

Contempt by Publication: A look at Philippine, English and American Practice

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The Article turns the spotlight on the implications of the court's power to declare a person or publication in contempt for publishing or circulating written articles that are offensive to its reputation and tend to impede the administration of justice. Contempt of Court by Publication, as the Author discusses, is a form of restraint on the constitutionally enshrined right to freedom of expression and of the press. In this Article, the Author traces the evolution of Philippine jurisprudence on the matter, covering both Pre-Commonwealth and Post-Commonwealth periods.

From this, the Author draws a number of observations, among them: (1) the general leaning of the courts towards the "dangerous tendency," rule, applying the "clear and present danger" rule in certain instances involving inferior courts; (2) publication during the pendency of litigation as that which is punishable; and (3) the danger to be avoided is that which tends to undermine the reputation of the courts, obstructs the proper resolution of cases, and sows distrust in the decisions of the courts. As a contrast, the Article then presents a survey of English and American doctrines, ending with the Author's recommendations.