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Responsibility and Ethics in the Canadian Media: Some Basic Concerns

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□ In this article I analyze some of the troubling issues in Canadian media ethics, based on in-depth interviews with more than 50 experts on Canadian media. I begin by reflecting on the cultural considerations involved in the Canadian media's proximity to the United States. Subsequently, I discuss the problems of excessive ownership of the media by a few organizations, arguing that the right to exercise free expression does not include the right to own as many media organizations as money can buy. In this context are considered the work of two Royal Commissions: the 1970 Davey Commission and the 1980 Kent Commission. Finally, I am concerned with excessive intrusion of individual privacy. When news becomes entertainment (infotainment) and private stories become public spectacle, individual lives can be mercilessly exposed to the glaring spotlight of unwanted publicity. In delineating the boundaries of intrusion, there is a need to distinguish between public figures and ordinary citizens, and between those who choose to live in the spotlight and ordinary citizens who stumble into the public eye.

In many democracies, freedom of expression and freedom of the media are guaranteed by the same constitutional provision. Section 2(b) of the Canadian Charter of Rights and Freedoms holds that everyone has the following fundamental freedoms: "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication." The First Amendment to the American Constitution prohibits the abridgement of "the freedom of speech, or of the press." The British courts tend to treat freedom of speech and freedom of the press as interchangeable terms (Barendt, 1991, pp. 64-65). In turn, Article 5 of the German Grundgesetz (basic law) covers press and broadcasting freedom, as well as the right enjoyed by everyone to disseminate opinions freely.

Having investigated the Canadian media for a number of years, during 1998 I wrote to some distinguished experts asking to meet with them later that year. All responded positively. Some interviewees were suggested to me by colleagues while in Canada and interviews were quickly arranged. Thus, during September-October 1998 I conducted research on the Canadian media in three major cities: Montreal, Ottawa, and Toronto, and spoke with more than 50 experts: editors, columnists and reporters, members of press councils, academics, lawyers, and judges.

The interviews lasted between 1 to 3 hr each. Most interviews went on for more than 2 hours during which I asked more or less the same series of questions. The interviews were conducted in English, usually in the interviewees' offices. They were semistructured. I began with a list of questions but did not insist on all of them when I saw that the interviewee preferred to speak about specific subjects. I asked all interviewees what they saw as the main problems of the Canadian media and discussed these issues with them. Some of the issues were raised repeatedly during the interviews, and this essay attempts to explore them. The most troubling of these frequently mentioned issues include Canada's proximity to the United States, media ownership by a few organizations, and privacy. These issues are also mentioned repeatedly in the literature.

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I hold that concentration of ownership impinges pluralism and increases the likelihood that the economic interests of publishers would overshadow public interests. It is argued that the right to exercise free expression does not include the right to own as many media organizations as money can buy, nor does it include the right to intrude on an individual's privacy. Free expression does not include the right to do unjustifiable harm to others. Indeed, one of the four key principles of Sigma Delta Chi, the Society of Professional Journalists, Code of Ethics is to minimize harm. It says "ethical journalists treat sources, subjects, and colleagues as human beings deserving of respect." The Code further instructs journalists to show compassion for those who may be affected adversely by news coverage and to avoid pandering to lurid curiosity, maintaining that the "pursuit of the news is not a license for arrogance" (Ontario Press Council, 1996, p. 79).

The media have an important role to play in safeguarding individual rights and democracy. With due appreciation for the liberal inclination to provide wide latitude to freedom of expression, we must also acknowledge the need for setting limits. The right to free expression and free media, supplemented and strengthened by the concept of the public right to know, does not entail the freedom to invade individual privacy without ample justification (International Covenant on Civil and Political Rights, 1976). The media should observe the two basic liberal rights that underlie democracy: respecting others and not harming others (Cohen-Almagor, 2000, 2001; Dworkin, 1976, 1985, pp. 181-204).

The article begins by reflecting on cultural considerations involved in the Canadian media. In a democracy, the freedom granted to the media is meant to enable the expression of society's various subcultures and classes to voice public opinion and to transmit messages between the public and their elected representatives. In Canada, changes in broadcasting legislation mark a turning point in officially recognizing collective rights in broadcasting. The 1991 Broadcasting Act expresses Canada's commitment to equality rights inscribed in the Charter of Rights and Freedoms (1982), the Multiculturalism Act (1988), the Human Rights Act (1976–1977), and the Employment Equity Act (1986) and applies it to the broadcasting field. These equality rights include the right to express multicultural and multi-racial differences; the prohibition of discrimination on the basis of race, national or ethnic origin, color, religion, sex, age, or mental or physical disability; and the right to equitable job opportunities (Roth, 1996, p. 77).

Cultural Concerns

As a nation, Canada is geographically vast, culturally diverse, has a relatively small population, and is located on the border of the world's largest exporter of cultural commodities, the United States. These factors have combined historically to make the protection of Canada's culture and its cultural industries a priority for Canadians and their governments. The cultural diversity of the Canadian population is reflected in several different ways. The cultures of the aboriginal peoples, the early European settlers, and the cultural contributions of an increasingly multicultural society make a singular definition of "Canadian culture" difficult. It may be, however, that the diverse nature of Canada's people is what makes its cultural identity special (Raboy, 1997, pp. 315–323; Siegel, 1996, pp. 4–8).

Some argue that American standards have become the measure by which Canadians judge whether their culture is worthwhile. Some complain that Canadian television drama is too similar to American television drama because Hollywood has set the standard for what Canadian television drama should look like (Holmes & Taras, 1992, p. 3; Taras, 1992, pp. 174–187; Thompson, 1992, pp. 188–201). Several of my interviewees spoke about the need to preserve Canadian identity so that Canadian identity might not be "washed over." American television is becoming more and more influential in Canada, dictating the agenda. Chapter Five: Conclusions and List of Recommendations of the *Report of the House of Commons Standing Committee on Communication and Culture* (June 1993) said that overall, Canadians watch a large number of American television programs (73% and 37% of the time for anglophone and francophone Canadians, respectively) and that children and teenagers watch relatively more American television programs than adults (75% and 83% of the time for English-speaking children and teenagers, respectively; 46% and 48% for French-speaking children and teenagers,

respectively [<http://www.media-awareness.ca/eng/issues/violence/resource/reports/fraydoc.htm>]). The written press in both the United States and Canada is strongly influenced by TV and, as a result, the written press has been going through a crisis, losing readers every year. One result of the influence of the American media on the Canadian media has been invasion of privacy: Canadian media have been shifting to entertainment, to sensationalism, and to intruding into private matters at the expense of analyzing political matters. The sensational narratives have been taking so much space that they have driven out discussion about politics and other substantive matters (Taras, 1999, pp. 3–4, 171–173, 195–197).

As a self-defense mechanism against American media colonialism, Canadian authorities have passed some provisions to protect Canadian culture. Section 3 of the Broadcasting Act requires, among other things, that the Canadian broadcasting system encourage the development of Canadian expression. The Act holds that public, private, and community broadcasters must contribute to the creation and presentation of Canadian programming. They should also make maximum use, and in no case less than predominant use, of Canadian creative and other resources. The Act maintains that where this is not possible because the programming service is specialized or uses languages other than English or French, the broadcaster must make the greatest possible use of Canadian resources.

To ensure that these goals are achieved, the Canadian Radio-Television and Telecommunications Commission (CRTC) has established quantitative requirements. In fact, the Commission's Canadian content requirements are one of the fundamental aspects of Canadian broadcasting regulation. They ensure that the work of Canadian recording artists and program producers is available to Canadians and have led to the development of Canadian recording and production industry (<http://www.crtc.gc.ca>).

A substantial percentage of the Canadian Broadcasting Corporation's (CBC) programs are required to be Canadian. The CBC offers 85% Canadian content, against 25% for Global TV and 24% for Canadian TV Inc. (CTV). All French-language networks except pay-TV present significant amounts of Canadian programming. The Canadian content of French-language television is 66%, and it draws nearly 70% of total viewing time. During prime time (7 p.m. to 11 p.m.), CBC tries to have more Canadian content than the private broadcasters. In 1995, the Canadian content of the private network stations during prime time was about 25% (Siegel, 1996, pp. 164–168). The Canadian content quotas for radio are based on the broadcast of a minimum number of musical selections to be aired during the official broadcast day (6 a.m. to midnight). For AM and FM stations, the minimum weekly requirement is 30% of all popular musical selections, except for stations whose playlists are at least 35% instrumental. Such stations are allowed lower Canadian content levels because of the limited amount of Canadian instrumental music that is available. To ensure an

even distribution of Canadian music throughout the week, the Commission also expects Canadian selections to account for at least 25% of the popular music broadcast Monday through Friday between 6 a.m. and 7 p.m.

With a few exceptions, the media are Canadian owned. All Canadian broadcast ventures are licensed and regulated by the CRTC. The CRTC relies on two main pieces of legislation in governing the broadcast industry, the Broadcasting Act and the Telecommunications Act. At the core of both is the need to preserve and promote Canadian owned-and-operated broadcasting. This goal, set out under the CRTC Directive on the Ineligibility of non-Canadians, states: "No broadcasting licence may be issued, and no amendments or renewals thereof may be granted, to an applicant that is a non-Canadian" (<http://www.media-awareness.ca>; <http://www.screen.com/mnet/eng/issues/MEDIAOWN/legislat.htm>; and <http://www.crtc.gc.ca/eng/legal/noncanad.htm>).

According to CRTC legislation, "non-Canadian" is defined as any broadcaster whose foreign ownership exceeds 33.3% of the voting shares at the holding company level. Foreign ownership of the company that has responsibility for programming (the broadcast license holder) is restricted to 20% (Lorimer & McNulty, 1996, chaps. 6, 7). Section 19 of the Income Tax Act effectively restricts ownership to Canadians of any medium that accepts advertising. It accomplishes this by denying tax deductions to advertisers in journals, periodicals, and magazines directed to Canadian consumers unless those publications are 75% Canadian owned.

In this context of cultural importance, Kariel and Rosenvall (1983, pp. 435-436) noted that Canada's newspapers display remarkable cultural affinities toward their readers' respective cultural homelands, the French-language newspapers towards France and the English-language ones towards the United Kingdom. Each newspaper's editorial staff chooses which news to print, reflecting the cultural affinities of their readers. However, both French and English media focus very much on the United States.

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Media Ownership

Canadian media analysts believe media ownership is a major problem that deserves close attention. Their anxiety is voiced loudly and clearly in the literature and was reiterated in the interviews I conducted. They ar-

gued that freedom of the press does not protect the right to acquire more newspapers and that concentration of resources diminishes free speech. The media are co-opted by a few organizations and families, who represent limited interests and deny access to large sectors of the public. The main worry was at the time that Conrad Black, the owner of Hollinger Inc., controlled the majority of the print media, and that the papers he bought, like the *Ottawa Citizen*, had become right wing since he purchased Southam Inc. The argument was that Black was using the press to project his own personal views and ideological agenda (Taras, 1999, pp. 199–218).

These worries were well founded. Large segments of the population were underrepresented in the print media because of the inordinate amount of control the few media giants had in shaping public opinion. The process through which a paper's content is filtered by the interests of owners and advertisers is a subtle one, yet we may acknowledge that journalists are unlikely to report a story or to cover a certain issue if they do not believe it will be accepted by the editor or the owner. Similarly, an editor is unlikely to assign a reporter to cover a story that will frame an issue in a radically different view from that of the owner, or that might upset major advertisers. Consequently, a neo-conservative perspective that has much in common with major corporate businesses might lead to the suppression of dissenting views and critical opinions from outside the corporate mainstream (Herman & Chomsky, 1994; see also <http://www.web.net/coc/black.html>).

This was the case for Black's newspapers, which had a clear ideological line. They usually followed a Thatcherite–Reaganite line. They were internationalist, pro-business, pro-Western culture (Taras, 1999, pp. 199–218; Tyrrell, 1998, p. A18). Editors who did not wish to comply with the editorial line that Black dictated were forced to resign, as was the case for the *Montreal Gazette* and the *Ottawa Citizen*.

Evidently there was a growing concentration of media ownership in the hands of few. Independent newspapers and small chains found it increasingly difficult to sustain themselves. The larger chains bought many of them; others closed down. In 1958, the three largest Canadian newspapers controlled about 25% of daily circulation. By 1970, this figure reached 45%. In 1980, it was about 57%. If we look at the number of independent dailies, we can discern a rapid decline during the past 20 years. In 1970 there were 45 independents, in 1980 there were 29, and in 1996 only 14 of the 104 dailies were independent (Cobb, 1996; http://www.ottawacitizen.com/ARCHIVE_1966/may28/bus/bus1/bus1.html). The Thomson empire—one of the largest communication companies in the world—controlled the prestigious *Globe and Mail* and five other newspapers (Wilson-Smith, 1999; <http://www.media-awareness.ca/eng/issues/mediaown/chain.html#THOMSON>). During the late 1980s, Thomson was the second largest

owner of newspapers in the United States, with over 140 dailies and weeklies (Barlow & Winter, 1997, p. 30; Lorimer & McNulty, 1996, pp. 216–219; Taras, 1990, pp. 8–16). In February 2000, the Thomson Group announced a desire to sell all its newspapers except the *Globe and Mail*, in order to concentrate on electronic services. Thomson announced its intention to sell its 55 daily and 75 nondaily newspapers (<http://www.media-awareness.ca/eng/news/news/three/Thomson.html>). In September 2000, Ken Thomson sold the *Globe and Mail* to a conglomerate that includes a television network, CTV, retaining only a minority interest in the *Globe*. Since January 9, 2001, Bell Globemedia has owned the *Globe and Mail*. Bell Globemedia is owned 70.1% by Bell Canada Enterprises (BCE), 20% by Thomson Corp. Ltd, and 9.9% by the Woodbridge Co. Ltd. By May 2001, Thomson owned only two newspapers in Manitoba (*Brandon Sun* and *Winnipeg Free Press*), and had a minority share in the *Globe and Mail* (<http://www.cna-acj.ca/newspapers/facts/circulation.asp>).

Conrad Black has been the major player in the industry. Over the last 30 years he has purchased over 400 newspapers and magazines, making Hollinger Inc. the third largest newspaper chain in the world behind Gannett Inc. and Rupert Murdoch's News Corp (Tyrrell, 1998). Barlow and Winter (1997) argued that, in the final analysis, through his own holdings and the Canadian press subscribers, Black reached all but 4 of the newspapers in Canada. In addition, Black had access to 753 private and public educational broadcasting outlets across the country, plus all the CBC radio and television stations. The CBC owned 89 stations, 1,160 CBC rebroadcasters, 31 private affiliated stations, and 292 affiliated or community rebroadcasters. Through Southam, Black also partially owned Coles Bookstores, which merged with SmithBooks in March 1995 to form Chapters Inc., a megachain of 430 bookstores with about 35% of the national book market. It was contended that publishers really did not have any national alternative if Chapters showed little or no interest in a book.

In November 1998, Black established a national newspaper to compete with the *Globe and Mail* (Wilson-Smith, 1999). Together with the *Star* and the *Sun*, Toronto had four large daily newspapers, something quite rare in major cities of the western world. The *National Post* had quickly become the country's third-largest daily newspaper behind the *Toronto Star* and the *Globe* (Ferguson, 1999; Wilson-Smith, 1999). Yet in its first 5 months the paper lost \$32 million in operating and start up costs. Black had said that he was prepared to spend \$102 million over 5 years to cover expected losses at the *Post* (Townson, 1999, p. 52). Much of the *Post's* reporting abandons the North American tradition of neutrality in favor of the more British style of taking points of view (Wilson-Smith, 1999). Like Black's other papers in Canada and Britain, the *Post* was known for its conservative opinions, aggressive political reporting, and sustained examination of governmental

financial dealings. Jean Chretien, the Canadian liberal prime minister, had been subjected to continuous scrutiny and criticism since the paper was launched (Usborne, 1999). (The Prime Minister retaliated by preempting the British monarchy's initiative to grant Black knighthood.) Some branded the paper as antifeminist, arguing that the Post had a bias against women, especially against the feminist movement (Babstock, 1999).

With the notable exception of *Le Devoir*, all the dailies in Quebec are part of three chains owned by Conrad Black, Paul Desmarais (Power Corporation), and Pierre Peladeau (Quebecor Inc.). Of the 42 daily newspapers in Ontario, 30 (71%) were owned by Black (Barlow & Winter, 1997, pp. 4, 10; Hackett & Zhao, 1998, p. 62; Siegel, 1996, pp. 127-140; Winter, 1997, p. xxiii).

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Surprisingly, although Hollinger accounted for more than 40% of newspaper circulation, no concrete measures were taken to change the situation (Nelson, 1989, pp. 63-64). Over the last few decades, Canadians have debated what checks should be put on the power of media monopolies. Two Royal Commissions—the 1970 Davey Commission and the 1980 Kent Commission—have looked into the issue. The Commissions asked questions such as: How can we reconcile the media's tendency towards monopoly with society's need for diversity? Is there a connection between chain ownership and declining news coverage? How much influence do owners exert over programming? Does competition make a difference to the quality of coverage? Should the government regulate media ownership? (Royal Commission on Newspapers, 1981; Special Senate Committee on Mass Media, 1970; Tarnopolsky, Wright, Beaudoin, & Cody-Rice, 1981, pp. 117-123).

Both commissions issued recommendations to change the system of ownership, but nothing was done. Why were no substantive measures taken to prevent this excessive control over the media by a small number of conglomerates? One hypothesis is that the proprietors have strong relationships with political decision makers. However, the Liberal Party that forms the national government espouses views that are quite remote from those of the right-wing Conrad Black, and as mentioned previously, Prime Minister Chretien had been the subject of continuous attacks by the Hollinger papers. Yet nothing was done to limit Black's control over the media. Politicians are reluctant to deal with the media. This is probably true for all democracies,

and Canada is no exception. However, this cannot be the full explanation. Another reason may be that there is no real sense of urgency. Because Canada is open to diverse channels of communication, Black was recognized as the most influential player on the scene, but his power was still believed to be limited. There was very little public alarm over media concentration. There was no discernible public pressure for government action. The flood of television, radio, video, magazines, and Internet, as well as access in most cases to national newspapers such as the *Globe and Mail* and the *National Post*, and to international papers, ensured a variety of perspectives and mitigated the calls for alarm. Having said that, there was more concentration in the newspaper industry in Canada than in other Western nations with similar and even smaller populations and newspaper industries.

At the end of July 2000, Black announced that all of his Canadian holdings were up for sale. Hollinger sold 26 of its daily newspapers to CanWest Global, Canada's third television network, which until that point owned mostly television stations. As part of the deal, Hollinger secured a seat on the board of directors of CanWest and the two companies share ownership of the *National Post*.

In 2001, we witness a small number of large and powerful companies that control the printed media. The major players are Southam Publications (Canwest Global; 27 dailies, about 30% of total daily circulation); Sun Media (Quebecor; 15 dailies, 21% of total daily circulation); Torstar (5 dailies, 14.4% of total daily circulation); Power (5 dailies, 9.4% of total daily circulation), and Hollinger Canadian Newspapers (29 dailies, about 7%). Behind them are Bell Globe Media (1 daily, 5%); Thomson (2 dailies, about 4%); Brunswick news (Irving newspapers) (4 dailies, 2.4%); Horizons (5 dailies, 2.2%); Black Press (1 daily, 0.4%); and Annex (2 dailies, 0.3% of total daily circulation). In addition, there are eight independent dailies that account for 3.6% of the total daily circulation: *Halifax Chronicle*, *Halifax Mail-Star*, *Le Devoir*, *L'Acadie Nouvelle*, *Stratford Beacon*, *Amherst Daily News*, *Flin Flon Reminder*, and the *Whitehorse Star*.

Concentration of the print media was magnified within Canada's regions. In 8 of Canada's 10 provinces, one publisher controlled at least 56%, and sometimes 100% of newspaper circulation (Siegel, 1996, p. 133; for updated data, see <http://www.media-awareness.ca/eng/issues/mediaown/ownprov.htm>). Four media chains control the print market in Alberta: Southam (2 newspapers), Quebecor (4), Horizons (2), and Black Press (1). In British Columbia, Southam and Hollinger control almost the entire print market (14 newspapers). In addition, Izzy Asper, owner of Southam Publications (Canwest Global) also owns the dominant television outlet in the region, BCTV. Horizon Ltd. owns 2 newspapers. Thomson and Quebecor control the print market of Manitoba. In New Brunswick, 4 of the 5 newspapers in the region are controlled by

Brunswick News Inc. One newspaper is independent. In Newfoundland, Southam Publications (Canwest Global) control the 2 major newspapers (*The Telegram* and *The Western Star*). In Nova Scotia, 4 newspapers are controlled by Southam Publications (Canwest Global), 1 newspaper is independent, and 1 newspaper is owned by Halifax Herald Ltd. In Prince Edward Island, the 2 major newspapers are owned by Southam Publications (Canwest Global). In Saskatchewan, Southam Publications (Canwest Global) owns all 4 major newspapers. In the two major regions, Ontario and Quebec, there are hardly any independent newspapers (*Le Devoir* remains the notable exception). The majority of the 42 newspapers in Ontario are owned by Hollinger, Southam, Quebecor, and Torstar. In Quebec, most newspapers are owned by Power, Quebecor, Southam, and Hollinger (<http://www.cna-acj.ca/newspapers/facts/circulation.asp>).

As for the broadcasting industry, Canada had more broadcasting stations per capita than any other country: in 1995, one station for every 5,000 people. A dozen years earlier, the figure was one station for every 8,000. Virtually the entire population has access to both radio and television, with plenty of choice in each medium (Siegel, 1996, p. 154; Taras, 1999, pp. 93–104).

As in the press, we found increasing concentration of ownership in the broadcasting industry. The extent of ownership was so broad that Arthur Siegel (1996, p. 153) argued that it made the equivalent in the newspaper industry appear almost benign. The year 2000 was unprecedented for changes in media ownership and deepening media concentration in Canada. Bell Canada Enterprises purchased CTV and then announced the intention to partner with the *Globe and Mail* to create an online presence. The Quebecor group purchased Groupe Videotron, deepening media concentration and cross-ownership in cable and new media. Five corporations reach more than 60% of all Canadian TV viewers. In cable TV, three companies now have 68% of the market, nearly double that of 1983. Ten companies control 55% of the revenue in the radio industry, an increase of 50% in the last decade alone (<http://www.presscampaign.org/statement.htm>).

Cross media ownership is also on the rise. Rogers Communication has more than 3 million cable subscribers, owns the Home Shopping Network, 20 video stores, ten radio stations, one television station, the YTV Network, a one-third share of AT&T Canada, the Rogers Cantel cellular phone network, Viewer's Choice cable service, and Maclean-Hunter and with it *Maclean's* magazine. This gives one corporation an incredible control over a vast range of media products within the same geographic markets (<http://www.presscampaign.org/statement.htm>).

Canada's broadcasting regulator, the CRTC, whose mandate is to look after the national and public interests, had expressed its concerns but never declined to grant its approval and, in effect, allowed the situation to continue. The CRTC encouraged consolidation as a response to competition

anticipated from foreign companies and the telephone industry (Winseck, 1998, pp. 332–333).

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The CRTC's approach to media ownership has been highly permissive. The policy supported Canadian companies in fear of external domination. This approach was bolstered by its reliance on the weak tests of concentration included in competition law and the Mergers Enforcement Guidelines. The latter sets a high benchmark figure of 35% market control by one firm to allow mergers and acquisitions falling beneath this threshold. This benchmark figure is not only high but also suffers from lack of clarity. Is the market defined by sector, technology, or geography? Furthermore, the figure fails to distinguish between network providers and content providers. Control of 35% of all online services, electronic newspapers, and broadcasting by a single firm means a very permissive, some would argue unacceptable, policy (Winseck, 1998, p. 25). Finally, competition law and guidelines for mergers and acquisitions omit communication policy's stress on pluralism, diversity, universal service, and other goals that promote democratic communication (Winseck, 1998; see also Bagdikian, 1992; Beam, 1993, pp. 907–918; Herman & Chomsky, 1994).

Privacy

Another highly problematic issue in Canadian media is invasion of privacy, according to the literature and the experts interviewed for this study. The media have shifted to entertainment, and the sensational media prefer to intrude on private matters at the expense of analyzing political matters. They broadcast more gossip and have a tendency to popularize the news. Media experts claim there have been too many character assassinations and incidents of intrusion on privacy. The large sensational stories take up so much air time and newspaper space that they have driven out discussion about politics. During the Clinton–Lewinsky scandal, the political correspondent of the *Globe and Mail* was ordered to bring in more details and to cover politics only to the extent that it related to the affair.

According to the Angus Reid polling firm, two out of three Canadians thought the media were guilty of sensationalizing scandals, and more than one third (35%) had actually boycotted certain media because of their extensive intrusive reporting. Almost two thirds (65%) felt reporting delved too deeply into the personal lives of public figures ("Most of us feel reporters pry too much into lives of public figures," *Globe and Mail*, 10 October 1998, p. C3).

This phenomenon, of course, is not uniquely Canadian. We are living in an age when news is becoming entertainment (infotainment) and private stories become public spectacle. One of the characteristics of the modern media is their intrusiveness. In today's world, the leaders of democracies and celebrities are continuously watched, even hounded. Political leaders and public figures live in a media bubble where their every move is likely to be observed. Their public faces can almost never be taken off, and their private lives can be mercilessly exposed to the glaring spotlight of unwanted publicity. The willingness of public figures to cooperate with the media demonstrates both the seductiveness and the reach of the media (Taras, 1990, p. 235).

In a public lecture delivered at Columbia University on March 20, 1995, Brian Mulroney said that the personal abuse by the media that leaders suffer nowadays has become an unfortunately high—but necessary—price for them to pay for the privilege of service in democracies. He maintained that politicians are not the only ones tracked by the media, or by individuals masquerading as journalists; they are only the most numerous and the most visible. Mulroney called for the media to be responsible and accountable as they fulfil their indispensable roles as vigorous critics and faithful chroniclers of our lives and times.

In this context it is important to distinguish between public figures and ordinary citizens. Public figures are more susceptible to media invasion of their privacy. Ordinary citizens are usually of no interest to the public and therefore do not, generally speaking, attract media attention. Public figures have experience dealing with the media and can easily gain access to respond to allegations and gossip. The question is whether the media are entitled to intrude on private matters of public officials when these matters do not directly concern their work and office.

Another pertinent distinction is between public figures who choose to live in the spotlight and ordinary citizens who stumble into the public fore. On occasion, people muddle unintentionally into the spotlight, under circumstances that are not under their control. For instance, they may commit a significant public act, like saving someone from a fire, or rescuing a public figure from danger. The media should publish the heroic deed, but should refrain from intruding into the individual's private life (Cohen-Almagor, 1994b, pp. 113–115, or 1997, pp. 131–152). If that person prefers to remain in the public eye and to gain more attention by further deeds or expression,

then he or she is no longer a private citizen and should accept the pros and cons involved in public life. However, many of those who muddle unintentionally into the spotlight may wish to regain their privacy and return to normal life. The media should respect their privacy, especially when exposure of certain details could harm one or more of those involved.¹

Look, for instance, at the painful story of the massacre of 14 women in Montreal in December 1989. During the following days, there was a savage hunt for gossip from neighbors, friends, and even the mourners. Information on the victims was gleaned from every possible source, invading people's privacy in pursuit of a story. The killer's mother had to go into hiding, and her private life was reported in minute detail taken from divorce papers (Crelinsten, 1992, p. 217). The fact that her son was a killer legitimized crossing all ethical borders.

In another case, a Canadian woman and her child were killed during a skyjacking in Malta in November 1985. When the husband returned to Canada, a milling crowd of reporters, photographers, and TV cameramen met him at the airport. The man told them that they were not invited to the funeral (Crelinsten, 1992, p. 219). This encounter prompted soul searching in the newsrooms as editors weighed the news value against the human grief and pain involved.

In this context it should be noted that the CBC's *Journalistic Standards and Practices* held:

An individual's right to privacy is cherished in Canada. ... The invasion of an individual's privacy is repugnant. Privacy in its broadest sense means being left alone. It means protecting an individual's personal and private life from intrusion or exposure to the public view. (Russell, 1995, pp. 123, 199)²

So far, Quebec is the only province to have enacted privacy laws for the private sector. The Quebec *Charter of Human Rights and Freedoms* holds that "Every person has a right to the safeguard of his dignity, honour and reputation," and that "Every person has a right to respect for his private life" (R.S.Q., c C-12). In turn, Chapter III of the Civil Code of Quebec (1994) held:

35. Every person has a right to the respect of his reputation and privacy.

No one may invade the privacy of a person without the consent of the person or his heirs unless authorized by law.

The following acts, in particular, may be considered as invasions of the privacy of a person:

- (1) entering or taking anything in his dwelling;
 - (2) intentionally intercepting or using his private communications;
 - (3) appropriating or using his image or voice while he is in private premises;
- keeping his private life under observation by any means;

using his name, image, likeness or voice for a purpose other than the legitimate information of the public;
using his correspondence, manuscripts or other personal documents. (see also Burgess, 1998, pp. 26–27)³

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The two fundamental background rights underlying every democracy are respect for others and not harming others. They should not be held secondary to considerations of profit and the personal prestige of journalists and newspapers. Media freedom does not entail, nor does it protect, taking of unlimited measures designed to increase the sales of a newspaper or to promote the ratings for certain broadcasts (Abel, 1998; Clutterbuck, 1983; Cohen-Almagor, 1994a, pp. 217–236).

Journalists should see people as ends and not as means—a Kantian deontological approach (Kant, 1969). This view implies that the public's right to know should be qualified. The media should not cause unjustified harm to others. Of course, sometimes causing harm to others is justified. This is the case, for instance, when a person acts corruptly, and there is evidence to prove it, the media are allowed, and even obliged, to look into the issue and bring it to public scrutiny. This is what is meant when calling the media "the watchdog of democracy" (Black, Steele, & Barney, 1995, pp. 181–196; Cumming & McKercher, 1994, pp. 387–390; Meyer, 1987, pp. 77–93; Privacy Commissioner, 1998).

Indeed, the responsibilities of the media are to their audience, their profession, and to liberal democracy that enables their function (Cohen-Almagor, 2001; Greenawalt, 1989). The establishment of powerful press empires in Canada feeds the debate on social responsibility. The debate on ethical boundaries to media coverage has a long history, and remains in North America very lively (Brennan, 1996; Christians, 1985–86, pp. 14–21; Cohen-Almagor, 1999; Goldstein, 1987; Laitila, 1995, pp. 527–544; Lambeth, 1992; Meyer, 1987; Olen, 1988; Rivers & Mathews, 1988; Winkler, 1996). This essay holds that democracy and free media live and act under certain basic tenets of liberty and tolerance from which they draw their strength and vitality and preserve their independence. Furthermore, the media are not under an obligation to remain impartial with regard to all concepts; some concepts may coexist with the principles of democracy whereas others con-

tradict them completely. It is for the media to take a firm stand to defend democracy whenever it is threatened (Boeyink, 2000).

Summary

This article provides an analysis of some of the problems prevalent in the Canadian media. I reiterate that the discussion is in no way exhaustive. There are other problems that deserve close attention and that require separate analysis.

The article first reflected on Canada's proximity to the United States and then focused attention on concentration of media ownership by conglomerates. Next I discussed guidelines for placing limitations on media coverage deemed necessary for the protection of individual privacy. The freedoms the media enjoy in covering events are respected as long as they do not oppose the basic values that underlie the society in which they operate: not harming others and respecting others. Freedom of speech is a fundamental right, an important anchor of democracy, but it should not be used in an uncontrolled manner. Unlimited liberty and unqualified tolerance might deteriorate into anarchy and lawlessness, and in such an atmosphere democracy would find it quite difficult to function, and the media would be one of the first institutions to be undermined.

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Notes

1. Section IIB(b) of *The Rights and Responsibilities of the Press* (Montreal, Quebec: Quebec Press Council, 2nd ed., 1987) held: "Media and journalists should distinguish between matters of public interest and public curiosity. The publication of information concerning the private life of individuals is acceptable only to the extent that it is in the public interest."

2. See also Section VI of the Statement of Principles for Canadian Daily Newspapers, Canadian Daily Newspapers Publishers Association, adopted in April 1977:

Every person has a right to privacy. There are inevitable conflicts between the right to privacy and the public good or the right to know about the conduct of public affairs. Each case should be judged in the light of common sense and humanity.

For further discussion on privacy, see <http://www.screen.com/mnet/eng/issues/priv/privacy.htm>

3. Chapter III, "Respect of Reputation and Privacy," *Civil Code of Quebec* (1994). It is argued that the Quebec privacy laws are too broad, having unintended effects on historical research because they impede the development of access to archival holdings. See also <http://www.cam.org/~ihaf>.

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