http://www.clas.uiowa.edu/students/academic_handbook/ix.shtml). It includes procedures for student complaints concerning faculty actions. If you have any complaints about this course, please discuss the matter with me first. If you are not satisfied with your discussion, feel free to contact the Associate Director of Undergraduate Studies, Prof. Frank Durham. If you are still not satisfied, contact the Director of the School of Journalism. Complaints cannot be brought later than six months after the alleged event.

Students must bear in mind that law is a formal, tradition-bound discipline. I will address all students by their last names, e.g. Mr. Doe or Ms. Roe. You are to address me as “Dr. Eko.” You are also to address the Teaching Assistants as Mr. Stefonek and Ms. Elbert.

Administrative Home
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The UI Student Handbook states that students who sleep in class engage in disruptive behavior. However, in the spirit of freedom of speech and expression, this course will make an exception to that rule. I consider sleeping in class or even “Tebowing,” “expressive conduct,” legitimate forms of academic protest that will not be punished. Just bear in mind that if you snore, fall off your seat, sleepwalk, or otherwise disrupt the class, you will be trampling on the First Amendment rights of other students to receive information or express their opinions!
Use of Electronic Media Equipment in Class. Students are free to use their laptops or iPads to take notes in class. However, using laptops and iPads for other activities that may distract other students or disrupt the class is strictly Verbotten! All cell phones, ipods, and pagers are required to be in the off position. Texting in class is not allowed.

Language Issues:

1. Legal Vocabulary: Each discipline comes with its specialized vocabulary. Law is no exception. Students will be required to know the most common legal terms used in the media. Look up unfamiliar words in the glossary at the end of the textbook or in a law dictionary. That is the best way of making sense of most of the material in this course. Expect to spend at least three hours of study time for every hour of class time. This includes reading an average of one chapter per class period.

2. Proper English Grammar and Usage.
   The most important instrument of communication and law is language. Students should consider this an advanced English language class (with some Latin expressions thrown in for good measure). Mastery of the English language is crucial in communication law studies. In all their writings, students will be graded on their use of the English language. Students who employ improper grammar or use words incorrectly will lose points. The major “culprits” that cause students to lose points include confusion of “principal and principle.” For example, the correct usage should be: “My pal, the principal, teaches principles of physics.” There is also “there and their,” “who and whom,” “there and their,” confusion of possessives and plurals, nouns and pronouns that do not agree (an example of incorrect agreement is: If a student fails to prepare, they will be preparing to fail). Split infinitives also tend to be a problem. An example of incorrect usage: “If only he had chosen to not drink and drive, he would be alive today,” and so on.

Attendance, Professionalism & Extra Credit
   Class attendance is a professional expectation. If you are going to be absent, please send either the instructor or the teaching assistants an e-mail to that effect.
   Students who attend classes, do all class assignments, and collect all graded assignments
and briefs from the teaching assistants, get extra credit of 2% over and above their final score for the course. These are the only extra credit points that will be given. This can make a big difference to your final grade!

Please note that neither the professor nor the teaching assistants will provide notes or lecture summaries to students who are absent from class without a valid excuse as set forth in University of Iowa regulations.

**Deadlines and Make-ups.**

The media are ruled by deadlines. Students must bear in mind that in the professional world, they will live by deadlines and die by deadlines. Students are expected to do their readings before class and demonstrate familiarity with the material. They are also expected to turn in their assignments when it is due. Late assignments will be accepted only in circumstances where students have a valid medical, family or other emergency, in accordance with University of Iowa rules and regulations. **Please note that no e-mailed assignments will be accepted unless in emergency cases as described in the University Handbook.** Students are required to turn in a clean, hard copy of the assignment printed in black ink. Make up exams will be given only in emergency cases that satisfy university criteria for “Excused Absences from Examinations.” Please see the College of Liberal Arts Handbook at [http://www.clas.uiowa.edu/students/academic_handbook/ix.shtml](http://www.clas.uiowa.edu/students/academic_handbook/ix.shtml).

**Academic Honesty**

The College of Liberal Arts and Sciences’ policy on academic fraud, dishonesty, and cheating is spelled out in the Student Academic Handbook. Please consult it at [http://www.clas.uiowa.edu/students/academic_handbook/ix.shtml](http://www.clas.uiowa.edu/students/academic_handbook/ix.shtml). In brief, all assignments must be the result of the independent endeavors of each student. Students who attempt to pass off other peoples’ work, including material from former students of this course, as well as material downloaded from the Internet as their own, will receive a zero for that particular assignment, and expose themselves to further academic sanctions as prescribed in University of Iowa rules and regulations pertaining to plagiarism and academic dishonesty.
Some students have been known to turn in the same or very similar assignment or paper to two different courses. This is an unethical practice that is unacceptable under university rules and regulations. Turning in an assignment or paper for this course constitutes certification on your part that the paper is the result of your individual endeavors and that you have not turned in the same paper to another course for credit.

**The Iowa Dozen**

This course will adhere to the general principles of journalism education set forth in the Iowa Dozen:

*We learn…*

– to write correctly and clearly
– to conduct research and gather information responsibly
– to edit and evaluate carefully
– to use media technologies thoughtfully
– to apply statistical concepts appropriately

*We value…*

– First Amendment principles for all individuals and groups
– a diverse global community
– creativity and independence
– truth, accuracy, fairness, and diversity

*We explore…*

– mass communication theories and concepts
– media institutions and practices
– the role of media in shaping cultures.

**College of Liberal Arts & Sciences Policy on Cross-Enrolment.**

The College of Liberal Arts and Sciences has set forth a new policy on cross enrolment. If you are a student in one college and take courses offered by another college, please bear in mind that in matters related to the application or non-application of a specific course to your degree requirements, the policies of the college in which you are enrolled will be applicable.
Graduate Students.

This course is required for some graduate students. Graduate students enrolled in this course will be expected to produce a higher level of work commensurate with their academic status. They will write a longer term paper and brief two extra cases.

ADA Accommodation:

Reasonable accommodation will be made for students with functional limitations and medically certified learning disabilities, in accordance with the relevant provisions of the Americans with Disabilities Act (ADA), and University of Iowa policies. If you have a learning or functional disability that requires accommodation, please consult the University Disabilities Office and have that office send me official documentation explaining the type of reasonable accommodation needed.

I. Course Method, Assignments, and Grading.

The course will follow the legal case brief method. That means we will study application of the freedom of expression aspects of the Universal Declaration of Human Rights from a comparative, international perspective in order to determine the applicability of universal free speech values in specific cases. Thereafter, we will carry out a systematic study of the landmark First Amendment decisions of the Supreme Court of the United States, as well as key cases from lower federal courts, in order to distill from these cases, the legal rules and principles applicable to the media in the United States. The aim of case analysis is to enable students to become critical and analytical thinkers who, when faced with legal issues, will make the right decisions.

Course Assignments


Students will write a three-page comparative report on the three readings:

| 1. “The Exceptional First Amendment,” by Frederick Schauer (Available on Icon) |
| [http://www.indexoncensorship.org/2011/12/pyongyang-unwrapped] |


Graduate Students are expected to write a five-page comparative paper on the same subject.

You may discuss the readings with a fellow student but each student must write his/her own paper independently. Group papers will not be accepted. You must write the paper in the form of an essay. It must compare and contrast the free speech contexts of the United States and Russia and North Korea as reflected in the readings. The readings show that different nations and cultures have different approaches to the common issue of freedom of expression guaranteed under the UN Declaration of Human Rights. Compare and contrast the freedom of expression cultures of the United States, and Russia and North Korea that are raised in the readings.

Questions that could be addressed in your paper (there are many others):
1. What is American exceptionalism?
2. What are the main characteristics of the First Amendment and the laws of the three countries with respect to freedom of expression?
3. What are the similarities and differences between the different three systems in terms of their treatment of journalists?
4. How do the three systems view freedom of speech and expression?

B. Media law term paper (10% of course grade)
Abstract of term paper: Due March 6, 2012.

Term paper due: April 12, 2012.

You are required to choose a media law topic discussed in class, the text or the readings, research it and write a one-page summary of what your term paper will be about. Your abstract must contain a title, and must indicate what the aim of your paper is going to be. Remember that this is a media law course. Your paper must focus on media law or First Amendment issues. I want to see evidence that you have done some preliminary research and that your topic is viable. You may not proceed with the paper until your abstract has been approved. This is done to avoid situations where students write term papers that are out of topic (issues like abortion, gun control, sexuality, gay marriage, women’s rights, immigration, terrorism, and sexual harassment are outside the
scope of this course). However, papers on free speech issues connected to homosexuality are ok (See for example, Snyder v. Phelps granting First Amendment protection to anti-gay speech).

Write a five-page research paper, excluding references (ten pages for graduate students) on the topic that was approved. The focus of your paper should be on American media law issues or controversies. However, interested students can carry out a comparative study on the similarities between the First Amendment (American media law) and other national free speech traditions and cultures. **Note that you are not being asked to write a news story, news feature, a blog, an opinion piece or an editorial. Your assignment is to write a scholarly research paper with appropriate citation of sources and a reference or bibliographic page.** You are further required to use no less than 5 references of which at least 3 must be books, journal articles, newspapers or magazines of record or their electronic/online versions. The textbook and readings can be included in the bibliography.

**Writing style:** All papers must be typed, double-spaced, printed single-sided, and must conform to either the 5th Edition of the APA Publications Manual. That is, you must use the author, date method. Example:

Existentialists (Camus, 2002; Kierkegaard, 2005) believed life is absurd. Einstein (1955) believed in ensoulment while Camus (2002) thought the idea was absurd.

Or

**The Harvard Law Review (Blue book style).** Example:

“Frederick Schauer calls the United States the “recalcitrant outlier” of international human rights, which, he suggests, has made values of health, privacy, safety, civility, respect and dignity subservient to “the paramount constitutional concerns with freedom of speech and freedom of the press.”¹ (Note this is a footnote citation style).

Please note that e-mail submissions are not acceptable. You must turn in a printed copy of the paper on the date it is due. Papers can be turned in early at the journalism offices.

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¹ See Frederick Schauer, The Exceptional First Amendment, in MICHAEL IGNATIEFF (ED.) AMERICAN EXCEPTIONALISM AND HUMAN RIGHTS 29, 30, 42 (2005).
All term papers should follow the following outline:

1. Descriptive Title (on a separate title page).
2. Introduction (Present the topic, state its significance, and define terms. What cases will you be using? What legal controversy will you be analyzing?).
3. Statement of the Research Question (What is the aim or objective of the study? What do you intend to do? What is its scope?).
4. Body of paper (analysis). Do what you said you were going to do. Case analyses and comparisons come in the body of the paper. (Note that comparative papers sometimes use the “thesis-antithesis-synthesis format”)
5. Findings/results. If you are doing a comparative study, analyze similarities and differences.
6. Conclusion (a recapitulation of what you just did and what you/we can learn from the study).

Grading: Papers will be graded according to the following criteria:

a. Importance/significance of topic
b. Clear statement of the objective of the paper.

c. Quality of content & Focus: Analysis of primary sources (cases, statutes, etc rather than secondary sources—what other authors/analysts say about these cases). Note: focus on cases not what others say about the cases!
d. Organization: Clear, captivating introduction, smooth transitions between ideas and paragraphs. The analysis is exhaustive, the conclusion flows from the facts presented, advances the writer’s assessment of the issue at hand, and has closure.
e. Quality of writing, grammar, punctuation (note possessives and noun pronoun agreement) word choice and bibliography.
Please note that e-mail submissions are not acceptable. You must turn in a printed copy of the paper to the instructor or any of the teaching assistants on the date it is due. Papers may be turned in early at the journalism office.

C. Case briefs (7% of course grade):

All students will be required to read the following 5 cases, and write a one to two page brief on each of them. Use the sample brief handed out in class as a template. Read the cases carefully and pay close attention to the facts of the case, the procedural posture of the case (the courts that heard it), the legal principles set forth in the case, the way the court applies the legal principles to the facts of the case, and the arguments the court advances to justify the legal principles it applies. The dates on which the briefs are to be turned in are indicated in the table below.

<table>
<thead>
<tr>
<th>Case Brief</th>
<th>Date Due</th>
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<tr>
<td>2. PETA v. Doughney, 263 F.3d 359 (4th Cir. 2001)</td>
<td>Due Feb. 20th</td>
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<tr>
<td>4. Iowa v. Canal, Iowa Supreme Court, No. 07-1051 (2010)</td>
<td>Due April 9th</td>
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<td>5. MGM v. Grokster, 545 U.S. 913 (2005)</td>
<td>Due April 17th</td>
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Graduate students will brief the following additional cases:

<table>
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<th>Case Brief</th>
<th>Date Due</th>
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<tr>
<td>7. Miller v. California, 413 U.S. 15 (1973)</td>
<td>Due April 19th</td>
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</table>

Copies of the syllabus, sample briefs, cases and study guides are found on Icon, the UI course management tool (http://icon.uiowa.edu). Be sure to read the entire case not just a summary from a Web site. What you must bear in mind is that from a journalistic perspective, court cases are human interest stories from which legal principles and rules are distilled.
Please note: Students who copy case summaries/briefs from Web sites like “Oyez,” “Justia,” Google, and “Wikipedia” get a zero. Material plagiarized from these or other websites can be detected easily by the instructor and teaching assistants. You are required to read the case itself in its entirety, not a summary or syllabus. You may use the textbook for guidance if necessary.

D. Tests

1. **First test 20%** (February 28th, 2012).
3. **Final Examination: 30%** (Week of May 7th 2012 (Date and location to be announced).

The tests and examination will consist of multiple-choice questions, matching or identification of cases and legal principles, as well as questions requiring essays to hypothetical media law cases. Sample questions will be discussed in class.

**Grading Criteria and Breakdown of grades.**

The purpose of grades in this course is to measure the following variables:

1. The quality of work accomplished by each student as measured by the successful completion of course assignments.
2. Readiness for future learning in the School of Journalism or in graduate school.
3. Level of mastery of media law as measured by application of case law to hypothetical fact patterns. In short, students should be able to briefly narrate specific legal facts, analyze them, and distill the legal principles that flow from them.
4. The amount of progress accomplished as measured in student performance in course assignments and tests.
5. The amount of effort expended in the course as measured in the quality of papers.
6. Attendance and participation in class.
### Breakdown of Grades

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<th>Component</th>
<th>Percentage</th>
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<tr>
<td>Reading Report</td>
<td>8%</td>
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<tr>
<td>Term Paper</td>
<td>10%</td>
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<td>Briefs</td>
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<td>First Test</td>
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<td>Mid term test</td>
<td>25%</td>
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<tr>
<td>Final Examination</td>
<td>30%</td>
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<tr>
<td>Extra credit (attendance, completion of all assignments)</td>
<td>2%</td>
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In law, a key principle is **stare decisis** (rule of precedent). That means judges always take past case decisions into consideration when they adjudicate cases. Therefore, cases studied at the beginning of the course often serve as precedent for cases studied in the middle or at the end of the course. As a result, the mid-term and final exams will be comprehensive. Students are free to study in groups and discuss the study guides with their classmates. Please bear in mind that you will be held responsible for all required readings. All cases briefed in this course will feature prominently in the tests and the final exam.

Please note that in accordance with university rules and regulations, students who consult other students, copy from other students or otherwise allow other students to copy from them during any of the exam sessions, automatically expose themselves to sanctions up to, and including getting an automatic failing grade.

**Letter grades will be assigned as follows:**

- 93-100% = A
- 90-92% = A-
- 87-89% = B+
- 83-86% = B
- 80-82% = B-
- 77-79% = C+
- 73-76% = C
- 70-72% = C-
Grade Posting

All grades for course assignments and tests will be posted on the course management tool (Icon). You will need a Hawkid and password to have access to your grades on Icon. Please note that under Federal law (FERPA) grades are private. Therefore, neither the instructor nor the teaching assistants are authorized to release your grade to a third party. We will therefore not entertain requests from students who want to collect papers or grades for other students unless such requests are accompanied by a signed note from the student whose grade or paper is being sought.
# COURSE MODULES:

<table>
<thead>
<tr>
<th>Week</th>
<th>Module Number &amp; Topic</th>
<th>Readings</th>
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| 1    | 1. Historical Foundations of Freedom of Expression.  
   b. Rules of the Game by Roman Shleinov  
   c. North Korea: Pyongyang Unwrapped |
|      | 2. Comparative Free Speech Regimes.  
   a. The European Convention on Human Rights (Article 10).  
   b. Canadian Charter of Rights & Freedoms | Middleton and Lee, Chapter 1  
   Freedom of Speech, freedom of the Press and Freedom of Assembly.  
| 4    | 5. Symbolic Speech, Expressive conduct & Expressive Association | Middleton and Lee Chapter 3  
   U. S. v. O’Brien, 391 U.S. 367 (1968); Tinker v. Des Moines, 393 U.S. 503 |
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<td>The Heckler’s Veto</td>
<td>Video: Village of Skokie v. NAZIs</td>
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| 6 & 7 | 7. Defamation/Libel Law | *Middleton and Lee, Chapter 4*  
<p>|   | Video: Khawar v. Globe |   |
|   | Videos: Oprah, Texas ranchers and mad cow disease. |   |</p>
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<td>Video: Rev. Falwell on MTV and online Porn.</td>
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<td></td>
<td>b). Advertising of Alcohol &amp; Tobacco Products.</td>
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