

Themes Promoting Community and Individualism In U.S. and Canadian Media Law and Journalistic Practice

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This paper provides an interim report on a project designed to explore themes promoting community or individualism in U.S. and Canadian media law and through journalistic practice. In particular, its focus is on the ways and the extent to which the law, the courts and the media in each country tend toward perspectives that favor the rights of individual journalists and media operations or that emphasize the values of community and the place of the media within the broader context of communities.

The first part of this paper examines the way courts in Canada and the United States have interpreted their respective constitutional provisions for freedom of expression by looking at themes in those judgments that appear to promote individualism or, more specifically, individual rights of the mass media on one hand, and community or societal interests on the other. These are not either-or distinctions, certainly, and as Greenawalt explains, the ways in which courts and legislatures approach these issues are influenced by legal traditions and broader cultural considerations as well as the practicing philosophy of the country, which can be highly individualistic or that can tend to emphasize the place of persons within communities.¹ While his analysis looks at free speech issues like flag burning, hate speech and campus speech codes, the focus of this project is on developments in the law that are more directly related to the operations of the mass media.

The second part of the paper begins to examine the influence of English and French traditions on journalism and journalistic practice in Canada in ways that are similar to or different from those in the United States, particularly with respect to how these approaches encourage community or individualism. This part grows out of some earlier work done by the author on English, French and American influences on professional values of journalists in the United States and Canada.²

Differences in the Canadian and American Experiences

Concerns about community, community-building and nation-building have been part of the Canadian experience from the beginning. Realities of history and geography have caused Canadians to be concerned about issues related to national unity, cultural identity, and foreign, mostly American, cultural influence through the media of mass communication. These concerns have resulted in various national communication policies, regulations, and controls which, in turn,

¹ Kent Greenawalt, *Fighting Words: Individuals, Communities, and Liberties of Speech*. (Princeton, N.J.: Princeton University Press, 1995) at 7.

² Vernon A. Keel and Viateur Larouche, "Journalists in the United States, English Canada and Quebec: Beginning a Comparative Analysis." Paper presented at the Midwest Association for Canadian Studies, Northwestern University, September 1985.