

have influenced the structure and performance of the Canadian media, resulting in a media system that is, while similar in many ways, unique and different from the one south of the border.³

Nation-building in the United States, on the other hand, has been a process based more on the values of independence and rugged individualism. The American media system developed on its own without government support or intervention and in response to changing social and economic situations, with little concern about forces or developments beyond national borders. It has not been until recently that scholars, community leaders and policy planners have begun to express concern about the breakdown in community and to search for solutions to problems of establishing and maintaining community as a means of dealing with problems of urban society. Established authors such as Arthur M. Schlesinger, Jr., for example, have called attention to these problems in the context of multiculturalism.⁴ And in media circles, a recent call for a revision in journalistic practice to promote community through civic or public journalism has challenged the way responsible media report on and relate to the communities they serve.⁵

The Framework for Considering Differences

The framework for looking at differences in media law and journalistic practice in Canada and the United States considers the manner and extent to which these forces of law and practice tend to promote individualism or, more specifically, individual rights of the mass media on one hand, and community or societal interests on the other. This is similar to the approach used by Greenawalt in his comparative legal analysis of free speech in the United States and Canada.⁶ In particular, he looked at how the courts in the two countries dealt with controversial speech issues like flag burning, hate speech, campus speech codes, workplace harassment, and obscenity. While these were his main issues, he also considered court decisions related to campaign financing and medical advice about abortions to determine the extent to which legislatures and courts should focus on justice toward individuals or toward the health of communities.⁷ In his chapter on individuals and communities, where he sorts through the differences between libertarian and communitarian political philosophies, he points out the complexity of what might appear to be a rather straightforward dichotomy between individuals and communities. His conclusion is that "Understanding the values of communities does not warrant disregard of individualist perspectives; rather communal and individualist perspectives should temper each other in sensitive constitutional

³ Many good works exist to describe and explain the development and structure of the Canadian media. See, for example: Helen Holmes and David Taras, *Seeing Ourselves: Media Power and Policy in Canada* (Toronto: Harcourt Brace Jovanovich, Canada, 1992); W. H. Kesterton, *A History of Journalism in Canada* (Toronto: McClelland and Stewart, 1967); Marc Raboy, *Les Médias Québécois: Presse, radio, télévision, câblodistribution* (Boucherville, Québec: Gaëtan morin éditeur, 1992); Benjamin D. Singer, *Communications in Canadian Society* (Scarborough, Ontario: Nelson Canada, 1991); Herbert Strentz and Vernon Keel, "North America." The chapter on U.S. and Canadian Media in John C. Merrill, ed., *Global Journalism: Survey of International Communication*. Third Edition (White Plains, N.Y.: Longman, 1995) at 355-394; and David Taras, *The Newsmakers: The Media's Influence on Canadian Politics* (Scarborough, Ontario: Nelson Canada, 1990).

⁴ Arthur M. Schlesinger, Jr., *The Disuniting of America: Reflections on a Multicultural Society* (New York: W.W. Norton Company, 1992).

⁵ See especially: Davis Merritt, *Public Journalism and Public Life: Why Telling the News Is Not Enough*. (Hillsdale, NJ: Lawrence Erlbaum Associates, 1995); Jay Rosen, *Getting the Connections Right: Public Journalism and the Troubles in the Press* (New York: Twentieth Century Fund, 1995); Jay Rosen and Davis Merritt, Jr., *Public Journalism: Theory and Practice* (Dayton, OH: Kettering Foundation, 1994); and James Fallows, *Breaking the News: How the Media Undermine American Democracy* (New York: Pantheon Books, 1996).

⁶ Greenawalt, *supra* note 1. See also Kent Greenawalt, "Free Speech in the United States and Canada," *Law and Contemporary Problems* 55, no. 1 (1992) at 5-33.

⁷ Greenawalt, *supra* note 1, at 4.