

Reasonable Statutory Restraint to Regulate Defamatory Speech in Criminal Law

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Abstract

In a modern and democratic society, we think highly of the protection of fundamental rights, but it is difficult to deal with the conflicts between the freedom of the press and reputation of those in the news reports. The typical damage of reputation is caused from public disclosure of individual's private facts or misreports by the media. The legal measures concerning slander are aimed at resolving these conflicts. Therefore, the relevant legislation and interpretation should be examined according to the principles of the Constitution.

The media is developed on the freedom of speech, and furthermore it would be unnecessary to exist without the freedom of press. However, when the report from the media contains defamatory statement, we still need to consider the ultima ratio of penalty to decide whether there is in offense of slander, and this kind of deliberation as well as the examination from the Constitution are both kinds of balancing test of legal interests. In other words, although the freedom of speech and the press is guaranteed by the Constitution, we need to make reasonable interpretation of the law to set out the boundary between the freedom of speech and individual's reputation.

This Article discusses the idea and purpose of the offense of slander as well as the conflicts between it and fundamental rights. Moreover, through the notion revealed in the Interpretation No. 509 and 689, the Article analyzes the connection of the defamatory speech and the protection of reputation from the Criminal Law. Finally, this Article elaborates on the ways to classify protection

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of reputation of public figures. Also, it puts forward the strategies to regulate defamatory speech in a reasonable manner.

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