Communications Law

Theoretical Background and Principles of Communication Law
Outcomes

- Define “freedom” in a legal sense
- Discuss the various theories justifying freedom of expression
- Discuss the importance of freedom of expression as a fundamental right
- Define “communication”
- Define communications law
What is freedom?

Discussion
The Constitutional Right to Freedom of Expression

16. Freedom of expression

(1) Everyone has the right to freedom of expression, which includes -

(a) freedom of the press and other media;
(b) freedom to receive or impart information or ideas;
(c) freedom of artistic creativity; and
(d) academic freedom and freedom of scientific research.
Theories Justifying Freedom of Expression

- The theory of individual self-fulfilment

  - Freedom is a right of an individual
  - To express their beliefs and opinions
  - To deny this freedom is to deny the individuality of the person
  - Freedom of expression is therefore part of the individuals right to personal growth and self-fulfilment
Theories Justifying Freedom of Expression

- The theory of Sound and Rational Judgment
  - A sound and rational judgment can only be made once all arguments for and against an idea have been considered.
  - If there is a free flow of information people can consider all the information at their disposal and reach their own conclusions.
Theories Justifying Freedom of Expression

- The theory of open discussion as part of the democratic process
  - All members of society have the right to form their own beliefs and communicate these to others
  - This right is an essential part of a democratic society
Theories Justifying Freedom of Expression

- The theory of human dignity
  - Newer theory
  - You have a right to speak your mind simply because it is your mind
  - The right to freedom of expression is based on the concept of individual autonomy which is part of human dignity
What is communication?

- It is the communication of information, ideas or beliefs to another person or group of persons
  - Burns (2009) 58
Communications law is that body of normative rules governing human conduct which regulates and protects the fundamental right to freedom of expression or communication. It deals with the expression or communication of ideas, beliefs, information, philosophy, etc to the public in general or to a specific person or a group of people.