

IS THERE A CONSTITUTIONAL RIGHT TO SPEAK BEFORE A STUDENT GROUP IN THE UNIVERSITY OF THE PHILIPPINES?

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There is no doubt that our society guarantees the right to freedom of speech.¹ Argument begins when one asks the extent that that freedom may go. Does it mean the right of a person to speak *whatever, whenever, and wherever* he pleases? Let us inquire. There is thrill in seeing a thought "get itself accepted in the competition of the market."

It is now settled that the constitutional freedom of speech is "not an unlimited, unqualified right."² Its "societal value . . . must, on occasion, be subordinated to other values and considerations."³ So, a member of our society cannot say whatever he wants. What is guaranteed to him is his freedom to speak. What he says is a different matter. He is answerable for it. Liberty, which includes freedom of speech,⁴ is not his license to speak out any kind soever.⁵ "Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's own will."⁶

The liberty or freedom to speak, like every other constitutional right, is always in flux. It is relative as to time and circumstance. For instance, the right may not be exercised in time of war to undermine the power and position of the government. As Mr. Justice Holmes said:⁷

We admit that in many places and in ordinary times the defendants, in saying all that was said in the circular, would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done. *Aikens v. Wisconsin*, 195 U. S. 194, 205, 206. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater, and causing a panic. It does not even protect a man from an injunc-

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1 Constitution of the Philippines, Art. III, Sec. 1 (8).

2 *Mr. Chief Justice Vinson in Dennis v. United States*, 341, U. S. 494 (1951).

3 *Ibid.*; Cf. *Primicias v. Fugoso*, 45 O.G. 3280; *Ignacio and De la Cruz v. Ela*, G. R. L-8852, May 31, 1956.

4 *Gillespie v. People*, 188 Ill. 176, 182; 58 N. E. 1007; 52 L.R.A. 283; 80 Am. St. Rep. 170.

5 As Mabini said: "Liberty is freedom to do the right and never wrong; it is ever guided by reason and the upright and honorable conscience of the individual." Quoted by Malcolm, *The Constitutional Law of the Philippine Islands*, Manila, 1926, p. 333.

6 *Jacobson v. Massachusetts*, 197 U. S. 11; *Crowley v. Christensen*, 137 U.S. 86.

7 *Schenck v. United States*, 249 U. S. 47 39 Sup. Ct. 247 63 L. Ed. 470 (1919).

tion against uttering words that may have all the effect of force. *Gompers v. Buck's Stove & Range Co.*, 221 U. S. 418, 439. * * * When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight, and that no court could regard them as protected by any constitutional right.

Now, could one speak wherever he pleases, for instance, before a student group in the University of the Philippines? Let us find out the answer. For convenience of discussion, let us classify the speakers into two groups: the outsiders and the insiders. The outsiders are those not connected with the University. The insiders are the officials, instructors, and students of same institution.

The Outsiders

The University of the Philippines is a corporation under that name.⁸ It was not created for political purposes, and is not invested with political powers.⁹ It is not an instrument for any partisan propaganda.¹⁰ It is a government institution existing to advance education in the arts and sciences.¹¹

The government of the University of the Philippines is vested in a body known as the Board of Regents.¹² In this body and the President of the University are vested exclusively the administration of the institution and the exercise of its corporate powers.¹³

Among the powers of the President of the University is to grant permission to priests or ministers to speak before student groups or organizations.¹⁴ The permission must be written and previously secured.¹⁵ It is subject to the condition "That speakers do not discuss questions which might provoke dissension."¹⁶

No similar provision in the University Code, 1946 edition, is found with respect to speakers other than priests or ministers. However, they may come within the scope of Chapter VI, Article III, Sections 35 and 36, of same code, which provide limitations on the use of university buildings and premises. The former section prohibited the use of the Villamor Hall (now the Supreme Court Building) "for meetings of a *political, partisan, or religious* nature."¹⁷ The latter section prohibits the use of Rizal Annex Lecture Hall, the Little Theatre, for a religious or political meeting. This latter

⁸ Act No. 1870, Sec. 1; University Code, Ch. I, Art. II, Sec. 4.

⁹ Secretary of Justice, Opinion No. 11, s. 1940.

¹⁰ University Code, 1946, Sec. 92, p. 189.

¹¹ Constitution of the Philippines, Art. XIV, Sec. 5; See Opinion of Secretary of Justice, dated Nov. 28, 1946.

¹² Act No. 1870, Sec. 4, as amended.

¹³ *Ibid.*, Sec. 5, as amended.

¹⁴ University Code, Ch. III, Art. II, Sec. 30 (bb).

¹⁵ *Ibid.*, Ch. VIII, Art. II, Sec. 00.

¹⁶ *Ibid.*, *id.*

¹⁷ Emphasis supplied.

section indicates that the theatres of the University in Quezon City, like the Law Theatre, may not be used for political, partisan, or religious meetings.

The prohibition may extend to the grounds and premises or campus of the University in Quezon City. The university area is not a Hyde Park for the propagation of political, partisan, or religious ideas. As its Code provides, it is not, as already stated, "an instrument for any partisan propaganda."¹⁸ In other words, an outsider cannot freely go there to occupy a space and exercise his constitutional right to freedom of speech without a permit from the proper University authorities.¹⁹ Similarly, no solicitation for funds, canvassing for sales, subscription or drives for the sale of tickets could be conducted in the University buildings or premises without the approval of the President or his duly authorized representatives.²⁰

The Insiders

A. The Academic Staff

Members of the academic staff of the University of the Philippines constitutionally enjoy academic freedom.²¹ This kind of freedom is not defined by law.²² But its meaning and scope may be gleaned from the following policy stated in Chapter IV, Article V, Section 14, of the University Code:

"a. A university or college may not place any restraint upon the teacher's freedom in investigation, unless restriction upon the amount of time devoted to it becomes necessary in order to prevent undue interference with teaching duties.

"b. A university or college may not impose any limitation upon the teacher's freedom in the exposition of his own subject in the classroom or in addresses and publications outside the college, except in so far as the general necessity of adapting all instruction to the needs of immature students, or in the case of institutions of a denominational or partisan character, specific stipulations in advance, fully understood and accepted by both parties, limit the scope and character of instruction.

"c. No teacher may claim as his right the privilege of discussing in his classroom controversial topics outside of his own field of study. The teacher is morally bound not to take advantage of his position

¹⁸ See note 10.

¹⁹ University Code, Ch. VI, Art. III, Secs. 27, 33 & 34.

²⁰ *Ibid.*, *id.*, Sec. 43.

²¹ Constitution of the Philippines, Art. XIV, Sec. 5.

²² Arthur O. Lovejoy defines academic freedom as follows: "Academic freedom is the freedom of the teacher or research worker in higher institutions of learning to investigate and discuss the problems of his science and to express his conclusions, whether through publication or in the instruction of students, without interference from political or ecclesiastical authority, or from the administrative officials of the institution in which he is employed, unless his methods are found by qualified bodies of his own profession to be clearly incompetent or contrary to professional ethics." *Encyclopaedia of the Social Sciences*, Vol. I, tit. Academic Freedom, p. 384.

by introducing into the classroom provocative discussions of irrelevant subjects not within the field of his study.

"d. A university or college should recognize that the teacher in speaking or writing outside of the institution upon subjects beyond the scope of his own field of study is entitled to precisely the same freedom and is subject to the same responsibility as attach to all other citizens. If the extramural utterances of the teacher should be such as to raise grave doubts concerning his fitness for his position, the question should in all cases be submitted to an appropriate committee of the faculty of which he is a member. It should be clearly understood that an institution assumes no responsibility for views expressed by members of its staff; and teachers should, when necessary, take pains to make it clear that they are expressing only their personal opinions."

Besides the limitations on academic freedom embodied in the foregoing statements of policy, the same Code provides that a member of the academic staff "can not invoke for his benefit the freedom of criticism, for while this is an inviolable privilege of any citizen, however, its exercise is regulated by the most elementary principles of ethics in the sense that any member of the organization having knowledge of anomalies and abuses committed by the officials of the University should address his complaints, through proper channels, to the higher authorities for correction."²³

Another form of restriction on the enjoyment of academic freedom or freedom of speech by a member of the academic staff may be seen in the provisions that "No instructor in the University shall inculcate sectarian tenets in any of the teachings, nor attempt either directly or indirectly, under the penalty of dismissal by the Board of Regents, to influence students or attendants at the University for or against any particular church or religious sect."²⁴

Thus, it will be seen that academic freedom is not in extent different from the freedom of opinion, speech and publication exercised by a citizen other than a university teacher. Both are subject to certain reasonable restraints. In a case not ours, it was held that if teachers do not wish to work for the school system on the reasonable terms set down by the proper authorities, they are at liberty to retain their beliefs and associations and go elsewhere.²⁵ In the words of Mr. Justice Holmes: "No one would doubt that a teacher might be forbidden to teach many things, and the only criterion of his liberty under the Constitution that I can think of is 'whether, considering the end in view, the statute passes the bounds of reason and assumes the character of a merely arbitrary fiat.'"²⁶

²³ University Code, Ch. IV, Art. XVI, Sec. 53.

²⁴ *Ibid.*, id., Art. XXVI, Sec. 88.

²⁵ *Adler v. Board of Education of the City of New York*, 342 U. S. 485, 96 L. Ed. 517 (1952).

²⁶ *Nevey v. Nebraska*, 202 U. S. 390, dissenting, citing *Purity Extract & Tonic Co. v. Lynch*, 250 U. S. 192, 204; *Hebe Co. v. Shaw*, 248 U. S. 297, 303; *Jacob Ruppert v. Caffrey*, 251 U. S. 204.

B. The Students

Every student of the University of the Philippines is required to observe the laws of the land, the rules and regulations of the University, and the standards of good society.²⁷ It is his signed pledge that:²⁸

In consideration of my admission to the University of the Philippines and of the privileges of a student in this institution, I hereby promise and pledge to abide by and comply with, all the rules and regulations laid down by competent authority in the University and in the college or school in which I am enrolled.

There is an American case which may be cited to illustrate the meaning of the above pledge. A student of Columbia University was dismissed for making a speech in the university campus attacking the Government, the draft and the war. In upholding the dismissal, the Court said: ". . . it was one of the implied terms of the agreement [implied from the student's admission] that the plaintiff would comport himself in such manner as not to destroy or interfere with the discipline, good order and fair name of the University."²⁹

A student or any recognized student organization may not invite a speaker and use any room or rooms in any building of the University without a written application duly approved by the authorities concerned.³⁰ In this connection, the principle of an American case may be relevant. In this case,³¹ a student was expelled from the university for having arranged a meeting in a building across the street from the campus at which a Communist was the principal speaker.

Again, a student or any recognized student organization may not exercise the constitutional freedom of speech through the use of play, skit, farce, comedy, scene, or any other similar act, staged or presented in or outside of the University. These media of expression may be done only with the previous authorization and approval of a committee charged with supervision of all activities of the nature.³²

Finally, some limitations to the students' constitutional freedom of speech may be seen in the regulations governing controversial activities. Section 92 of Chapter VIII of the University Code reads in full:

SEC. 92. The participation of students in controversial activities shall be governed by the following principles:

²⁷ University Code, Ch. VIII, Art. II, Sec. 35.

²⁸ *Ibid.*, Ch. V, Art. IV, Sec. 11.

²⁹ *Samson v. Trustees of Columbia University*, 101 Misc. 140, 167 N. Y. Supp. 202 (1917).

³⁰ University Code, Ch. VIII, Art. II, Sec. 24.

³¹ *Zarichny v. State Board of Agriculture*, 338 U. S. 810 (1940).

³² University Code, Ch. VIII, Art. II, Sec. 51.

The University of the Philippines has for one of its aims the training of leaders of thought and action for the general citizenry of this country. For this purpose, the students of this institution are and have always been encouraged to take an intelligent interest in public questions. Many of these questions are of a controversial nature, it is true, but to place them beyond inquiry and consideration by the student body would be to defeat the object above mentioned. Therefore, students of this institution are and should be free to express their views and sympathies on any public question, subject, however, to certain self-evident and well-established limitations, among which are:

(1) That participation in parades, demonstrations, mass-meetings, programs, and the like should not interfere with the classes and other academic activities of the institution, nor should the students' zeal for their studies be lessened thereby.

(2) That the University of the Philippines not being an instrument for any partisan propaganda, students who take part in any such demonstration should avoid as far as possible giving the impression that they represent the University of the Philippines as an institution, but should make it clear that they are acting in their individual and personal capacity.

(3) That students should at all time observe the law and all rules and regulations, acting always with fairness, tolerance, moderation, and due respect for the opinions and feelings of others, for they should bear in mind that college education stands for breadth of mind and generosity of spirit, and that in all public questions only facts and principles should guide all citizens in forming a serious and sober judgment.

(4) That in all things, a sense of fitness of things based upon the ethics of a gentleman and gentlewoman should be and must be, in the final analysis, the guide for the action of the students and faculty in all questions.

CONCLUSIONS

The answer, then, to the question propounded, which is the topic of this paper, is in the negative. Specifically:

1. No one outside of the University of the Philippines may exercise his right to freedom of speech before any student group gathered in its buildings and premises without a permit from the proper University authorities.

2. Priests or ministers may speak before student groups or organizations only after securing a written permission from the President of the University, subject to the condition that they do not discuss questions which might provoke dissension.

3. Political, partisan, or religious meetings cannot be held in any part of the University.

4. No solicitation for funds, canvassing for sales, subscription or drives for the sale of tickets could be conducted in the University

buildings or premises without the approval of the President or his duly authorized representatives.

5. The enjoyment of academic freedom by members of the academic staff of the University is subject to the policy stated in the University Code.

6. A member of the academic staff may not invoke the freedom of criticism without first taking up the subject of his criticism with the higher authorities for correction.

7. No instructor in the University shall inculcate sectarian tenets in any of the teachings nor attempt either directly or indirectly to influence students or attendants at the University for or against any particular church or religious sect.

8. A student of the University has agreed by his pledge to comport himself in such manner as not to destroy or interfere with the discipline, good order, and fair name of the University of Philippines.

9. A student or any recognized student organization of the University may not present or stage in or outside of the University premises a play, skit, farce, comedy, scene, or any other similar act with previous authorization and approval of the proper University authorities.

10. Students of the University of the Philippines are free to express their views and sympathies on any public question, subject, however, to certain self-evident and well-established limitations, some of which are stated in the University Code.