1

PM-1 3½"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

PRECISIONSM RESOLUTION TARGETS

National Library
of Canada

Acquisitions and
Bibliographic Services Branch

395 Wellington Street
Ottawa, Ontario
K1A 0N4

Bibliothèque nationale
du Canada

Direction des acquisitions et
des services bibliographiques

395, rue Wellington
Ottawa (Ontario)
K1A 0N4

Your file Votre référence

Our file Notre référence

NOTICE

The quality of this microform is heavily dependent upon the quality of the original thesis submitted for microfilming. Every effort has been made to ensure the highest quality of reproduction possible.

If pages are missing, contact the university which granted the degree.

Some pages may have indistinct print especially if the original pages were typed with a poor typewriter ribbon or if the university sent us an inferior photocopy.

Reproduction in full or in part of this microform is governed by the Canadian Copyright Act, R.S.C. 1970, c. C-30, and subsequent amendments.

AVIS

La qualité de cette microforme dépend grandement de la qualité de la thèse soumise au microfilmage. Nous avons tout fait pour assurer une qualité supérieure de reproduction.

S'il manque des pages, veuillez communiquer avec l'université qui a conféré le grade.

La qualité d'impression de certaines pages peut laisser à désirer, surtout si les pages originales ont été dactylographiées à l'aide d'un ruban usé ou si l'université nous a fait parvenir une photocopie de qualité inférieure.

La reproduction, même partielle, de cette microforme est soumise à la Loi canadienne sur le droit d'auteur, SRC 1970, c. C-30, et ses amendements subséquents.

Canada

**AN IDEOLOGICAL ANALYSIS OF THE NEWS DISCOURSE SURROUNDING
THE BAN ON PUBLICATION OF THE KARLA TEALE MANSLAUGHTER
TRIAL**

by

KATE WILD, B.A.

**A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of**

Master of Arts

School of Journalism and Communication

**Carleton University
Ottawa, Ontario
September 23, 1994
copyright, 1994
Kate Wild**

National Library
of Canada

Acquisitions and
Bibliographic Services Branch

385 Wellington Street
Ottawa, Ontario
K1A 0N4

Bibliothèque nationale
du Canada

Direction des acquisitions et
des services bibliographiques

385, rue Wellington
Ottawa (Ontario)
K1A 0N4

Your file Votre référence

Our file Notre référence

**THE AUTHOR HAS GRANTED AN
IRREVOCABLE NON-EXCLUSIVE
LICENCE ALLOWING THE NATIONAL
LIBRARY OF CANADA TO
REPRODUCE, LOAN, DISTRIBUTE OR
SELL COPIES OF HIS/HER THESIS BY
ANY MEANS AND IN ANY FORM OR
FORMAT, MAKING THIS THESIS
AVAILABLE TO INTERESTED
PERSONS.**

**L'AUTEUR A ACCORDE UNE LICENCE
IRREVOCABLE ET NON EXCLUSIVE
PERMETTANT A LA BIBLIOTHEQUE
NATIONALE DU CANADA DE
REPRODUIRE, PRETER, DISTRIBUER
OU VENDRE DES COPIES DE SA
THESE DE QUELQUE MANIERE ET
SOUS QUELQUE FORME QUE CE SOIT
POUR METTRE DES EXEMPLAIRES DE
CETTE THESE A LA DISPOSITION DES
PERSONNE INTERESSEES.**

**THE AUTHOR RETAINS OWNERSHIP
OF THE COPYRIGHT IN HIS/HER
THESIS. NEITHER THE THESIS NOR
SUBSTANTIAL EXTRACTS FROM IT
MAY BE PRINTED OR OTHERWISE
REPRODUCED WITHOUT HIS/HER
PERMISSION.**

**L'AUTEUR CONSERVE LA PROPRIETE
DU DROIT D'AUTEUR QUI PROTEGE
SA THESE. NI LA THESE NI DES
EXTRAITS SUBSTANTIELS DE CELLE-
CI NE DOIVENT ETRE IMPRIMES OU
AUTREMENT REPRODUITS SANS SON
AUTORISATION.**

ISBN 0-315-98537-2

Canada

Name Kate Wild

Dissertation Abstracts International is arranged by broad, general subject categories. Please select the one subject which most nearly describes the content of your dissertation. Enter the corresponding four-digit code in the spaces provided.

--	--	--	--

U·M·I

SUBJECT TERM

SUBJECT CODE

Subject Categories

THE HUMANITIES AND SOCIAL SCIENCES

COMMUNICATIONS AND THE ARTS

Architecture 0729
Art History 0377
Cinema 0900
Dance 0378
Fine Arts 0357
Information Science 0723
Journalism 0391
Library Science 0399
Mass Communications 0708
Music 0413
Speech Communication 0459
Theater 0465

EDUCATION

General 0515
Administration 0514
Adult and Continuing 0516
Agricultural 0517
Art 0273
Bilingual and Multicultural 0282
Business 0688
Community College 0275
Curriculum and Instruction 0727
Early Childhood 0518
Elementary 0524
Finance 0277
Guidance and Counseling 0519
Health 0680
Higher 0745
History of 0520
Home Economics 0278
Industrial 0521
Language and Literature 0279
Mathematics 0280
Music 0522
Philosophy of 0998
Physical 0523

Psychology 0525
Reading 0535
Religious 0527
Sciences 0714
Secondary 0533
Social Sciences 0534
Sociology of 0340
Special 0529
Teacher Training 0530
Technology 0710
Tests and Measurements 0288
Vocational 0747

LANGUAGE, LITERATURE AND LINGUISTICS

Language 0679
 General 0289
 Ancient 0290
 Linguistics 0291
 Modern 0291
Literature 0401
 General 0294
 Classical 0295
 Comparative 0297
 Medieval 0298
 Modern 0316
 African 0316
 American 0305
 Asian 0352
 Canadian (English) 0355
 Canadian (French) 0593
 English 0311
 Germanic 0312
 Latin American 0315
 Middle Eastern 0313
 Romance 0314
 Slavic and East European 0314

PHILOSOPHY, RELIGION AND THEOLOGY

Philosophy 0422
Religion 0318
 General 0321
 Biblical Studies 0319
 Clergy 0320
 History of 0322
 Philosophy of 0469
Theology 0323

SOCIAL SCIENCES

American Studies 0323
Anthropology 0324
 Archaeology 0326
 Cultural 0327
 Physical 0310
Business Administration 0272
 General 0770
 Accounting 0454
 Banking 0338
 Management 0385
Canadian Studies 0501
Economics 0503
 General 0505
 Agricultural 0508
 Commerce-Business 0509
 Finance 0510
 History 0511
 Labor 0558
 Theory 0366
Folklore 0351
Geography 0578
Gerontology 0578
History 0578
 General 0578

Ancient 0579
Medieval 0581
Modern 0582
Black 0328
African 0331
Asia, Australia and Oceania 0332
Canadian 0334
European 0335
Latin American 0336
Middle Eastern 0333
United States 0337
History of Science 0585
Law 0398
Political Science 0615
 General 0616
 International Law and Relations 0617
 Public Administration 0814
Recreation 0452
Social Work 0626
Sociology 0627
 General 0938
 Criminology and Penology 0631
 Demography 0628
 Ethnic and Racial Studies 0629
 Individual and Family Studies 0630
 Industrial and Labor Relations 0629
 Public and Social Welfare 0700
 Social Structure and Development 0344
 Theory and Methods 0709
Transportation 0999
Urban and Regional Planning 0453
Women's Studies 0453

THE SCIENCES AND ENGINEERING

BIOLOGICAL SCIENCES

Agriculture 0473
 General 0285
 Agronomy 0475
 Animal Culture and Nutrition 0476
 Animal Pathology 0359
 Food Science and Technology 0478
 Forestry and Wildlife 0479
 Plant Culture 0480
 Plant Pathology 0817
 Plant Physiology 0777
 Range Management 0746
 Wood Technology 0306

Biology

General 0287
Anatomy 0308
Botany 0309
Cell 0379
Ecology 0329
Entomology 0353
Genetics 0369
Limnology 0793
Microbiology 0410
Molecular 0307
Neuroscience 0317
Oceanography 0416
Physiology 0433
Radiation 0821
Veterinary Science 0778
Zoology 0472

Biophysics

General 0786
Medical 0760

EARTH SCIENCES

Biogeochemistry 0425
Geochemistry 0996

Geodesy 0370
Geology 0372
Geophysics 0373
Hydrology 0388
Mineralogy 0411
Paleobotany 0345
Paleocology 0426
Paleontology 0418
Paleozoology 0985
Polynology 0427
Physical Geography 0368
Physical Oceanography 0415

HEALTH AND ENVIRONMENTAL SCIENCES

Environmental Sciences 0768
Health Sciences 0566
 General 0300
 Audiology 0992
 Chemotherapy 0567
 Dentistry 0350
 Education 0769
 Hospital Management 0758
 Human Development 0982
 Immunology 0564
 Medicine and Surgery 0347
 Mental Health 0569
 Nursing 0570
 Nutrition 0380
 Obstetrics and Gynecology 0354
 Occupational Health and Therapy 0381
 Ophthalmology 0571
 Pathology 0572
 Pharmacology 0572
 Pharmacy 0382
 Physical Therapy 0573
 Public Health 0574
 Radiology 0575
 Recreation 0575

Speech Pathology 0460
Toxicology 0383
Home Economics 0386

PHYSICAL SCIENCES

Pure Sciences 0485
Chemistry 0749
 General 0486
 Agricultural 0487
 Analytical 0488
 Biochemistry 0490
 Inorganic 0491
 Nuclear 0494
 Organic 0495
 Pharmaceutical 0754
 Physical 0405
 Polymer 0605
 Radiation 0986
Mathematics 0606
 General 0608
 Acoustics 0748
 Astronomy and Astrophysics 0607
 Atmospheric Science 0798
 Atomic 0759
 Electronics and Electricity 0609
 Elementary Particles and High Energy 0610
 Fluid and Plasma 0752
 Molecular 0756
 Nuclear 0611
 Optics 0463
 Radiation 0346
 Solid State 0984
Statistics 0984

Applied Sciences

Applied Mechanics 0346
Computer Science 0984

Engineering 0537
 General 0538
 Aerospace 0539
 Agricultural 0540
 Automotive 0541
 Biomedical 0542
 Chemical 0543
 Civil 0544
 Electronics and Electrical 0348
 Heat and Thermodynamics 0545
 Hydraulic 0546
 Industrial 0547
 Marine 0794
 Materials Science 0548
 Mechanical 0743
 Metallurgy 0551
 Mining 0552
 Nuclear 0549
 Packaging 0765
 Petroleum 0554
 Sanitary and Municipal 0790
 System Science 0428
Geotechnology 0796
Operations Research 0795
Plastics Technology 0994
Textile Technology 0621

PSYCHOLOGY

General 0384
Behavioral 0622
Clinical 0620
Developmental 0623
Experimental 0624
Industrial 0625
Personality 0989
Physiological 0349
Psychobiology 0451
Psychometrics 0452
Social 0453

**The undersigned recommend to the Faculty of Graduate Studies
and Research acceptance of the thesis**

**AN IDEOLOGICAL ANALYSIS OF THE NEWS DISCOURSE SURROUNDING
THE BAN ON PUBLICATION OF THE KARLA TEALE MANSLAUGHTER
TRIAL**

**submitted by Kate Wild, B.A.
in partial fulfilment of the requirements for
the degree of Master of Arts
School of Journalism and Communication**

Thesis Supervisor

Director, School of Journalism and Communication

**Carleton University
September 23, 1994**

Acknowledgments

First and foremost, I would like to thank my mother and father for their support throughout the year, and especially during the writing of this thesis. My mother provided both guidance and advice, showing a great interest in my work and offering encouragement when needed. I would also like to thank Joanne Marshall for the instruction, guidance and friendship she provided throughout the year, and for being available throughout the summer. Eileen Saunders, Paul Attallah and Klaus Pohle should also be thanked for their counsel and constructive criticism. Finally, I would like to thank Cam Crosbie, who provided both the incentive and the inspiration for the completion of this project.

Abstract

This thesis is an ideological analysis of the news discourse surrounding the ban on publication on the proceedings of the Karla Teale manslaughter trial. This study assumes a critical stance in the analysis of the news coverage of the ban, and relies upon insights and theory offered by such thinkers as Stuart Hall and Todd Gitlin. In this critical vein, the present study incorporates an in-depth analysis of the news text themselves and an examination of their political, legal, economic and social influences. Upon analysis, this study concludes that the news discourse assumes a position of opposition towards the decision to ban publication on the proceedings of the Karla Teale trial, and that this oppositional position is rooted in and hence promotes the liberal ideal. The liberal ideology is maintained throughout by the discourse's defence of the right to a free press and its assumption that with the current onslaught of new communication technologies, any nationally-imposed restrictions on reporting are futile. By assuming a liberally inspired position towards the ban, the news discourse reproduces the terms and conditions of the ideological status quo. However, it is the contention of this thesis that the media's representation of the publication ban is problematic, since it fails to address fully the Canadian legal tradition, which allows for the banning of publication under certain circumstances. The news discourse also falsely portrays the American tradition of the First Amendment as guaranteeing freedom of the press in absolute terms. Finally, the news discourse is misleading because it assumes the rhetoric of globalization, without critically assessing whether the ban truly represents an instance of globalization or not.

Table of contents

Acknowledgments	i
Abstract	ii
Table of contents	iii
 Introduction -- An ideological analysis of the news discourse surrounding the ban on publication of the Karla Teale manslaughter trial, issued by Justice Kovacs, 5 July 1993	1
Possible explanations for the media's reaction	4
News as discourse	8
Chapter breakdown	11
 Chapter One -- A critical approach to the analysis of the news	14
The dominant paradigm in mass communication studies	16
Problems with this paradigm	19
From mainstream media research to a more critical approach	21
The critical school and the work of Stuart Hall	22
Other pertinent literature to be considered	26
The critical process and the news	28
Methods of analysis -- a review	31
I. quantitative content analysis	31
II. semiotics and structuralism	32
III. the critical school	34
a) understanding economics: how industrial context shapes the news	35
b) ideological structuration, "opposition" and news frames	36
c) the polysemic nature of the news text: the case of the "preferred" reading	40
d) the strengths of the critical school: a review	42
Ideological discourse framework: a methodology for the analysis of the news discourse surrounding the publication ban	44
Liberalism as the hegemonic and ideological status quo	49

Chapter Two -- The news discourse surrounding the publication ban: an examination of its legal framework	54
The news discourse surrounding the publication ban: a legal framework	55
The Canadian legal tradition: some principles	58
I. Media and the law	59
II. Freedom of the Press in Canada	60
Freedom of the press vs. the societal right to a fair trial: Canada vs. the United States	71
<u>Her Majesty the Queen v. Karla Bernardo (Teale)</u> : some principles	78
Chapter Three -- Understanding the news discourse surrounding the publication ban: the liberal ideology and freedom of the press	86
Encoding/Decoding: the case of the preferred reading	86
The hegemonic boundary	88
The debate that looms within the news discourse	91
The Karla Teale publication ban: Why has it received such extensive media attention?	98
An ideological analysis of the liberal discourse: freedom of the press and speech	101
Chapter Four -- Understanding the news discourse: liberalism as hegemonic; the free flow of information; the myth about globalization; and the ideology of the information age	126
The second discourse: globalization	126
The liberal ideology: a global and hegemonic concept	128
An analysis of the news discourse: globalization	136
An analysis of the news discourse: the ideology of the information age	149
Globalization as myth -- the revival of the nation-state	159
Conclusion -- The news discourse surrounding the ban: a dominant reading position offered, but not necessarily accepted	165
Works cited	171

INTRODUCTION

AN EXAMINATION OF THE NEWS DISCOURSE SURROUNDING THE BAN ON PUBLICATION OF THE KARLA TEALE MANSLAUGHTER TRIAL

Karla Homolka Bernardo Teale (hereafter referred to as *Karla Teale*) and her ex-husband, Paul Bernardo Teale (hereafter referred to as *Paul Teale*), were charged in the deaths of two Southern Ontario teenage girls, Leslie Erin Mahaffy, 14, and Kristen Dawn French, 15. While Karla Teale was charged with two counts of manslaughter, her ex-husband was charged with eight counts in the deaths of Mahaffy and French, two of which are first degree murder charges. In another jurisdiction, Paul Teale faces forty-three charges, including charges of sexual assault. The Crown in the Karla Teale case sought a time limited ban on the publication of the proceedings in the accused's trial until the completion of the trial, or the discharge of Paul Teale. The defense originally applied for a publication ban in the trial of Karla Teale as well, but then abandoned their application. The submission on behalf of Paul Teale was that he would be prejudiced by a publication ban by reason of the media's continued portrayal of the accused as the victim and he as principal in the crimes. Among other reasons, the defense argued for the right to an open trial under s. 2(b) of the Charter of Rights and Freedoms, which states that everyone has the fundamental "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication." Defense also

maintained that, with a publication ban in place, the accused's credibility would be protected as a result of "her apparent plea negotiations between the Crown and the accused" (Her Majesty the Queen v. Karla Bernardo (Teale) (5 July 1993), (Ont. gen. dir) [unreported]). It was submitted that an "open trial" would show the true facts and that "it is important that the public know the 'deal' that [Karla Teale] made in the negotiated plea" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 106). Regardless, a publication ban was ordered by Judge Kovacs, on 5 July 1993, forbidding the media from reporting details of the trial proceedings. While any conviction or sentence that the court imposed was allowed to be reported, Karla Teale's plea on the two charges of manslaughter was not. The temporary and partial ban on publication of evidence is in effect until the first-degree murder trials of Paul Teale are over. Justice Kovacs ordered the ban because he felt that reporting the details of Karla Teale's trial would harm Paul Teale's chance at a fair trial.

Justice Kovacs' ban has sparked controversy about the nature of our liberal democratic society. Members of the public and mainstream press alike have opposed and in some cases, overtly challenged the gag order in attempt to uphold what is perceived to be non-appealable individual civil liberties and rights.¹ Several news discourses have emerged since the Kovacs' decision, ranging from freedom of the press as written in s.2(b) of Canada's Charter of Rights and Freedoms, to the individual's right to know, to the

individual's right to participate in the political decision-making process via an open court system. An additional argument that has been maintained throughout the media discourse surrounding the ban is that with increased access to information via computer networks and other communication technologies, a publication ban is both impossible and pointless. This deterministic argument is rooted in and hence promotes the liberal ideal of the free flow of information, as expressed in article 19 of the Universal Declaration of Human Rights (1948):

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers (UDHR, 15th Anniversary Ed., NY: UN, 1963: 36).

In other words, the argument maintains that with the introduction of new technologies, information can (and should) flow more efficiently over time and space, with little or no respect for state-designed restrictions. This argument, therefore, promotes what Marjorie Ferguson has called "the globalization myth" (Ferguson, 1992: 69). The dominant ideology that has informed these discourses is that of liberalism. While some theories of the press contend that the media are objective in nature, they in fact, are not. Rather, the

¹Many Canadian citizens have challenged the ban by receiving copies of American newspapers and magazines which contain banned information about the trial. The most public of these offenses has been the case of Gordon Domm, a retired police officer who overtly broke the ban when he attempted to mail 152 copies of the British newspaper the Sunday Mirror in November, 1993. A 12 person jury found Domm guilty of contempt of court for breaking the ban. Domm expects to appeal the decision. The Times Colonist, in Victoria B.C., has also published banned information about the case.

media serve to reproduce preformulated ideologies, such as the liberal ideal. This thesis is a study of the dominant ideological discourse evident throughout the media's coverage of Justice Kovacs' publication ban which both reiterates and reproduces a liberal ideology of freedom of the press and hence assumes the free flow of information and the myth of the global village. By couching its argument in the terms derived from the liberal ideals of free press and the free flow of information due to globalizing forces, the news discourse fails to recognize that, while these rights may be maintained within the Charter and the First Amendment, they in fact are only guaranteed *within reasonable limits prescribed by law*.

Possible explanations for the media's reaction

The media discourse surrounding the ban is worthy of investigation because of the extensive coverage it has received in the Canadian media, which can be explained in several ways. Firstly, the Teale story fits all the prerequisites of newsworthiness. *Among other things*, the Teale story is socially valuable because it represents the "abnormal" and thus defines what is socially acceptable. At the same time, this story illustrates how difficult it is to assess what is normal and what is not, because the individuals involved *appear* normal, while the charges laid against them suggest otherwise. Additionally, the Teale story is of great interest because it is close to the community. As such, it serves as a reminder that everyone is a potential victim of such crimes. At the same time, the Mahaffy

and French deaths are sensational, unique and astonishing in nature. As a result, the murders to which the Teales are connected possess all the necessary qualities of a interest-generating crime story. In addition, the imposition of the publication ban has served to increase the case's status as a newsworthy story, because it makes any available information increasingly valuable to the journalist and to the reader.

Secondly, because the publication ban is far-reaching and will likely stretch over a two-year period, there is an expressed concern that justice is not being rendered as swiftly as it should be, adding to the fear that the ban may become permanent, through a series of extensions. The fear over a potentially never-ending version of the publication ban is described in the following statement, made by Richard Dearden, lawyer for the Ottawa Citizen: "It's a very disturbing ruling because, although it is couched in temporary terms, temporary could last a very long time" (Ottawa Citizen, July 6, 1993: A2). The doubt about the ban's transience is also expressed by Defense Lawyer Ken Murray who stated: "I feel like Alice in Wonderland because you never really know what's going to happen next ..." (Ottawa Citizen, May 4, 1994: A4). If the ban were to be extended because of developments in the Paul Teale trial in which several "unexpected turns" have delayed the proceedings, the Canadian media would be unable to publish any details about the case for what could be a very long time. This, along with the suspicion that the ban has served both the police and the Crown in protecting them from public scrutiny, has raised

questions about the legal system in Canada.

The extensive attention that the Teale case and publication ban have received from the American press and legal system has also served to escalate the importance of the ban to Canadian media outlets. There has been an unusual interest shown by the American media in Canadian legal restrictions on reporting, especially in reference to the Kovacs' ban on publication. George Bain, in an article in Maclean's, argues that there has been unusual interest displayed by some Canadian media in reporting and commending the American point of view (Maclean's, Jan. 24, 1994: 63). While it is true to say that the Canadian mainstream media have obeyed the ban and have appealed it through legal channels, it is apparent, through an ideological analysis of the news discourse, that the news discourse's opposition to the ban is a result of a belief in a more expansive latitude of freedom of the press, such as is recognized by the Charter but more often upheld by the United States' First Amendment. By proposing a less restricted standpoint regarding the free press issue, the news discourse surrounding the ban assumes an implied belief in the free flow of information doctrine as expressed in the Universal Declaration of Human Rights. In addition, the ban has been subject to international media scrutiny, both in the mainstream press and on computer networks. It is possible, therefore, to suggest that such wide-ranging international attention has been a central factor contributing to the Canadian press' questioning of the effectiveness of a nationally imposed publication ban.

Finally, the doubt in the legal system, as expressed throughout the discourse has been magnified ten-fold by the fact that gossip and innuendo have continued to flow openly since before the trial and that as a result, many Canadians have learned some of the banned details, or at least, have heard gossip about the case. As such, the ban has been labelled ineffective. The increased access to information regarding the case has been facilitated by the new communication and information networks. These new technologies, which have allowed foreign newspapers to gain access to banned material, have challenged the process of banning publication and as such, have become a new and threatening force to contend with, calling into question the effectiveness of nationally imposed laws restricting the flow of information. The argument maintains, therefore, that these technologies also call into question the existence of a national legal system in an increasingly internationalized arena.

The publication ban is worthy of critical attention, then, because of the many timely and important questions it raises about our social and political situation, both on a national and international front. While there are many reasons for the story's extensive media coverage, there is no doubt that the attention paid by the international media serve as a central contributing factor. It follows, then, that by espousing an argument against the ban that is rooted in liberalism and that draws on the dominant conception of the inevitable new age of information, the discourse surrounding the ban serves to perpetuate

the ideal of the free flow of information. As such, the discourse also promotes the terms of a globalized world, where the effectiveness and practicality of the nation-state, as an independent political entity which can design and impose its own laws, is called into question.

News as Discourse

The critical tradition in communication studies, which attempts to unmask the elusive descriptions which prevail within the media, will provide the theoretical framework for the analysis of the news discourse surrounding the publication ban. According to the critical school, the media function in and through the domain of meaning and as such, their primary function is to construct meaning. Thus, the media are inherently ideological in nature. Accordingly, the study of news should be undertaken as a consideration of the media's role in framing and legitimizing a variety of ideological discourses, not as a study of the media's success at mirroring reality. It is crucial that communication research come to terms with these mediated representations and the institutional, economic and discursive practices that construct them. As such, and in order to understand these dominant representations, it is essential to examine the complex process of meaning making, an understanding that is facilitated by an exploration of the Gramscian notion of hegemony.

Within the critical school, hegemony is defined as a ruling class' domination through ideology and through the shaping of popular consent (Gitlin, 1980: 9).

Hegemonic ideology, which is not imposed by the dominant class, but is, as Raymond Williams writes, "a whole body of practices and expectations which constitute a sense of reality for most people in the society" (Williams, 1991: 413) is evident in everything people do and think. The hegemonic order, thus, is disguised as the common sense through which people understand the world. Hegemony is a process in which the dominant and dominated participate together, and it allows for struggle and opposition to thrive, but only within the established boundaries. By drawing on the concept of hegemony, an ideological analysis of the news discourse surrounding the ban will facilitate an understanding of its dominant position of opposition, which protests both the decision and legal institution which have been liberally inspired by maintaining the liberal ideal, as embodied in the right to freedom of the press and the free flow of information. In other words, the news discourse surrounding the ban exposes the contradictions inherent within liberalism.

While the news discourse may present its argument as one of opposition to the system, it, in fact, reiterates and reproduces the terms and conditions of the very system of which it is critical, by situating its argument within the framework of the dominant ideology of liberalism. In its contradictory nature, the discourse surrounding the ban is

informed by the liberal notion of freedom of the press, because it argues for recognition of the Charter right to freedom of expression and of the press, which they consider to be fundamental rights in a free and democratic society. In addition, the news discourse, by promoting the ideals of the free flow of information, also promotes the "market place of ideas" theory, a metaphor which reiterates the ideals of the free market concept which is also central to liberalism. The news discourse surrounding the ban, thus, clearly illustrates the contradictory nature of hegemony. The dominant or preferred reading offered by the news discourse, however, is shallow and undeveloped, because it fails to recognize that while the right to a free press and to open communication are declared in the Charter, they are guaranteed "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" (Greene, 1989: 54).

The Canadian media's argument against the ban, which calls for full support of a free press, both nationally and internationally, is fortified by the dominant ideology of globalization and of the information age. In fact, the news discourse maintains that the international interest in the Kovacs' ban exemplifies the growing tendency towards a globalized world order, which is guided by the "free flow of information doctrine." The media's reaction to the ban is illustrative of the idea that we have entered an international arena because of an increased access to information via new computer networks, in which the legitimacy and practicality of state-imposed laws, especially ones that deal with

publication, are being called into question. In other words, the discourse surrounding the ban, in espousing a liberal and technologically deterministic argument which draws on the globalization myth, serves to promote the timely and powerful ideal of the globalized world system. In so doing, the news discourse surrounding the publication ban raises many interesting questions about the effectivity and the future of the nation-state in a world that is becoming increasingly technologized, and therefore opens the door to further investigation.

Chapter breakdown

The first chapter of this study, entitled "A Critical Approach to the Analysis of the News," will provide an overview of the theoretical and methodological position from which the analysis of the news discourse surrounding the ban will be performed. Chapter One will explore the theoretical premises of the dominant paradigm in communication studies (mainstream American communication research) and will illustrate that, for a complete and integrated analysis of the news, the dominant paradigm does not offer a sufficiently revealing approach. It is argued, therefore, that the critical school, which, in a concise critique, exposes the dominant paradigm's weaknesses, is a more appropriate and effective approach to the *ideological* analysis of the news. As such, the critical theory as outlined by theorists such as Stuart Hall will be drawn upon in the analysis of the news discourse surrounding the publication ban.

The second chapter, entitled "The News Discourse Surrounding the Publication Ban: An Examination of its Legal Framework," delineates the news discourse's political and legal frames of reference, since any analysis of the news requires an examination of its institutional influences. Chapter two, thus, focuses specifically on a description of the Canadian legal system, and its discussion of the free press issue. Finally, this chapter provides an outline of Justice Kovacs' decision to ban the publication of the Karla Teale manslaughter trial, in order to understand the legal justifications for the ban.

Chapter three, entitled "Understanding the News Discourse Surrounding the Publication Ban: The Liberal Ideology and Freedom of the Press," offers a reading of the news texts which comprise the discourse in order to expose the nature of the preferred reading position. A brief review of the critical school's theoretical approach to the analysis of texts, referring to several theoretical concepts proposed by Stuart Hall, such as the "encoding/decoding" model, and the idea of a "preferred meaning" is included.

The final chapter, entitled "Understanding the News Discourse: Liberalism as Hegemonic; the Free Flow of Information; the Myth about Globalization; and the Ideology of the information age," provides an analysis of the news discourse surrounding the ban and maintains that the preferred reading, which is rooted in the political theory of liberalism, in terms of the right to freedom of the press, is also evident on a more international level, discussed in terms of the right to the free flow of information. This

chapter examines the liberal ideology as a global and hegemonic concept, the roots of the globalization discourse, and its connection to the dominant ideology of the information age.

An analysis of the news discourse surrounding the ban on publication of the Karla Teale manslaughter trial will therefore expose the ideological roots of the news discourse's argument against the ban, which, although presented as oppositional, actually serves to maintain the hegemonic order. While arguing for increased rights to freedom of the press and the free flow of information, the news discourse illustrates a superficial understanding of their present rights, as maintained in the Charter and as represented by Canadian case law. In arguing against the ban, the discourse assumes a critical position in regards to the Canadian legal system, and reveals a glorification of the American First Amendment. Once again, however, the news discourse exposes only a minimal understanding of the rights guaranteed by the First Amendment, and thus offers only a superficial representation of media's rights. In support of its argument for increased access to information through a broader range of media rights, the news discourse surrounding the ban co-opts the language of the dominant conception of globalization and the information age. In so doing, the news discourse offers a strong argument against the ban, but one that is shallow and superficial to say the least.

CHAPTER ONE

A CRITICAL APPROACH TO THE ANALYSIS OF THE NEWS

Mainstream American mass communication research has been criticized for being unsuccessful at assessing communication institutions and practices in relation to the wider social, political and economic structures and to the developments within the social formation as a whole. The *dominant paradigm*¹, therefore, has functioned without a theory of power, without a clear awareness of the social and economic structures and relations of Western capitalism and without an understanding of cultural struggle and transformation. In fact, the dominant paradigm in communication research has been part of Western capitalism's "imperializing thrust" (Hall, 1989: 45). As such, it has operated as a closed circle, and offered little insight into the ideological analysis of media texts. Thus, a critical alternative, which would, as Stuart Hall writes, account for "the return of the repressed," attempts to rediscover ideology as a central concern in communication research (Hall, 1982). In fact, a central contention of the critical school, which sees the media as functioning within the domain of meaning, is that the media *are ideological* in

¹Thomas Khun defines a paradigm as a universally recognized constellation of beliefs, values and techniques, which are shared by a community of practitioners. (Khun, 1970 and F. Saunders, 1993: Communication 27.511). A paradigm involves a concrete puzzle of solutions employed to solve defined problems. In other words, a community of scientists set out to find proof that their conceptualization of reality is correct. Todd Gitlin in "The Dominant Paradigm" (1962) defines a paradigm, in the social science sense, as a tendency of thought that identifies as important certain areas of investigation in a particular field (Gitlin, 1973: 207). Gitlin writes that a paradigm exploits a certain methodology, produces a set of results which are distinctive and is established and maintained not only by its practitioners, but also by its consumers and most importantly, its profession.

nature. The critical school in communication studies thus, is preoccupied with uncovering power structures, both within the text and within society as a whole.

There are several ways of conceiving the elements of a communicative practice, both including and excluding a discussion of ideology and the structuration of power. Such approaches range from the behaviourist and functionalist traditions of the dominant paradigm, through political economy to cultural studies. While each theory is useful to a certain degree, the contributions of such authors as Stuart Hall and Todd Gitlin, whose work falls within the realm of the critical tradition, appear the most successful in their attempt to understand the role of ideology in communication. Since the analytical methods offered by the dominant paradigm appear unable to provide an in-depth examination of cultural texts that can account for the prevalence of an ideological dimension, it is the critical school's approach that will be called upon in the analysis of the news discourse surrounding the publication ban, issued by Judge Kovacs on 5 July 1993. In order to understand why the critical approach was chosen over the traditional mainstream approach, it is essential to first examine the theoretical and methodological positions offered by the dominant paradigm and to assess their inadequacies.² It will then

A paradigm works with a particular set of facts and attempts to compare those facts directly with predictions which form the basis of the paradigm theory (E. Saunders, 1993: 27.511). Empirical work is undertaken to articulate the paradigm. To be accepted as a paradigm, a theory must seem better than its competitors. As such, it must provide a new and more rigid definition of the field. Kuhn writes that the acquisition of a paradigm is a sign of maturity in the development of any given scientific field (Kuhn, 1962: 12). It was the achievement of this maturity that was being sought after within the sociology of mass communication.

become clear why the critical school's understanding of cultural texts is far more revealing and informative than that of the so-called dominant paradigm.

The dominant paradigm in mass communication studies

Even though the commercialization of daily life, prior to World War II, had raised questions about the expanding role of communication and media in society, there was no critical reflection on the nature of communication research (Hardt, 1992: 91). This resulted in the perpetuation of dominant research positions, as presented by the work of Paul Lazarsfeld and the behaviorist tradition. Lazarsfeld's school, which searched for specific measurable, short-term individual attitudinal and behavioural effects of media content, in addition to his "two-step flow of communication" theory, which explained that media messages do not reach individual audience members directly, but through the interpolation of opinion leaders, is probably the most influential theory in communication (Gitlin, 1973: 207).

A key criticism of Lazarsfeld's work, however, is that he overtly denied the structured nature of power. In his theoretical vein, power is reduced to the personal, and as such, he reduces social influence to personal influence. Gitlin refers to this process as Lazarsfeld's "behaviouralization of power" (Gitlin, 1973: 213). Lazarsfeld's model

² *The format of this chapter has been influenced by the work of Michelle Gauthier, whose 1992 M.A. thesis, CBC's and Radio-Canada's Structured Mediation of the Constitutional Crisis: A Comparative Analysis of the Journal's "Untying the Knot" and Le Point's "Le Nationalisme Quebecois" shares a similar theoretical and analytical task as this study.*

(message -- opinion leader -- reader), which assumes that mass media influence is comparable to face to face influence, also assumes that power exists in horizontal and discrete occasions of short-term attitudinal change. As such, his model conveys the impression that individuals are *in control* of their political and economic destiny and that we are all allies in power.³ Consequently, social, cultural and political interests and influences remain unexplored within his examination of mass communication, since he does not consider the social/political problematic of power and ownership, and how this affects the form and content of the mediated message. Thus, Lazarsfeld fails to question the media's role in the process of ideological struggle and more specifically, in the location of authority and the distribution of power (Hardt, 1992: 114). While Lazarsfeld chose to adopt the equal opportunity assumption, Gitlin argues that structural inequality does exist, and thus, an ideological dimension to the study of communication is essential (Gitlin, 1973: 216). As such, Lazarsfeld's model proves ineffective and un insightful in the ideological analysis of news texts. Mainstream American mass communication research employs a very simple ideal of media messages and social structures and is, therefore, able to see the media as reflective of society. This view of the media originates with the theory of functionalism, which shares paradigmatic status with Lazarsfeld's behaviourism. However, functionalism originated as a reaction against the crude

³ This section draw upon class notes, lectures and discussions from Mass Communication 27.511, with Professor Eileen Saunders (September - December, 1993).

behaviouralism of Lazarsfeld and his school. Functionalism is concerned with the relationships between structures and institutions, while behaviouralism remains preoccupied with the relationship between the individual and her or his environment (Gauthier, 1992: 4). Functionalism sees social structures and institutions as the primary sources of control over the individual.

Functionalism employs an organic analogy to describe society and maintains that social order is essential to survival. As such, the pieces of the overall social structure work together to maintain this social order. The aim of functionalism, then, is to study culture as a working whole. However, functionalism fails to provide any insight into how social roles are assigned and does not reveal or examine the implications of the allocation of particular roles to particular individuals and institutions. As such, functionalism does not question or challenge the status quo, but merely discovers and accepts it.

The dominant paradigm in communication studies is now proving vulnerable to critique by what has emerged as a new phase of media research: the critical tradition. This wave of criticism has led some scholars to question the centrality of the dominant paradigm and to argue that "the orthodox consensus is a consensus no more" (Giddens, 1989: 54). It was not until the seventies, and the emergence of the critical school, that communication research began to question the theoretical foundations and analytical methods of the dominant paradigm, in order to address issues of ideological and cultural

concern.

Problems with this paradigm

The analytical methods and theories of communication proposed by the dominant paradigm are unfit and unable to address the critical questions of power and structure in ideological terms. As such, the dominant paradigm in communication studies is unrevealing and offers only an uninformed and incomplete analysis of communicative practices and cultural artifacts. It only makes sense, then, that the critical position should be adopted in the analysis of the news texts surrounding the publication ban. A closer examination of the weaknesses of the dominant paradigm seems useful in trying to understand why it is unable to account for the structuration of power, both within the text and within society at large, and also why it is unable to provide an insightful and revealing *ideological* analysis of the news discourse surrounding the ban.

The insistence that mainstream American communication studies is in fact scientific in nature and that the researcher is merely an impartial observer who is able to record the facts continues to prevail, even though critical communication studies has successfully proven otherwise. Behaviouralists continue to document the consistencies of human conduct and universalize their discoveries, while functionalists remain inextricably bound to the conceptualization of society as an organic whole in which each institution and individual works to maintain the system. Since both behaviouralists and functionalists

remain preoccupied with discovering and predicting human behaviour and the social condition, this approach to communication research assumes a militantly empiricist and quantitative nature (Hall, 1980: 21). Practitioners of the dominant paradigm, which is based on a model of natural science, see "the highest aspirations of science as the creation of a deductive system of laws" (Giddens, 1989: 56). However, Anthony Giddens maintains that natural science is a hermeneutic or interpretive endeavor because it involves the interpretation of meanings, which is considered more fundamental than the uncovering of laws (Giddens, 1989: 56). Thus, while the dominant paradigm claims a scientific status, it is not. It is merely an interpretive exercise in defining media effects.

By "put[ting] the methodological cart ahead of the theoretical horse" (Gitlin, 1973: 206), the dominant paradigm has failed to address the fact that the mass media exist in a corporate context, and are to a certain degree, regulated by the state (Gitlin, 1973: 206). The dominant paradigm, thus, is uncritical in nature and ultimately serves to justify the existing system of media ownership and control. Since the dominant paradigm assumes that the media are reflective of society, and that no one view is preferred over others, it has served to support and hence promote the ideological status quo. Because it merely assumes the existing order and only considers the effect of this order, the dominant paradigm serves to legitimate the commercial cultural industry (Gitlin, 1973: 225). In fact, Todd Gitlin argues that the dominant paradigm poses questions from the vantage

point of institutions which seem to rationalize and improve their control over social sectors and functions (Gitlin, 1973: 225). As such, it assumes an administrative point of view (Gitlin, 1973: 24). The administrative theorist does not question the corporate structure of ownership and control and ignores the corporate criteria for media content. The dominant paradigm in media sociology, thus, has drawn attention away from the power of the media to define social and political practices, and has ignored the fact that social, political and economic factors serve to shape the form and content of mediated messages (Gitlin, 1973: 205).

From mainstream media research to a more critical approach

The idea that a media artifact can be isolated and measured in terms of its isolated effects must be replaced with a comprehension of "each element's cultural aspect, its semiotic or discursive character; an awareness that the media function in and through the domain of meaning" (Hall, 1989: 47). No message exists in reality and can be transposed by the media onto the audience -- meaning is context bound and is constituted by the struggle to define one particular meaning as dominant. Hall argues, therefore, that the representational practices, codes and symbols that confer meaning onto the world must become the objects of communication research (Hall, 1989: 47). Thus, the transition from mainstream to critical communication studies lies in a growing preoccupation with the cultural, social and economic influences over the production of meaning. The task of

examining these relations from an ideological perspective is the most urgent theoretical task confronting the critical school (Hall, 1989: 49).

The critical school and the work of Stuart Hall

Anthony Giddens maintains that the social sciences involve a double hermeneutic, and as a result, "social scientists cannot but be alert to the transformative effects that their concepts and theories might have upon what it is they set out to analyze (Giddens, 1989: 65). Giddens recovers as central the "knowledgeable human agent" which, in opposition to functionalism and traditional political economy, is capable of intentionality in action (Giddens, 1989: 56). He maintains that our knowledgeability is bounded institutionally and that our actions are guided by our "practical consciousness," defined as "all the things that we know as social actors [and which] make social life happen but to which we cannot necessarily give discursive form" (Giddens, 1989: 57). In recognizing the existence of a practical consciousness that shapes our processes of interpretation, Giddens makes clear the necessity of a critical approach that would be aware of its interpretive nature. In fact, Giddens writes that "critical theory is not an option of social science ... it is inherent in its nature" (Giddens, 1989: 65). However, he fails to "offer a practical framework in which to examine the issues he raises" (Gauthier, 1992: 15). Hall, however, *does* offer a critical and practical framework with which to understand the social, political and economic influences that shape the form and content of a mediated text. His contribution to the

critical study of communication is noteworthy, therefore, because he reintroduces the concept of ideology to the study of the production of meaning.

The critical paradigm maintains that the media function in and through the domain of meaning. In fact, Hall insists that the media function to construct meaning. Thus, the media are inherently ideological in nature. Hall argues that we must understand meaning not like a mirror, but like a language. Meaning, therefore, is a practice, not a thing (Hall, 1989: 47). Accordingly, it is imperative that we examine the process through which language constructs meaning and how symbolization functions to represent the world in diverse ways. Hall also affirms that the ideological is structured by social, political, technological and economic relations (Hall, 1989: 49). This revised definition of ideology accommodates the need to understand the production of meaning inherent in the text in relation to the broader hegemonic order. Hall, thus, analyzes ideology as hierarchical, and conceptualizes dominance not as total incorporation, but as a:

field of relations structured by power and difference, that is, always structured into those positions that are in dominance and those that are not: positions that are never permanently fixed (Hall, 1989: 51).

The critical paradigm, and in particular, the work of Stuart Hall, has reintroduced into communication research a preoccupation with the construction of "the real" through the media, thereby replacing the idea of reflection which is central to mainstream American research. The critical school not only questions the naturalness of the real, but

also argues that the media, by representing themselves as conveyers of reality, function to maintain the status quo by reiterating the terms and conditions offered by the dominant ideology, or hegemonic order. However, Stuart Hall resists the idea that ideological domination is equated with class domination. For Hall, ideology must be understood as a "property of the system of relations involved, rather as the overt and intentional biases of individuals" (Turner, 1990: 207). By acknowledging that there are several ideological discourses, not only that of consumer capitalism, which are competing for validity and can dominate the ideological sphere, Hall accounts for the manifestation of dominance in society as complex and divergent, and thus evades the economic rationalism associated with traditional political economy (Gauthier, 1992: 16). His recognition that "meaning is polysemic in its intrinsic nature [and thus] remains inextricably context bound" allows Hall to reject the traditional political economist's "inert model of the passive consumer" and to recognize the struggle for meaning (Hall, 1989: 47-50). Hall, thus, is able to address "how ideology constructs social subjects or positions them in relation to social and political practices" (Hall, 1989: 50). Hall's conceptualization of ideology not only rejects traditional political economy's view of the audience, it also promises to dispel the "lingering behaviouralism which has dogged mass media research for so long" as well (Hall, 1980: 131).

Since Stuart Hall sees dominance as a structured field of relations, rather than as "total incorporation" (Hall, 1989: 51), he successfully revises the traditional Marxist notion of the dominant, or ruling class by integrating Antonio Gramsci's concept of hegemony into his theory of ideology. Gramsci's theory of hegemony implies that dominance of certain structures and symbols is insured not by an imposing dominant class, but by cultural leadership (Turner, 1990: 207). Cultural leadership implies that the dominant class merely *directs* the flow of the hegemonic process, rather than *imposing* a particular order upon the subordinate classes. In other words, hegemony is accomplished by means of gaining the consent of those classes and groups who are subordinated within society. The concept of hegemony tries to account for domination as something that is won, rather than delivered by way of class structure (Hall, 1989: 51). As such, popular culture, in addition to other social institutions, is seen as being structured by the dominant class's attempt to win hegemony (Turner, 1990: 211).

However, hegemony, as interpreted by the critical school in communication studies, also accounts for individual and organized opposition to the hegemonic order. In this context, hegemony discards any class essentialism by underlining how movable the "political and ideological articulations of cultural practices can be" (Turner, 1990: 213). According to the theory of hegemony, then, a specific cultural artifact does not carry a particular ideological significance for ever, since its meaning can be reshaped through

oppositional movements (Turner, 1990: 213). Hegemony also views power as flowing from the bottom up, and severely qualifies the economist assumption that power is imposed from the top-down (Gitlin, 1980:10). Hegemony, therefore, conceptualizes power as being rooted *within* an integrated social structure. In other words, the dominant class must have the consent of the people, who form the social system, in order to have the power to blueprint the hegemonic order. The notion of hegemony is appealing because it sees culture as a social practice and sees individuals as active and able to define their lives. Ultimately, then, this theory resists the idea of ideological domination, since it does not accept a passive model of both culture and the audience (Hall, 1989: 51). By recognizing the power struggle inherent within both society and the text, Hall is able to examine how the structure of dominance within the text (the preferred meaning) is defined by the hegemonic order within society (Gauthier, 1992: 17).

Other pertinent literature to be considered

A full and critical understanding of the liberal ideology that is central to the news discourse surrounding the publication ban will require a clear understanding of critical theory and the work of Stuart Hall. It will also require an exploration of liberal political theory and the process of globalization, as discussed by such thinkers as Marshall McLuhan, Anthony D. Smith and Marjorie Ferguson. An ideological analysis of the news discourse will show that it clearly promotes the terms of a global world order, in which

nations no longer possess the power to control the international flow of information, or any commodity, for that matter. As such, the news discourse surrounding the ban supports the free flow of information doctrine. Ferguson's critical work, which maintains that globalization as a process and a destination is nothing more than a myth, facilitates an understanding of the ideological foundation of the dominant conception of globalization, and helps to explain the news discourse surrounding the ban.

The conceptualization of a global world order, as myth or reality, that defines the news discourse surrounding the ban and that is discussed in Ferguson's article "The Mythology about Globalization" (1992) has been informed by the highly influential work of Marshall McLuhan, who has coined the ever popular term "global village." As such, a brief examination of his theoretical contributions to the study of communication will prove enlightening in trying to comprehend the roots of the "global village" rhetoric that characterizes the news discourse surrounding the ban. Finally, a complete understanding of the liberal roots of the news discourse surrounding the publication ban requires an understanding of the dominant conception of the ideology of the information age, which is prevalent throughout the news discourse and which functions in support of the "global village" concept. Jennifer Daryl Slack, who has written extensively on the dominant conception of the information age, attempts to elucidate its ideological framework and will therefore provide a more complete understanding of the technologically determinisitic

argument that lies at the heart of the news discourse surrounding the ban. Thus, in order to understand the ideological and hegemonic component of the news discourse surrounding the ban, it is imperative to have a full comprehension of the critical perspective in communication studies, to explore the literature that offers an understanding of the mainstream conceptions of liberalism and globalization, and to explore the literature that critically examines these dominant views.

The critical process and the news

The most revealing approach for the analysis of the news discourse surrounding the publication ban appears to be that offered by the critical tradition and more specifically, the work of Stuart Hall. The critical tradition in communication research offers a unique approach to the analysis of the media, because it sees the media as an ideological apparatus, the text as an ideologically mediated entity and the audience as active, able to decode media messages in meaningful ways (Gauthier, 1992: 20). The dominant paradigm in communication studies has been unable to offer a suitable approach to the analysis of the news media, because, in its preoccupation with empiricism and objectivity, it has not and *does not* allow for a critical examination of the ideology inherent within the news text. The critical school in communication studies, on the other hand, has been preoccupied with the task of revealing the problematic nature of "professional" claims to objectivity, impartiality and autonomy (Schlesinger, 1989: 284).

The critical school recognizes that media messages are not transparent, as they are treated in traditional content analysis, but that they possess a complex linguistic and ideological structure (Turner, 1990: 202). It also acknowledges that production routines are not value-free and do not contribute to the construction of *reality* (Schlesinger, 1989: 284). As such, the news media should not be seen as ideologically biased or distorted (van Dijk, 1988: 11). Such a view, it is argued, presupposes that the distorted image can be compared to an objective reality that exists in the world. The critical school maintains that it is essential to discard the objectivity/bias dichotomy as ineffective and inadequate, since it rests on the empirical assumptions of positivism, which are no longer considered appropriate or revealing in the analysis of news texts (Gauthier, 1992: 21).

Journalism resembles other empirical disciplines in its aim to be objective: "to be free from values and ideology: accordingly, journalists practice value exclusion" (Gans, 1979: 182). In fact, one of the hallmarks of traditional journalism is the concept of objectivity. The professional insistence that objective journalism is desirable and that it is indeed possible, arose during the nineteenth century, as "part of the sweeping intellectual movement toward scientific detachment and the culture-wide separation of fact from value" (Gitlin, 1980: 268). Accordingly, truth is uncovered by journalists, who remain value-neutral and can rationally assess the events of the day. In fact, the ideal reporter is seen to be the passive reporter, as "someone who merely records what she observes"

(Olen, 1988: 87). The objectivist discourse, therefore, assumes that the journalist occupies an uninvolved role as the chronicler and transmitter of information to the public. In fact, Todd Gitlin writes that a top TV producer told Herbert Gans: "They can order me to do something on big or small issues, for after all this is a company and a business, but they rarely exert that influence. *I am as autonomous as I could expect to be*" (Gitlin's italics) (Gans, 1979:96, in Gitlin, 1980: 269). This "professional ideology of objectivity" insist that journalists play no role in shaping or changing society (Gitlin, 1980: 259). In fact, the concept of journalistic objectivity relies wholly on the journalist's uncritical acceptance of the existing social order. This ideal protects the journalist from realizing that their autonomy is in fact bounded:

that by going about their business in a professional way, they systematically frame the news to be compatible with the main institutional arrangements of the society. Journalists thus sustain the dominant frames through the banal, everyday momentum of their routines. Their autonomy keeps within the boudaries of the hegemonic system (Gitlin, 1980: 269).

The objectivist discourse fails to recognize that journalists do not occupy a neutral position vis-a-vis the information they impart. Rather, the professional ideology of objectivity invites journalists to legitimize the existing order (Gauthier, 1992: 23).

The critical school also questions the assumption that the media are genuinely free and competitive (Schlesinger, 1989: 296). This belief, which underlies the objectivist discourse, assumes that a multiplicity of views ensures freedom of expression, and thus

balanced coverage. While the professional ideology of objectivity may continue to perpetuate the notion that media workers are the conveyers of empirical truths, they, in fact, are not. Rather, journalists function within a system which defines for them the criteria of newsworthiness. It becomes apparent, therefore, that the objectivity/bias in journalism must be abandoned, and a new conceptualization of the journalist's role assumed, since this model falsely defines truth as an attainable objective and the journalist as an uninvolved observer (Gauthier, 1992: 25). As such, the objectivity/bias model affords too much power to the journalist in the process of producing media messages. (Fiske, 1987: 309)

Methods of analysis -- a review

1. Quantitative content analysis

Quantitative content analysis prevails within the dominant paradigm, since it claims to disclose an objective and universally applicable truth. This form of analysis has been defined as "a research technique for the objective, systematic and quantitative description of the manifest content of communication" (McQuail, 1987: 183). Content analysis proceeds on the assumption that the news contains a picture of the nation and society, "but [that] journalists are not paid to present such a picture. Their task is to create 'stories' about what they have observed or whom they have interviewed" (Gans, 1979: 5). This strategy of analysis thus, assumes that the appropriate empirical method may be

applied to assess bias in the media. Content analysts assume, first and foremost, that the link between the external object of reference and the reference to it in the text will be unambiguous and clear and that what they discover is indicative of the messages received by the audience (Gauthier, 1992: 27). However, it is wrong to generalize the findings of content analysis to the entire communication process, because it ignores the distinction between the process of encoding and decoding, as explained by Stuart Hall (Hall, 1980: 129). Content analysis, then, risks the danger of misrepresenting the process of the production and consumption of meaning, and by focusing primarily on the obvious characteristics of the text, it ignores the processes of structuration which frame and define the media message and its reception (Gauthier, 1992: 28). Critical researchers, thus, abhor the way administrative researchers use empirical evidence to generate an atheoretical body of results.

II. Semiotics and structuralism

Semiotics and structuralism are two methods of news analysis which have attempted to overcome the weaknesses of quantitative content analysis. Semiotics, as the study of signs, and structuralism, as the study of underlying codes, focus attention on the meaning of texts "in the light of the host culture" (McQuail, 1987: 185). As such, structuralism and semiotics share a concern with the social construction of media texts. Together, semioticians and structuralists lend more significance to the production of

meaning, and are more concerned with the implicit attributes of the text, or its connotative meaning, than its more obvious denotative meaning, such as is the case with traditional quantitative analysis (McQuail, 1987: 186). This body of theory provides an approach for facilitating an understanding of the cultural meaning of media context. Consequently, it sheds light on those who produce and transmit a set of mediated messages (McQuail, 1987: 187). Unlike traditional content analysis, then, structuralism and semiology do not assume that the message, the receiver and the analyst share the same basic meaning system.

While able to adequately compensate for some of the weaknesses of quantitative content analysis, structuralism and semiotics do, however, exhibit several faults as well. Firstly, semiotics and structuralism overestimate the autonomy of the text and of textual analysis (Hackett, 1984: 244). Structuralism does not offer a systematic method and is not accountable in its results according to normal standards of reliability (McQuail, 1983: 189). As such, it offers no way of knowing whether or not its findings are representative or not. In addition, structuralism and semiotics rarely consider the socio-political, economic or historical factors which shape the relationship between the text and the sender or receiver. As such, the analyst can not extrapolate ideology from the text, because to do so would be to assume a common discourse shared by the sender, receiver and analyst (Gauthier, 1992: 30). The structuralist or semiotician assumes that the text is

a coherent, unified entity and as such ignores the possibility that the text may in fact be contradictory in nature. On the other hand, the work of the critical school has successfully attempted to acknowledge the possibility of contradiction inherent within the text.

III. *The critical school*

The critical school in communication research has consistently paid significant attention to the relationship between ideology and the media. Early critical theorists emphasized the political economic structures of ideology, seeing it as the "everyday expression of capitalism" (Hackett, 1984: 246). In this early model, which is captured in the work of Nicholas Garnham, media producers act as the agents of the dominant class, transmitting the ideology of this class "in such a way as to gull or manipulate the working-class receiver, thus inducing false consciousness" (Garnham, 1983: 320). This approach is problematic, however, because it restricts the examination of news frames to the analysis of economic, as opposed to cultural or social forms of determination. However, exploring and understanding the economic context of a news text is essential in the critical task of decoding the ideological component of the news discourse surrounding the publication ban, or any mediated message for that matter.

a) Understanding economics: how industrial context shapes the news

Through its formulaic structure, the news discourse provides a means of classifying the world, because it presents itself as common-sense knowledge about the

natural order of things and as a source of what is right. Its format defines what journalists are able to represent as news and it allows the reader to recognize and accept something as "news." Through repetitive formulas, the news text becomes a familiar discourse with which people feel comfortable and to which they lend much significance (Ericson, 1991: 284). However, news becomes ideological because it is constrained by both medium and market (Ericson, 1991: 284). Thus, in order to accurately assess the ideology inherent within any news text, one must first understand that the nature of news production and distribution reflects the fact that news is organized under the rubric of capitalist relations of production, which function to impose a number of crucial constraints upon the production of news and journalistic practices. While the commercial newspaper has, since its inception, claimed *formal* equality of access to news reports (any member of the public is free to read what is in the newspaper) what is offered by the paper has not and *is not* usually decided upon in the best interest of the public. This emphasis on equality of access to information leaves unanswered the question of which "facts" are chosen to represent world events each day. As such, news has become a language of power, in which the interests of those in control have shaped the production and distribution of the news. While the traditional political economic perspective has been discarded for a more advanced critical approach, it is nevertheless essential in the ideological analysis of any news discourse to explore the relationship between the senders of a message and the text

itself, because it influences both the production and reception of the mediated messages.

By the turn of the century, the mass media industry, in order to accommodate mass markets, was forced to centralize and homogenize the processes of news production and distribution (Schiller, 1981: 184). As a result, society witnessed the commercialization of the press and the rise of mass consumer advertising, which began to exert decisive control over newspaper content (Schiller, 1981: 185). Thus, the relations of news production influence the form and content of news commodities, and contribute to the ongoing process in which bourgeois hegemony is ultimately reproduced (Clarke, 1987: 53). A realization of journalism's role within the complex web of professions and institutions which possess ideological functions in a capitalist economic environment is necessary in order to fully appreciate the framing process of the media (Gitlin, 1980: 251).

b) Ideological structuration, "opposition" and news frames

The critical school in mass communication has clearly demonstrated that the mass media are core systems for the distribution of hegemonic ideology. This is made obvious by Todd Gitlin, who writes

... everyday, directly or indirectly, by statement and omission, in pictures and words, in entertainment and news and advertisement, the mass media produce fields of definition and association, symbol and rhetoric, through which ideology becomes manifest and concrete (Gitlin, 1980: 2).

The media, thus, create and relay images of the controlling order and the status quo.

However, social reality is extremely complex, and self-contradictory in nature. In order to contain these contradictions, then, one of the primary functions of ideology is to define its opposition. However, given that the mass media function within a particular political, economic, social and cultural system, it has created new conditions for its opposition. In a mass market cultural industry "it becomes extremely difficult ... for an opposition movement to define itself and its world view, to build up an infrastructure of self-generated cultural institutions, outside the dominant culture" (Gitlin, 1980: 3). How does an enduring ideology find its way into the news, resolving these apparent contradictions? The answer, of course, is through journalistic routines. Oppositional movements, just as any other event, issue or movement which relies on the mass media for distribution, become newsworthy by yielding to the standards set by newsmaking organizations and by conforming to journalistic notions of newsworthiness.

Decisions to ban publication draw power away from the media, who often see themselves as the primary gatekeepers of information in our society. According to this gatekeeper model of journalism, the owners, editors and journalists are given the power to decide what makes news, based on a set of news values which defines what constitutes a newsworthy story. "News is a rather undefined state of affairs," says Harvey Motlotcht (Gitlin, 1980: 268). As such, anything could be considered newsworthy, because news is what the newsgatherers say is news. Gitlin contends that, despite the claim that objectivity

in the news is possible, "any attempt to extract a general definition of news -- a routine, universalizable definition -- comes to naught" (Gitlin, 1980: 268). Gitlin maintains that reporters, when asked, acknowledge that "what is important" depends on who is asking, or on the situation and thus, to establish a standard is difficult, if not impossible. Gitlin has attempted to outline several of the central values of newsworthiness, which he lists as: a novel event, a preoccupation with the person and the conflict, and an emphasis on those facts which do not necessarily advance the story, but enlarge it (Gitlin, 1980: 263). When these rules are followed, no conflicts between newsmakers occur, because they are all working within the same framework of newsworthiness. Stuart Hall, has also attempted to define the news values that journalists regularly talk about:

News values are one of the most opaque structures of meaning in modern society ... Journalists speak of the news as if events select themselves. Further, they speak as if which is the most significant news story and which news stories are most salient and divinely inspired (Hall, 1973: 181 in Schudson, 1989: 277).

It becomes apparent, then, that there are certain news values that "all journalists are supposed to possess" (Schudson, 1989: 277). These are the values upon which a story is selected and printed. The Karla and Paul Teale story is newsworthy because, among other things, the events have become personalized, as have the individuals involved, in their unique and sensational nature. However, news values do not simply define which stories will be printed, but also account for the way in which a news story is told, as Hall makes

clear. In fact, the *normal* routines of journalism define the story, identify the issues and suggest appropriate ways of responding to the situation that is being reported. Ultimately, this procedure which relies on popular conceptions and conventions about the *real world*, reinforce the established order.

Since it has already been established that the social sciences do involve a double hermeneutic (Anthony Giddens, 1989: 63), social scientists must remain aware of the fact that their findings are guided by their own values, concepts and theories. As such, it is imperative that critical communication theorists abandon the attempt to discover truths, since their truth is ideological and contingent. The study of news, then, must relinquish any strong claim that there is a reality out there that journalist organizations can distort. "News is not a report on a factual world; news is a depletable consumer product that must be made fresh daily" (Schudson, 1989: 274). As such, facts are "pertinent information gathered by professionally validated methods specifying the relationship between what is known and how it is know. In news, verification of facts is both a political and a professional accomplishment" (Schudson, 1989: 275). As Stuart Hall insists, the study of news should not be undertaken as a study of the media's success at mirroring reality. Rather, we must understand meaning as a practice and examine the process through which social, cultural, political and economic factors construct meaning. It is essential, then, that the critical researcher consider how the media legitimize a variety of ideological

discourses. Michael Schudson quotes Stuart Hall in order to remind us that:

... of the millions of events which occur every day in the world, only a tiny portion ever become visible as 'potential news stories' ... We appear to be dealing, then, with a 'deep structure' whose function as a selective device is un-transparent even to those who professionally most know how to operate it (Hall, 1973 in Schudson, 1989: 277).

As such, it is imperative to examine the structures which frame a news discourse, and to recognize that a central filter through which news is constructed is "the cultural air we breathe, the whole ideological atmosphere of our society, which tells us that some things can be said and others had best not be said" (Bennett, 1982 in Schudson, 1989: 278)

c) The polysemic nature of the news text: the case of the "pre-ferred" reading

The perceived interest in the interrelationship between social, cultural, political and economic structures and the media text has led critical communication scholars to contemplate the hierarchy of ideological discourses evident within the text. Hall writes that meaning is polysemic in nature, and while it remains context bound, it is "constituted by the struggle to "pre-fer" one among many meanings as the dominant" (Hall, 1989: 47). Hall also writes that societies, with varying degrees of closure, tend to impose their classifications of the social and cultural and political world, which constitute a dominant cultural order. This order, however, is neither univocal or uncontested in nature (Hall, 1980: 134). For Hall, the structure of discourses in dominance is a central concern, and thus he argues that different areas of social life are mapped onto different discursive

domains, and are hierarchically organized into dominant or preferred meanings. Hall contends that there exists a pattern of preferred readings, which has an "institutional/ political/ ideological order imprinted in them and they themselves become institutionalized" (Hall, 1980: 134). This approach to news analysis is significant, then, because it acknowledges the existence of preferred readings that are channeled to the audience, but does not insist that one of these readings will be internalized by each member of the audience. Hall maintains that there is no necessary correspondence between encoding and decoding. The encoder can attempt to "pre-fer" but cannot prescribe or guarantee the decoding. He recognizes, however, that encoding will serve to construct the limits and parameters within which decodings will operate. In fact, in his article entitled "Encoding/Decoding" (1980), Hall identifies three hypothetical positions from which decodings of a televisual discourse may be constructed: the dominant hegemonic position, in which the viewer decodes the message in terms of the reference code in which it has been encoded; the negotiated code, in which audience member acknowledges the legitimacy of the hegemonic definitions, but makes a more negotiated application to local situations; the oppositional code in which the audience member "detotalizes the message in the preferred code in order to retotalize the message within some alternative framework of reference" (Hall, 1980: 138). This approach to media studies recognizes the agency of individuals in society, and refuses to see the text as

closed, in which "the dominant ideology exerts considerable, if not total, influence over its ideological structure and therefore over its reader" (Fiske, 1982:64). The approach proposed by Hall also demands a consideration of the text in society. As such, the relationship between sender, receiver and text must be established prior to analysis (Gauthier, 1992: 35). In other words, an examination of the text in its material and historical conditions is necessary -- an ideological examination of a discourse requires a consideration of the ideological discourses that fuel the legitimation of meaning. This approach insists that the text must be considered "contextual, contingent and socially constructed" (Young, 1990: 157).

d) The strengths of the critical school

The theoretical turn to the consideration of ideology allows the researcher to acknowledge, as does Anthony Giddens, the complexity of the research enterprise, encouraging a realization that empirical findings which support preformulated theories are problematic, not to mention unrevealing in nature (Giddens, 1989: 62-65). Because the new critical tradition in communication research has insisted that meaning is context-bound and thus has an ideological dimension, it has successfully rejected the objectivity ideal that has prevailed within the field of mass communication research. The critical tradition insists that ideology is not an inert expression of a particular structuration, but is a dynamic phenomenon, which is constantly being reshaped through

the interplay between the sender, receiver and text (Hall, 1989:50). This approach integrates the study of the structure of power within the text with the study of the power relations and hegemony within the larger social context (Gauthier, 1992: 37). As such, the critical school demands an examination of the news text in relation to the political, economic and cultural sphere. This new critical engagement provides close readings of media texts that demonstrate the degree to which media messages express meanings and values that correspond with the interests of a centralized power (Hall, 1989: 50). These analyses avoid the reductionism of particular marxist interpretations that emphasize the fixed and rigid nature of ideology and behaviourism's inability to incorporate an ideological analysis into communication theory.

Stuart Hall does not assume that the only meaning of a text is that which is made manifest, as do the behaviouralists and the functionalists. Nor does he maintain that meanings are the direct results of a particular social or class structure. Hall argues that we must understand the ruling ideology (or hegemony) not as descending upon passive victims, but as a structural field of relations. We can no longer talk of closed texts, but only of discursive systems that are not unified but always contradictory. It is through this new critical undertaking that we can gain a more complete understanding of the role of news media in the process of constructing and legitimizing meaning. And it is through this new critical approach that the dominant ideology of liberalism evident within the news

discourse surrounding the ban will be revealed and examined.

Ideological discourse framework: a methodology for the analysis of the news discourse surrounding the publication ban

The current study will focus on the Canadian media's reaction to the ban, as represented by several mainstream and central Canadian newspapers and magazines, such as the Ottawa Citizen, Ottawa Sun, Globe and Mail, Toronto Star, Financial Post, The Hamilton Spectator, Mclean's and the Montreal Gazette, since these newspapers are mainstream, and publish in, and distribute to a large audience in south/eastern Ontario and Quebec. These newspapers are central to my analysis because they have shown a great interest in the Karla Teale case and the publication ban, and publish and distribute within close proximity to Saint Catherine's and Burlington, the cities in which the murders of Kristen French and Leslie Mahaffy took place. Articles from the Vancouver Sun, Calgary Herald, Winnipeg Free Press and the Halifax Chronicle Herald will also be incorporated into the analysis. While the majority of the articles gathered from these additional sources are *Canadian Press* articles, and therefore share a common view with central Canada, they will nevertheless show that the story was in fact of national interest. It becomes apparent, therefore, that the views represented by Southern and Eastern Ontario newspapers and the *Canadian Press* are in fact representative of the Canadian news discourse's general reaction to the ban. The news articles, which include editorials and columns which have been written by guest contributors in some cases, have been collected

throughout the year, from July 1993 to May 1994. While a large number of articles pertaining to the Teale trial have been considered, only those articles which have directly addressed the validity of the ban have been drawn upon in the ideological analysis of the news discourse. While this study does not claim to have examined all articles relating to the ban, however, it does involve the examination of approximately seventy-five news articles from the aforementioned mainstream dailies and magazines, approximately ten of which offer full support for the ban. This is not to say, however, that all of those articles which ultimately oppose the ban do not also address a view that is sympathetic to the ban. While some articles may in fact refer to those arguments which offer support to the ban, and may in fact offer a more sympathetic understanding of Canada's legal situation, the position which ultimately prevails is that of opposition.

By applying the analytical techniques offered by quantitative content analysis, semiology or structuralism, and most importantly, the critical school, the ideological analysis of the news discourse surrounding the publication ban will reveal the persistence of two major ideological discourses: the free press discourse and the globalization discourse, both of which feed into the preferred reading position offered by the text, which, as I have maintained, is rooted in the political ideology of liberalism. Stuart Hall writes that "the ideological" is characterized by the movement toward

the winning of a universal validity and legitimacy for accounts of the world which are partial and particular, and towards the grounding

of these particular constructions in the taken-for-grantedness of "the real" (Hall, 1982:65 in Turner, 1990: 202).

Hall's definition, therefore, understands the ideological as being structured by social, political and economic relations (Hall, 1989: 49). This definition of ideology accounts for the production of meaning within the text in relation to the wider hegemonic order. An ideological discourse, thus, is an expression or thought which is socially and culturally structured to represent the world in a particular way. An ideological discourse, therefore, has the power to "influenc[e], shap[e] and determin[e] [an individual's] very wants" (Hall, 1982:65 in Turner, 1990: 202). In the context of this study, therefore, the term ideological discourse is used to describe the news texts surrounding the publication ban, and reinforces the central proposition that all mediated texts possess an ideological dimension.

In attempting to understand the dominant ideology inherent within the news discourse surrounding the ban, this study involves a close examination of the news texts themselves, while also focussing on their institutional influences. In line with critical theory, therefore, this study will include an examination of its economic, legal and political contexts in order to facilitate a full understanding of the ideological dimension of the news discourse surrounding the ban. After reading closely those news texts which discuss the ban, and upon analysis of their content and interpretation, it is my conclusion that there are two central themes that are repeated throughout the discourse. Thus, it is these

themes that are focussed upon in my ideological analysis. The first major theme evident throughout the discourse has been labelled "the free press discourse," portraying freedom of the press as the cornerstone of democracy. This dominant discourse is comprised of several major assumptions and submissions which were exposed upon analysis and which reveal the media's desire for a more expansive latitude of free speech. Firstly, the news discourse reveals a confidence in the absolute right to a free press. In arguing for a free press, the dominant discourse exposes a certain respect for America's First Amendment, which is represented as guaranteeing freedom of the press in absolute terms. An ideological analysis of the news discourse, therefore discloses the Canadian media's desire for the legal system to respect and value more highly the liberal principle of freedom of expression. The news discourse, thus, reveals a faith in the power of the rationality of the individual to discover and understand the truth, a desire to protect the individual's right to know and to protect the integrity of the open justice system. The aforementioned themes are those that emerge as dominant in the analysis of the discourse of free press. In order to substantiate my claim that the free press discourse is in fact dominant, therefore, the analysis will converge around these persistent themes.

The first ideological discourse is cemented in the political ideology of liberalism. The second dominant discourse, which I have termed the "globalization discourse," also expresses a faith in liberalism, but on a global scale. This discourse is rooted in the

language of the free flow of information doctrine and the "end of the nation-state" rhetoric. As such, this second discourse perpetuates the idea of a globalized world order, as envisioned by McLuhan when he spoke of the inevitable global village. In examining the news coverage of the ban, several issues arise which indicate that the news discourse ultimately assumes the rhetoric of globalization. For instance, underlying this second dominant discourse is the assumption that we have entered a global cultural arena, in which time and space have disappeared. Upon examination of the discourse, the demise of the nation-state appears as a consistent theme as well. A major theme that emerges as dominant throughout the discourse, therefore, is that the forces of globalization have diminished the nation-state's ability to enforce its demands on its own citizens, and on other nation-states. Underlying this globalization discourse is the assumption that we have entered the information age, in which technology is seen as the agent of progress. These thematic trends are characteristic of the *majority* position upheld within the news discourse surrounding the ban, and will therefore emerge as central to the analysis. This is not say, however, that they are necessarily representative of every article's position vis a vis the ban. By reading the texts closely and looking for common thematic trends, thus, it is my conclusion that two major ideological discourses (the free press discourse and the globalization discourse) prevail. The enduring themes, which comprise the dominant reading position offered by the discourse, all share a similar ideological foundation -- that

of liberalism.

Because the news discourse has successfully and consistently assumed the political ideology of liberalism, it maintains that the publication ban is unconstitutional and impractical due to the power and ability of the new information technologies. While, as I have mentioned, the news discourse surrounding the ban ultimately reproduces and reinforces the terms and conditions of the hegemonic order, because it situates its argument within the context of liberalism, it continues to represent itself as oppositional in nature. This opposition is made obvious by the fact that the media argue *against* the ban, and the legal and political systems that lie behind it. By assuming the principles of liberalism, however, the news discourse *does* merely maintain the ideological status quo.

Liberalism as the hegemonic and ideological status quo

Liberalism, as a political ideology, has for a long time provided a distinct framework for defining, explaining and calculating political and social matters. In western society, liberalism provides the basis of our political reasoning and thought. In fact, it is so central to our common sense that it most often does not appear to be an ideology (Hall, 1986: 7). When an ideology becomes common sense, certain ideas influence practical thinking, are present in the individual's or class' actions and inform institutional organization. The theory of hegemony maintains that once an ideology becomes common sense, "a cultural movement, a religion, faith" (Hall, 1986: 37) it can cement and unify the

social block. The liberal ideology has claimed this position in western society, because it has entered into and shaped the practical consciousness of society.

The theory of liberalism is most intimately connected with the birth of the modern capitalist state, and as such is aligned with the social order of the bourgeois society. The founding arguments of liberalism were heard during the English civil war of the 1640's. In fact, Locke's Two Treatise (1660) was published around the time when James II was thrown from the throne, which marked a new political order based on a limited constitutional monarchy and representative government. Since its birth, liberalism favoured a system in which the individual could rise to success, despite (or because of) his/her origins. Thus, at the centre of this ideology is the idea of the sovereign individual, who is free from all constraint and endowed by nature with certain inalienable rights. In fact, liberals attach primary importance to individual liberty and fight diligently for the unlimited freedom of each individual. Liberals have always believed that the elimination of political and economic constraints on the actions of individuals would "lead to moral improvement throughout society" (Eccleshall, 1984: 48). As such, liberalism came to justify a new structure of power interests, because it helped to secure the long-term position of the bourgeoisie and organized the society around these bourgeois social relations and conceptions. It makes sense, then, that liberalism came to reflect a new, mobile, competitive and individualistic economic system. The free market concept of

capitalism emerged and has remained dominant since its inception. Minimal government, in which politics was given a restricted role in the social and economic affairs of the community, was an additional idea associated with early liberalism. In fact, Tomas Paine, whose work embodies the early assumptions about liberalism, writes in Rights of Man (1791-2) that the government's function is to protect the *natural rights* of individuals, rights which later became known as civil rights or liberties (Eccleshall, 1984: 42). Staunch liberals feared that the government would encroach upon individual rights, and also considered it inefficient (Eccleshall, 1984: 42). While these traits characterize early liberalism, they continue to shape our common sense and as such, liberalism has achieved a hegemonic position in our present-day society.

Early or classical liberalism is associated with the idea of the minimal state and the belief that only a free market economy, without political intervention, can preserve individual rights and liberties. Modern liberalism, on the other hand, advocates a certain level of state supervision of the economy and society, in order to protect individuals from intolerable social conditions (Eccleshall, 1984: 67). Robert Eccleshall, author of Political Ideologies (1984), writes that this transition from early to late liberalism has been described as the transition from individualism to collectivism (Eccleshall, 1984: 67). Early liberalism views society as a "collection of self-sufficient individuals, each of whom was exclusively responsible for the successes and failures of their lives" (Eccleshall, 1984: 67). Modern

liberals are said to share a collectivist perspective of society, in which society is seen as an interconnected whole. As such, the government was seen to promote social welfare. This conversion has been profound enough for some to describe the new liberalism as a separte ideology, radically at odds with its classical prdecessor. In fact, some historians believe that this ideological shift marked the collapspe of liberalism. Yet, because of earlier liberals' close alliance with the notion of a minimal government, their successors were unable to cleanly disentagle themselves from the ideal of laissez-faire. As such, the defense of an interventionist state was difficult to explain. It is difficult, therefore, to maintain that liberalism, in a classical sense, has been exhausted.

One of the key tensions within liberalism is the attempt to reconcile the claims of self-governace with the need to maintain political stability. In its beginnings, liberalism grew in opposition to arbitrary power, the monarchy and aristocracy, and as such attempted to free individuals from the clutches of oppressive government. The liberal solution to this dilemma has been to displace arbitrary power by implementing a framework of rights and liberties: "the rule of law" (Eccleshall, 1984: 72). The liberal hope was that the abolition of an arbitrary government would allow each individual to develop morally and economically and as a consequence, serve as the foundation to a stable political order.

It is the conflict between the ideals of individualism and collectivism, and the all-pervasive concern over the degree of governmental interference that motives the terms of the debate as proposed by the news discourse surrounding the ban. Thus, while the news discourse presents itself as one of opposition and although its argument is premised on a shallow understanding of the Canadian legal system, its oppositional standpoint is in fact contained within the hegemonic order of liberalism. As such, the news discourse ultimately contributes to the manufacture and maintenance of dominant views.

CHAPTER TWO

THE NEWS DISCOURSE SURROUNDING THE PUBLICATION BAN: AN EXAMINATION OF ITS LEGAL FRAMEWORK

On 5 July 1993, Justice F.J. Kovacs, of the Ontario Court general division, ruled in favour of a time limited ban on the publication of the proceedings of the Karla Teale manslaughter trial until the completion of the trial or discharge of Paul Teale, who has also been charged for the same murders. Karla Teale went before Justice Kovacs' court to face two charges of manslaughter in the deaths of Leslie Erin Mahaffy and Kristen Dawn French, two Southern Ontario teenagers. It has been charged that Mahaffy and French were kidnapped, unwillingly confined and murdered, although it has yet to be proven in court. The present study entails an ideological analysis of the news discourse surrounding the decision to ban publication of the proceedings of the Karla Teale trial and maintains that the dominant, or preferred meaning evident throughout the discourse is rooted in the political ideology of liberalism. According to the principles of the critical tradition in communication studies as outlined by Stuart Hall, it is imperative to understand the discourse as constructed and circumstantial. Thus, before a textual analysis can be undertaken, it is first essential to explore the relationship between the social structure and the text itself. The examination of these relationships is essential, because they influence the production and reception of the mediated messages. In other words, the ideological

discourses that fuel the legitimation of meaning in late twentieth-century Canadian society must first be considered.

The news discourse surrounding the publication ban: a legal framework

In order to fully understand the discourse of opposition to the ban, it is essential to first discern the frames of reference which have defined the news discourse. In fact, any analysis of a news discourse requires an examination of the political strategies of its preconstruction (Young, 1990: 157). Since a text is "already written" (Young, 1990: 157), it is essential to read the text as contingent and socially conceived. As such, it is imperative that an ideological analysis of the news discourse surrounding the publication ban incorporate an examination of its political and institutional influences. Thus, it is important to comprehend Justice Kovacs' decision and the Canadian legal tradition that lies behind it.

Shaped by culture, news production, economic interests and legal traditions, the news discourse surrounding the ban represents an ideologically predetermined portrayal of media rights and offers this construct as reality. While there have been those editors and journalists who have offered support for Justice Kovacs' decision, the main response within the media has been one of opposition. Like other oppositional movements, the news discourse, which resists this particular ban, also challenges "the system," or rather, the ideals of the national legal and political systems. The critical school maintains that the

way an oppositional position is covered in the news comes to define the position of resistance, since the public have few alternative sources of information. As such, the media define the public significance of movements as well. The news discourse surrounding the ban defines the terms of the debate with regard to Justice Kovacs' decision and the ensuing legal rights, and thus it defines the terms of the discourse of opposition towards the ban.

The construction of authority within the news discourse fixes a preferred reading of the ban as inherently wrong, inhibiting alternative interpretations by publishing only a restricted number of articles which express these alternative positions, or ignoring them all together. The preferred reading position is best illustrated by a short, yet representative list of newspaper headlines: "Publicity is the soul of justice" (Ottawa Citizen, July 7, 1993: A10), "Ruling expected to encourage gossip" (Globe and Mail, July 6, 1993: A3), "Teale ban a bust - gag order can't stop 1 in 4 Ontarians getting details: poll" (Hamilton Spectator, Dec 29, 1993: A1), "Press outraged, sickened" (Winnipeg Free Press, July 9, 1993: A1), "Teale deal leaves public devastated, lack of information on murders is a 'dirty rotten trick'" (Ottawa Sun, July 8, 1993: 5) "Star bids to reverse Homolka gag order" (Toronto Star July 9, 1993: A1) "Outrage will greet ban, residents say" (Vancouver Sun, July 2, 1993: A6), and the list goes on. The strong sense of opposition towards the publication ban: as expressed by news discourse is also made evident by the application issued by the

Toronto Star, the Toronto Sun, the Canadian Broadcasting Corporation and Thomson Newspaper Company Ltd. for an appeal on the publication ban. This appeal maintains that the manslaughter trial of Karla Teale should be held in public and that representatives of the Canadian media should be able to report upon the Court proceedings. While there are some articles which support the publication ban: "Right to a fair trial a sacred principle" (Globe and Mail, December 2, 1993: A5), "Need to know masks flawed human nature" (Halifax Chronicle Herald, July 9, 1993: C1), "It's just possible the Homolka publication ban was justified" (Montreal Gazette, July 26, 1993: A4) "We will hear details of Homolka case soon enough" (Toronto Star, July 8, 1993: A2) "Circus-style press heard it coming" (Globe and Mail, July 8, 1993: A17) and others, the dominant position offered by the news discourse surrounding the publication ban questions the ideals of the Canadian legal system which have been established within the framework of a liberal political theory.

Working within the framework of liberalism, the Canadian judiciary, as represented by Justice Kovacs' decision, stresses the social responsibility aspect of rights, rather than emphasizing individual rights. In fact, Justice Kovacs maintains that at the root of his decision lies a preoccupation with social responsibility, a preoccupation that motivated his support for the social institution of the fair trial, and his dismissal of the individual's right to know, and the right to a free press. Justice Kovacs' decision maintains that when the right to a fair trial collides with press freedom, the former usually prevails. However, the

right to a fair trial is not exclusively for the benefit of an accused individual. This contention is upheld in the Ottawa Citizen, which reads: "There is also a societal value achieved by ensuring the fair trial of all individuals charged with criminal offenses."

(Ottawa Citizen, Jan. 24, p. A3)

The Canadian legal tradition: some principles

The Canadian judiciary speaks to the principles of freedom and equality, but within what they consider to be reasonable limits. In fact, our commitment to these principles is not absolute. Ian Greene, author of The Charter of Rights argues that our beliefs about the balance between rights and limits are the product of our religious, philosophic, economic and political convictions as a nation (Greene, 1989: 8). Greene writes that "if there are diverse opinions about these matters -- which there obviously are in Canada -- there is bound to be disagreement about the appropriate border between rights and limits" (Greene, 1989: 8). The publication ban was a direct result of the quest for an appropriate balance between rights and limits. However, as Justice Kovacs argues, "the consideration of a fair trial outweighs the freedom of the press in these exceptional circumstances" (Globe and Mail, July 6, p. A1). While publicity is "the very soul of justice, freedom of expression does not exist in a vacuum, independent of other rights and freedoms." (Globe and Mail, June 29, p. A2) However, as Greene notes, Canadians have become increasingly rights-conscious, due to the influence of the internationally acclaimed liberal

ideology, the emergence of democratic values, and the impact of the American Bill of Rights (Greene, 1989:8). In fact, Klaus Pohle, media law professor at Carleton University, argues that "individual rights have gained a prominence they didn't have thirty years ago ..." (*Calgary Herald*, July 7, 1993: A5)

I. Media and the law

The historical development of the law as it affects the press relates to the transition from an authoritarian to a libertarian system of government in England, and hence in Canada. Under authoritarianism, the law was designed to protect the state from other individuals. Under such a system, therefore, the king possessed strict control over the press. During the eighteenth century, the press faced innumerable prosecutions for treasonable, seditious or libelous publications (Kesterton, 1976: 3). In fact, the principles of criminal law were used against the journalist who offended the ruling establishment, since penalties for crimes were more severe than those for civil offenses. "General warrants" authorized government officials to search for and seize the author of a libelous statement. Gradually, however, these became illegal (Kesterton, 1976: 3). Due to the French Revolution, and the ensuing philosophy of the times, the courts ceased to return verdicts that supported the establishment, in the case of media law. Finally, the Libel Act of 1843 (Lord Campbell's Act) which permitted a defendant in a libel suit to plead ... justification of what had been published, provided that it had been written in the public's

interest, was implemented (Kesterton, 1976: 4). Adverse laws and excessive restraint were finally eliminated in England in 1869. These British acts of legislation were adopted by Canadian courts during the latter part of the nineteenth century. Together, with common law derived from England, these borrowings have become the basis upon which contemporary Canadian media law has been built. Under the new libertarian press system, which now prevails in Canada, the twin qualities desired for the media are freedom and responsibility. This system envisions media workers as free, their work unhampered by governmental controls and regulatory bodies. Ideally the only check imposed on journalistic practices is their desire to discover what is true, fair and socially desirable (Kesterton, 1976: 1). As such, a journalist who fails to use her or his good judgment or behaves irresponsibly will be restricted by the laws of libel, contempt of court, obscenity and others, such as prior restraint. However, there is a sense that journalists and media owners see the libertarian system as unfairly punishing the media, who are usually considered to be in the wrong when in conflict with the law. According to media workers, therefore, the preservation of the institution of a fair trial always wins the battle when in confrontation with the freedom of the press (Kesterton, 1976: 19).

II. Freedom of the press in Canada

S. 2(b) of the Charter states that everyone has the "freedom of thought, belief, opinion and expression, including freedom of the press and other media of

communication" (Greene, 1989: 229). After the enactment of the Charter in 1982, Wilson J. in Edmonton Journal v. Alberta (A.G.) (1989) 64 D.L.R. (4th) 577 (a decision of the Supreme Court of Canada) said in respect to freedom of the press:

... the public interest in open trials and in the ability of the press to provide complete reports of what takes place in the court room is rooted in the need (1) to maintain an effective evidentiary process; (2) to ensure judiciary and juries that behave fairly and that are sensitive to the values espoused by society; (3) to promote a shared sense that our courts operate with integrity and dispense justice; (4) to provide ongoing opportunity for the community to learn how the justice system operates and how the law being applied daily in the Courts affects them (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 135).

At common law, the presiding judge at a seminal case, Scott v. Scott (1913) A.C. 417 (H. of L.) Lord Shaw said at p. 417:

It is needless to quote authority on this topic from legal, philosophical, or historical writers. It moves Bentham over and over again. 'In the darkness of secrecy sinister interest and evil in every shape have full swing. Only in proportion as publicity has place can any checks applicable to judicial injustice operate. Where there is no publicity there is no justice. It is the keenest spur to exertion and the surest of all guards against probity. It keeps the judge himself while trying under trial. The security of securities is publicity' (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 134).

Thus, at common law, even before the Charter was passed, the right of a free press was protected as the safeguard of the "very soul of justice" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 134). It appears, therefore, that freedom of the press under the Canadian legal tradition and under the Charter is central to a free and democratic

society.

The fundamental freedoms, as expressed in s.2 of the Charter and which have been historically understood as areas of human behaviour and action with which the State may not interfere, are presumed to exist outside the domain of the legislated order. The state may begin to take responsibility, however, at that point where the exercise of such freedoms threatens an equally fundamental social interest (Martin and Adam, 1989: 121). The "balancing" of the benefits of freedom against the benefits of protecting certain social or state interests with which the freedoms may be in conflict is a common practice in Canadian law. As such, the notion of "reasonable limits" as expressed in s.1 of the Charter serves to legitimize a range of restrictive laws. S.1 of the Charter reads:

The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society (Greene, 1989: 229).

In the application for a limitation, the onus falls upon the party wanting to limit a right to prove that the limitation is reasonable. The limitation must be applied under the rule of law, as a result of a statute or common law rule (Greene, 1989: 55). Finally, a "reasonable limit" must be defined in terms of the "Oakes test" which was instituted by the Supreme Court of Canada. The "Oakes test" demands that the objective of the party in limiting a right must be of sufficient importance to justify encroachment on a right. Secondly, the limit must not be out of proportion to the party's objective and must satisfy three criteria:

it must be rationally connected to the party objective, it should impair the right as little as is necessary to achieve the objective and the effects of the limit cannot be out of proportion to what is accomplished by the objective (Greene, 1989: 55). While reasonable intrusions on the fundamental freedoms, such as the freedom of the press, are foreseen in the present law, it would appear that only those constituting a greater contribution to democracy than is made by the fundamental freedom that is consequently lost are constitutionally acceptable (Law Reform Commission of Canada, 1987: 13).

While the limitation clause as set out in the Charter does permit some limitations upon the fundamental freedoms, there are statutory limitations on the freedom of the press as well. For example, parliament has legislated that

... where the presiding judge, provincial court judge or justice, as the case may be, is of the opinion that it is in the interest of public morals, the maintenance of order or the proper administration of justice to exclude all or any members of the public from the courtroom for all or part of the proceedings, s/he may so order"[s.486] (Robertson, 1981: 144).

Parliament has also legislated restrictions on the publication of the identity of a complainant in sexual offenses [s. 486 (3)], restrictions on the publication of evidence at a preliminary inquiry [s. 539] and restrictions on evidence given at a show cause hearing [s. 517]. Counsel for Paul Teale submitted that these restriction are mandatory at the request of the accused but merely permissive at the request of the Crown. Parliament, it was

argued, was less restrictive as to bans on publication in respect to a request by the accused (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 136). Justice Kovacs maintains, however, that this is true only in respect to s. 539 and s. 517. It is not, therefore, an accurate assessment of s. 486 (3), where the restriction of publication of the name of the complainant is mandatory in the complainant's interest (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 137).

While the general principle of the Canadian legal system is that justice should be administered in public and that any state that derogates from that position must be specific and clear in intentions, there are, as was indicated earlier, those statutory provisions which provide for the exclusion of the public. Any statutory exclusion of the public under federal law must, however, comply with the Canadian Bill of Rights, which states:

Every law of Canada shall ... be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgement or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to ... (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations; (f) deprive a person charged with a criminal offense of the right to be presumed innocent until proven guilty according law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; ... (Roberston, 1981: 154)

The statement: "[E]very court of justice is open to every subject of the king"

(Scott v. Scott (1913) A. C. (H. of L.): 11) has been adopted as Canada's expression of

the fundamental principle of the administration of justice (Robertson, 1981: 140).

However, there are certain exceptions and difficulties in applying this general rule at common law. While Scott v. Scott has been quoted to show that the Canadian legal system views openness as essential to the democratic process and that publicity is the soul of justice, this case also states that those cases involving wards of the court, lunatics and trade secrets could properly be held *in camera* (in private). Viscount Haldane states: "While the broad principle is that the courts of this country must, as between parties, administer justice in public, this principle is subject to apparent exceptions, such as those to which I have referred" (Robertson, 1981: 141). The basic common law exception is that the public should be excluded from a legal proceeding if justice cannot otherwise be done. This exception has been applied in those situations involving lunatics, wards of the court and trade secrets, as well as in cases where the processes of the court must be protected as, for example, when order must be kept or witnesses protected (Robertson, 1981: 143). For instance, in R. v. McArthur (1984) 13 C.C.C. (3d) 152 (ont. H.C.), Dupont J. ordered that the publication of the names of witnesses who were inmates in jails be prohibited, because the physical safety of the inmates would be in danger if their names were publicized. The judge in this case ordered a ban on publication in the interests of "the proper administration of justice" under what is now s. 486 (1) of the Criminal Code, since it was felt that if the identity of the witnesses were published, they might be deterred

from testifying (Martin and Adam, 1989: 219). The aim of the publication ban under such circumstances was reinforced by Goldie, J.A. in Needham v. British Columbia (1992) 76 C.C.C. (3d) 146 (b.C.C.A.): "The safety of a witness is, *prima facie*, good cause to close the court and for an ancillary ban on publication" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 140). A restriction of the public's accessibility to the Court is also within the Court's jurisdiction, but it is a right that can only be exercised within limited boundaries. For example, in Attorney General of Nova Scotia v. McIntyre (1982) 26 C.R. (3d) 193 (S.C.C.), Dickson, J. states : "In my view, curtailment of public accessibility can only be justified where there is present the need to protect social values of super ordinate importance. One of these is the protection of the innocent" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 143). Within a common law system, then, "[the] Court has inherent jurisdiction to prohibit publication and broadcast in order to protect an accused's right to a fair trial or to protect the fairness of a trial then conducted ... The exercise of that jurisdiction does not contravene s. 2 (b) of the Canadian Charter of Rights and Freedoms" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 137).

While it is apparent that Justice Kovacs' decision was based upon precedent, and can be justified by the common law rule, statutory law and s. 1 of the Charter, there have been those cases which have upheld the importance of an open justice system and the ensuing freedom of the press, and thus have denied application to ban publication.

Examples are Scott v. Scott, Edmonton Journal v. Alberta and Re Southam Inc. and the Queen (1) (1983), 41 O.R. (2d) 113 (Onr. C.A.), in which a general motion to "open the Juvenile Court" not related to any particular proceedings was made. The argument that found favour with the Motions Court judge was that the exclusion of the public from such trials offends "freedom of expression, including freedom of the press," guaranteed by the Charter (Martin and Adam, 1989: 205). In another seminal case, it was found that the inherent jurisdiction of the Court to prohibit publication does not extend to the creation of a new rule of substantive law (Her majesty the Queen v. Karla Bernardo (Teale), , p. 138). This principle is illustrated by R. v. Unnamed Person (1985, 22 C.C.C. (3d) 284 (O.C.A.), in which the judge prohibited the publication of the name of an accused charged with infanticide, because the accused would suffer embarrassment and problems with her employment (Martin and Adam, 1989: 218). The order was not subject to a time limit, and there was no statutory basis for the order. The Court of Appeal held that the judge had no inherent jurisdiction in the creation of substantive law: "... the limits of this power (i.e. inherent jurisdiction of the court) are difficult to define with precision but cannot extend to the creation of a new rule of substantive law" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 138). The order banning publication of the accused's name by the Motions Court judge was thus vacated by the Court of Appeal.

R v. Unnamed Person, therefore, defines the conditions under which a ban may be imposed. While Justice Kovacs writes that he would have liked to have been able to consider the psychological well being of the innocent victims, the trauma to innocent persons related to the accused and the trauma to the community, he recognizes in his decision that he should not break new ground in the law: "I must say I have no inherent jurisdiction to make substantive law in this area as Zuber, J.A. held in R. v. Unnamed Person, supra, an authority which is binding on me" (Her majesty the Queen v. Karla Bernardo (Teale), supra, p. 143). Justice Kovacs' regret that he could not legally consider the psychological harm as a real factor has sparked controversy. In fact, there is an expressed fear that if he could have, Justice Kovacs would have considered the mental element in his decision. Klaus Pohle, for example, maintains that if there is to be a "community standards test" to determine whether the community will suffer mental harm, then "we might as well kiss the notion of open courts goodbye" (Globe and Mail, July, 7, 1993: A4). In order to avoid controversy, thus, Justice Kovacs concluded that "the right of freedom of the press may be curtailed to protect a "social value of superordinate importance" (as per Dickson, J.). Two such values are the protection of an accused presumed innocent and the protection of the integrity of the Court's process (Her Majesty the Queen v. Karla Bernardo (Teale), supra, p. 146).

Justice Kovacs' decision to ban publication is legally justified under the Criminal Code, statutory and common law. His decision can also be justified under the common law *sub judice* rule, which states that "When a legal matter has come under the jurisdiction of a court (*sub judice*), nobody should interfere with the court's proper handling of the proceeding" (Robertson, 1981: 23). Stuart M. Robertson maintains that

Nothing is more incumbent upon courts of justice that to preserve their proceedings from being misrepresented; nor is there anything of more pernicious consequence, than to prejudice the minds of the public against person concerned as parties in causes, before the cause is finally heard (Robertson, 1981: 23).

An act by the media which intentionally interferes or tends to interfere with a court's determination of innocence or guilt is a contempt, and the court may make an order against the contemtor, but only if the contempt is considered sufficiently serious (Robertson, 1981: 23). Since the issue of guilt or innocence in a criminal hearing is the court's central concern, any prejudicing by the media will interfere with the court's function, and can be punished by law. In addition, it is contemptuous to anticipate or comment on the result of a matter "reserved for judicial consideration" (Robertson, 1981: 31). The media breaches the *sub judice* rule if they report that an accused has given a confession before it has been entered as evidence in open court; prejudice or urge a particular result; report that the accused in a criminal proceeding has a criminal record; report the content of court documents; breach court order; or carry on a media

investigation while a related criminal matter is proceeding (Robertson, 1981: 25). Finally, the media can breach *sub judice* by reporting on one proceeding in such a way as to prejudice another action. In the Teale case, the media could easily breach the *sub judice* rule in this last respect. Thus, Justice Kovacs' decision is legally legitimate under the *sub judice* rule.

It becomes apparent, from the statutory and common law recited above, and the *sub judice* rule, that bans on publication are legally acceptable in Canada. While it is true to say that there is ample legal precedent and legislation to justify a ban on publication within a Canadian court, it is a right not always exercised. Bryan Cantley, head of the Canadian Daily News Association, in an article entitled "Judges aren't always so quick to impose publication bans," (1994) writes that the recent and high-profile cases in which a ban has been imposed (the Teale, Martensville, Friedland, McCain and Boys of Saint Vincent cases), have skewed the big picture. In fact, Cantley argues that the media appear to be winning more than losing, in the fair trial/free press debate (Cantley, 1994: 16). Cantley substantiates his claim by turning to The CDNA's Press and Courts Index, which has logged 18 cases where a judge ruled on whether there should be a publication ban on an accused's identity. In 15 of those cases, the judge either refused a ban or had rulings overturned on appeal (Cantley, 1994: 16). Justice George Valin of North Bay, for example, ruled in favour of the media in a case much like Teale's. Valin refused to ban

testimony that could have had an impact on the later trial of a co-accused. Valin's ruling was based on his contention that "the public has 'a right to be informed and the media has a corresponding duty' to tell the public what happens in court" (Cantley, 1993: 16).

Cantley also states that judges have ruled in favour of openness in about 20 out of 30 cases where fair trial/free press have come into conflict (Cantley, 1993:16). Of the bans that have been imposed, not all are a result of the fair trial/free press debate. In fact, media bans have also been imposed on the publication of books, films and television programs, such as The Boys of St. Vincent. While it is apparent that the Canadian legal system and society at large prizes highly the Charter right to freedom of the press, both statutory and common law provide for limitations of the freedom in some circumstances. While Cantley points out that bans are not as frequently imposed as one may assume, they are nevertheless imposed under certain circumstances. Except in those fair trial/free press cases where a statute gives the court power to hear a matter in chambers, however, the power of the court to exclude the public and to ban the media must be based on common law (Robertson, 1981: 157).

Freedom of the press vs. the societal right to a fair trial: Canada vs. the United States

The principle in common law countries is that any citizen may do or say whatever s/he wishes unless the law specifically forbids it. The press also have this right, but legal prohibitions on press freedom are far greater, since the audience of the mass media

exceeds that of the individual. While both Canada and the United States practice common law, the U.S. constitution allows Americans to enjoy much broader rights than does the Canadian Charter (Lepofsky, 1991: 77). Since the United States separated from Britain, American legislators have been unwilling to allow many of the measures adopted in Great Britain to remain as law within their country. One of America's first legislative projects was to maintain freedom of speech, religion and the press, which were ultimately guaranteed through amendments to the constitution (Beckton, 1982: 68). Canada has some comparable statements in its Charter of Rights and Freedoms, since it too protects the fundamental freedoms under s. 2 of the Charter (Black, 1982: 57). The Canadian and American legal systems share other similarities as well. For instance, courts in both Canada and the United States recognize that members of the public have a fundamental constitutional right to attend court proceedings. In addition, the constitutions of both countries allow for limitations on these rights only in those compelling situations where it can be established that such limitations are necessary in order to achieve certain social objectives which cannot be attained or protected otherwise.

There are, however, several key differences between the Canadian and American constitutional approaches to the free press debate as well. For instance, at the greatest level of generality, Americans enjoy broader rights of access and speech about court proceedings than do Canadians (Lepofsky, 1991: 77). This is due to the fact that the

American constitutional test for justifying limits on open justice is harder for government to pass (Lepofsky, 1991: 77). For instance, under s.1 of the Charter, a social objective can justify limits on open justice if it is "sufficiently important" or "pressing and substantial" (Lepofsky, 1991: 77). Limitations on access to court proceedings in the United States are allowed only in various exceptional instances, for example if they pass the clear and present danger test (Franklin, 1981: 40). Lepofsky maintains that Canada's judiciary has been more willing to deem an objective to be "sufficiently important" under the Charter than the U.S. Supreme Court has been to find a law's objective connected to a "compelling state interest" (Lepofsky, 1991: 77). In the United States, it is only as an absolute necessity that speech restrictions can be imposed. While the First Amendment generally does not tolerate a statute which imposes blanket limits in attendance, or speech about court proceedings, in Canada, blanket restrictions, or restrictions which are automatically imposed at the request of a party or witness are more often accepted. The First Amendment, for instance, "tolerates no — or virtually no — prior restraints" (Schmidt, 1981: 66). To avoid having to impose a prior restraint, the American courts have attempted to use contempt power, but the Supreme Court of the U.S. has made this option virtually impossible (Schneiderman, 1991: 73). As such, the U.S. has recognized several other alternatives: change of trial venue to a place less exposed to the intense publicity; postponement of the trial to allow public attention to subside; use of searching

questioning of prospective jurors; and the use of emphatic and clear instructions on the sworn duty of each juror (Franklin, 1981: 376). In addition, there are certain classes of expression which might be subject to legal sanctions *after* their utterance, such as "the lewd and obscene, the profane, the libelous and the insulting or fighting words -- those which by their very utterance inflict injury or tend to incite an immediate breach of peace" (Chaplinsky v. New Hampshire 315 U.S. 568 (1942) in Franklin, 1981: 48). Finally, the American Bar Association has also revised its Canon of Ethics to incorporate a concern over the publication of material that may prejudice a jury:

Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the courts and otherwise prejudice the due administration of justice. Generally they are to be condemned ... (Schneiderman, 1991: 77)

A fair trial/ free press agreement was created through the efforts of the bar and the press, which has been adopted by a number of bar and press associations in a number of states. These agreements provide guidelines for cooperation among the news media, the bench, the bar and the law enforcement agencies to protect free press and ensure fair trials (Schneiderman, 1991: 77).

However, to say that the United States tolerates no prior restraints is somewhat misleading. In fact, a judicial order not to publish is tolerated in order to protect the right of a criminal defendant to a fair trial, in addition to those that are permitted in order to ensure national security (Schmidt, 1981: 65). In Nebraska Press Ass'n v. Stuart (1976),

for example, the judge's order prohibited everyone in attendance from "releas[ing] or authoriz[ing] for public dissemination in any form or manner whatsoever any testimony given or evidence adduced" (Franklin, 1981: 369). While the Nebraska Supreme Court rejected this "absolutist position," it did accept its general principle, modifying the District Court's order to prohibit reporting in only three matters (Franklin, 1981: 370). Justice Powell writes that, in his opinion, a prior restraint may be properly issued only when it is shown to be necessary to "prevent the dissemination of prejudicial publicity that otherwise poses a high likelihood of preventing, directly and irreparably, the impaneling of a jury meeting the Sixth Amendment requirement of impartiality" (Franklin, 1981: 384). In other words, Justice Powell maintains that restricting publicity is tolerable in order to prevent "trial by press." One of the most famous "trial by press" cases involves Dr. Sam Sheppard, whose wife was brutally murdered in 1954. In this particular case, the press did not feel that the police were investigating properly, and began to criticize the police and to hint at Sheppard's guilt within their reports. It took Dr. Sheppard twelve years to finally have the United States Supreme Court set aside his conviction, on the grounds that his trial had been seriously prejudiced by the publicity around the case (Schneiderman, 1991: 76). There are, therefore, certain cases where prior restraints on publication are acceptable, although they are rarely tolerated under the American system. The seminal case Near v. Minnesota (1931) illustrates the position most often assumed in American

courts. In this particular case, a state statute provided for injunctions against any "malicious, scandalous, and defamatory newspaper" and a state judge had enjoined a scandal sheet from publishing anything scandalous in the future. Despite the fact that this court order came into play only after a publication had been found scandalous, the majority of American justices compared the injunction to English censorship (Schmidt, 1981: 63). This decision, and others, have firmly established the doctrine that the First Amendment tolerates few prior restraints.

In its discussion of the fair trial/free press debate, the news discourse surrounding the ban represents the American position on prior restraints, open justice and freedom of the press as flawless and infallible. In other words, the American legal tradition is represented as *better than* the Canadian. However, the news discourse fails to recognize that prior restraints are tolerated in some circumstances, that legal sanctions after publicity are tolerated and that freedom of expression is *not* an absolute right. The position upheld within the news discourse is expressed clearly by Catherine Ford, in an editorial for the Calgary Herald. Ford writes that "there is no equivalent of the First Amendment in Canada, that gives us the seeming moral authority to say what we like when we like. 't is an arbitrary freedom that is becoming more often abused in its rejection than in its execution" (Calgary Herald, July 8, 1993: A4). The dominant position upheld within the news discourse also exposes a lack of understanding of the free press/fair trial debate as

understood in Canadian law. In fact, the Canadian legal position on prior restraints, open justice and freedom of the press is represented as unjust, undemocratic and even communist in nature. This dominant reading of the free press/fair trial debate is misleading, however, because it fails to recognize that there are cases in which applications for bans on publication have been rejected, and that the Canadian judiciary does in fact value an open court system. This position is expressed clearly by Parker Barss Donham, political columnist for the Halifax Sunday Daily News, and a CBC political panelist. Donham states that the belief that Justice Kovacs' press ban is a "rare exception to Canada's otherwise unstinting devotion to free expression and open court" as protected in the United States by the First Amendment, is "nonsense." "In Canada, secrecy and suppression of free speech are the norm. Examples abound" (Vancouver Sun, July 15, 1993: A11). Donham, therefore, expresses vehemently what he perceives to be the radical difference between the Canadian and American perspectives on free press. While the balance to be struck between the freedom of the press and the right of both the individual and the community to have fair trials conducted free of any bias is more often weighted on the side of the fair trial in Canada than in the United States (Black, 1982: 62), to say that the right to a fair trial is valued more seriously in Canada, and that freedom of the press is recognized more seriously in the United States is misguided and misleading to say the least.

Canada's judicial system is premised upon the belief that an individual who commits a criminal or civil offense can only be condemned before an impartial tribunal specifically arranged to ensure that justice is done. As such, there is an assumption that an individual is innocent until proven guilty in a court of law. The trial of the accused must be in a court of law subject to the rules designed to protect not only the accused, but society as well. As was mentioned earlier, these rules were established to ensure that society's needs are met by protecting the innocent and convicting the guilty. An essential part of the notion of a fair trial, however, is that it be conducted in public, under the watchful eye of the citizens (Lepofsky, 1991: 75). As such, many consider that publicity will minimize the likelihood that a witness will lie, and will encourage the lawyers and judges to put their best efforts forward. This openness is considered essential in order to remove public fear and distrust in the system. While it appears that the notion of a free press is vital to the judicial system, it can also become one of the greatest threats to a fair trial. Restrictions on a free press, therefore, are made in order to protect other fundamental rights. These restrictions are designed to prevent trial by press.

Her Majesty the Queen v. Karla Bernardo (Teale): Reasons for the ban

Justice Kovacs maintains that his decision to ban the publication of the proceedings in the accused's trial was motivated primarily by the desire to preserve the

institution of the fair trial, in the public's interest. While Justice Kovacs states that he prizes "highly the Charter right of freedom of the press", he also recognizes that in some circumstances, limitations may be imposed (Her Majesty the Queen v. Karla Bernardo (Teale) (5 July, 1993), (Ont.gen.dir) [unreported] p.137). Justice Kovacs writes in his decision:

freedom of the press is not conferred in absolute terms but carries with it quality of restraint, that is to say that freedom will be exercised reasonably with due regard to the right of an accused person to a fair trial as expressed in s.11(f) of the Charter (Her Majesty the Queen v. Karla Bernardo (Teale) *supra*, p. 151).

Justice Kovacs argues that the attainment of justice must be the primary purpose and as such, the ban must protect the integrity of the Court's process and the accused's right to be presumed innocent until proven guilty in a "fair and public hearing by an independent and impartial tribunal" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 146). Justice Kovacs also relies on Southam v. Brassard (1987), a decision by Justice Boillard, who argued that "the right to a fair trial must take precedence over the freedom of the press", in order to state his case (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 152). Where the two rights of freedom of the press and fair trial compete, there must be some kind of balance achieved. In making his decision, Justice Kovacs considers the following factors:

... the nature of the election of the remaining co-accused, the imminence or otherwise of future trial proceedings, the nature of the evi-

dence to be disclosed..., the perceived adequacy or otherwise of the traditional mechanism (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p.120).

It is upon these factors, and after much deliberation, that Justice Kovacs concluded that the Court should: "protect the integrity of the trial process in the interests of the public by imposing a temporary and partial ban on publication of the trial" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 166). Justice Kovacs, in his decision, draws parallels between the Canadian and British legal systems, relying on English cases for support of his conclusion. However, he also highlights the different approaches taken by the Canadian and American traditions. A further elaboration of these distinctions will prove useful in understanding the reasons for the ban, and thus the reasons for the Canadian media's adoption of a liberal argument, which serves to promote an American approach to freedom of the press in addition to the free flow of information doctrine as expressed in the Universal Declaration of Human Rights.

The American constitution tends to focus more readily on "individual liberties, procedural safeguards and equality of treatment" (Greene, 1989: 35). On the other hand, Canada's approach, which is very similar to that of the U.K., has been molded by a greater stress on the social responsibility aspect of rights than is the case in countries such as the U.S., where the individualistic aspects of rights has been more highly valued. Canada's emphasis on social responsibility is written in s. 486. 1 of the Criminal Code, which explains that when it is in the interest of *public morals, the maintenance of order to the*

proper administration of justice (emphasis added) (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 113), a judge may rightly order a ban on publication. An additional reference to the responsibility of the court is expressed by Justice Dickson in Attorney General of Nova Scotia v. McIntyre (1982), a further case referred to in Justice Kovacs' decision:

In my view, curtailment of public accessibility can only be justified where there is present the need to protect social values of super-ordinate importance (Her Majesty the Queen v. Karla Bernardo (Teale), *supra* p. 143).

Justice Kovacs concludes, therefore, that:

the right of freedom of the press may be curtailed to protect a 'social value of super ordinate importance.' (per Dickson, J.) Two such values are the protection of an accused presumed innocent and protection of the integrity of the Court's process (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 146).

Justice Kovacs' decision indicates that the Canadian legal system continues to promote the Court's responsibility to the broader society, as opposed to individual civil liberties, which are more likely to be upheld in the United States. This may be explained by the fact that Canadian liberalism has a more communitarian flavour than the highly individualistic American liberalism (Greene, 1989: 11).

There exists several other differences between the Canadian and American legal traditions. A comparison of these two divergent systems, which draws on Justice Thorson's decision in Global Communications Ltd. and the Attorney General for Canada

(1984), is made by Justice Kovacs in his decision. Justice Kovacs writes that in the United States, "prior restraint of the press is an exceptional procedure ... barriers to prior restraint remain high and the presumption against its use continues in tact" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 158). In his decision, Justice Kovacs recognizes that the American approach allows for the widest possible latitude on media reporting of events which transpire prior to and during the course of a trial. This can be explained partially with reference to the differing processes of jury selection. The extensive media coverage that is allowed in the United States is counterbalanced in the interests of ensuring an impartial and unbiased jury through an extensive examination into the attitudes, biases and personal affairs of potential jurors and by the sequestration of the members of the jury while the trial is in progress, in order to reduce the risk of their exposure to the media (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 159).

In Canada, on the other hand, the process of jury selection is not as exhaustive. In fact, Justice Kovacs admits that the kind of questioning into the affairs of potential jurors that is often seen in the United States would not be permitted in Canada, because it would require too much administration. In addition, Justice Kovacs maintains that "in Canada, the sequestration of jurors throughout a trial occurs only exceptionally" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 160). As such, the Canadian legal system attempts to prevent the dissemination of information through media publicity before the

conclusion of a trial. The American legal system is more willing to accept the rational capacity of the juror to make reasonable judgments, because American liberalism, which shares the rationalist approach of the Enlightenment, claims that "correct reasoning can accurately describe natural rights" (Greene, 1989: 11). Canadian liberalism, on the other hand, shares a common bond with Burkean liberalism and is skeptical about the ability of human beings to devise "correct" solutions through the reasoning process and is "more inclined to trust the lessons of history" (Greene, 1989: 11). There are, therefore, several major differences between the American and Canadian legal systems. An analysis of the news discourse surrounding the publication ban will reveal that the Canadian news discourse promotes the procedures and ideals of the American tradition, while ignoring key elements of the Canadian process.

While Justice Kovacs highlights these essential differences between American and Canadian law to substantiate his argument, he also relies on the British tradition in support of his decision to ban publication in this particular case. The British influence on Canadian judicial proceedings is evident in Justice Kovacs' decision to ban publication of the Karla Teale manslaughter trial proceedings. Justice Kovacs relies quite extensively on the case R. Church of Scientology of Toronto v. The Queen (no. 6) (1986), in which the notion that "a court of record had authority to suspend publication of accounts of related proceedings ..." is maintained (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p.

121). This case quotes two old English cases, R. v. Clement (1821) and R. W. L. Clement (1822). In R. v. Clement, several accused were tried separately for high treason. The trial judge ordered that there be no publication of any proceedings until the trials of all the accused were concluded. In defense of this decision, it was argued that "the court ... had authority to make any order which they might judge to be necessary, in order to preserve the purity of the administration of justice" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 148). It seems reasonable to argue, therefore, that the Canadian legal tradition shares more in common with the British system than it does with the American.

Given the nature of Canada's Charter and legal system, in which publication bans are foreseen, why has there been such strong opposition to the ban throughout the news discourse? Does the news discourse not realize that in Canada, individual rights, such as freedom of speech, are not absolute? Does the news discourse not agree that it is the judiciary's responsibility to ensure the good of society? In the Teale case, for example, the rationale for the judge's decision was the maintenance of the institution of a fair trial. In fact, Justice Kovacs argues that his decision was made *in the public's interest*. Yet, for the most part, the news discourse argues that the maintenance of freedom of the press should be of greater concern to the judiciary, for "publicity is the soul of justice" (Ottawa Citizen, July 7, p. A10). However, this is an argument that, apparently, is more seriously entertained in the United States. As such, the news discourse has taken a stand against the

publication ban. In its opposition, the discourse has promoted the liberal ideals of freedom of the press and the free flow of information, a principle which is preserved in the Universal Declaration of Human Rights (1948) and which has been adopted by the Canadian government. Ultimately, then, the news discourse surrounding the ban promotes the terms of a globalized and thus interdependent world, in which information can flow openly within a nation and with no state-designed restrictions, across any boundary. The Canadian news discourse's reaction to the publication ban is contingent upon Justice Kovacs' decision, upon the principles of the Canadian legal system and upon an awareness of press freedom as guaranteed by the American First Amendment. The news discourse surrounding the ban is ideologically charged, therefore, because it is based on the stringent principles of liberalism which are not guaranteed by the Canadian legal tradition, but are more closely protected by American law.

CHAPTER THREE

UNDERSTANDING THE NEWS DISCOURSE SURROUNDING THE BAN: THE LIBERAL IDEOLOGY AND FREEDOM OF THE PRESS

One of the central theoretical strategies developed by the critical school is that of "reading" cultural products, social practices and institutions as "texts." This process, in which the analysis of media texts focuses on social meanings and on the political implications of media messages, acknowledges the power of the text, and also the importance of the social and political contexts of their production and reception. While chapter two examined the legal context of the news coverage, this chapter will offer a "reading" of the news texts which comprise the discourse surrounding the ban. Before delving into an ideological analysis of the news text, however, a review of the critical school's theoretical approach to the analysis of texts is required.

Encoding/Decoding: the case of the preferred reading

Stuart Hall's article "Encoding/Decoding" opens with an attack on the American empiricist and behavioural explanations of the processes of communication, since these approaches see communication as a direct line from sender to receiver. Hall maintains that just because a message has been sent, it has not necessarily been received, since each moment in the process of communication has its own conditions of existence which can affect its reception (Hall, 1980: 129). Hall emphasizes that the production and

consumption of the message are determined by a range of influences, such as the medium through which it is sent and its social/political context. As such, messages are constructed before they are sent. Just as the moment of the construction of the text is active and interpretive, so too is the moment of its reception. The audience is composed of a mixture of individuals, all of whom relate differently to dominant ideological formations and meanings. As such, there is bound to be a lack of "fit" between the production and reception processes, which can lead to distortions or misunderstandings. However, Hall contends that this potential for misunderstanding is limited by the fact that our communication systems work to encode our language for us in advance. In other words, we are not forced to interpret mediated messages from "square one," because we are already aware of the codes from which they are constructed (Turner, 1990: 90). In fact, most codes are so ingrained in our minds that they appear not as codes, but as natural.

Since mediated messages are composed through a set of highly conventionalized codes that we apprehend as natural, readers or viewers are unlikely to decode in ways that differ from the intentions of the encoder. While the text may be polysemic in nature, it is not totally pluralistic. Thus, while there is a degree of openness about a text's meanings, *there are also limits*. To encode a mediated discourse, then, is to set "some of the limits and parameters within which decodings will operate. If there were no limits, audiences could simply read whatever they liked into the message" (Hall, 1980: 135). The idea that

a text is polysemic in nature remains important, because it acknowledges the fact that dominant meanings are not imposed, but are only "preferred" (Turner, 1990: 91). As such, readers who are at odds with these dominant meanings may well resist them in their own interpretations.

The hegemonic boundary

Once a news event becomes a discourse within the mainstream media, it serves an important hegemonic purpose. Institutions, such as the media, provide a way of dealing with conflict in order to minimize the use of force by the dominant class. If the media are willing to make concessions that secure the subordinate's acquiescence in their leadership, and if this leadership is expressed in terms of universal or general interests, rather than serving their own interests, the weak will accept the prevailing power relations as legitimate (Cox, 199: 219). As such, force will not have to be used in order to ensure the dominance of the powerful, because the status quo is seen as reasonable and natural. The concept of hegemony facilitates an understanding of the ideology implicit within the news discourse surrounding the publication ban, since it accounts for oppositional movements, which are imported into the media and reproduced there. In fact, the news discourse, which represents itself as oppositional in nature, also grants a voice to an alternative position which challenges the dominant discourse by supporting the ban. These oppositional positions are, however, reproduced in the terms derived from the dominant

2 of/de 2

PM-1 3½"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

PRECISIONSM RESOLUTION TARGETS

ideology of a liberal capitalist society. While the news discourse can be defined as a site for the struggle over meaning, it can also be said that "an ideal, continuous, smooth text runs beneath the multiplicity of contradictions which exist within the text and resolves these conflicts in the calm unity of coherent thought" (Jones, 1980: 8). An ideological analysis of the news reveals that, within the news discourse, the underlying text which provides coherence belongs to those who have power and are authorized to know (i.e. media producers). As such, this underlying text serves to legitimize a centralized power.

According to Allison Young,

[The] analysis of the newspaper text as discourse ... is an important heuristic tool. It opens up a possibility of reading the text as contextual, contingent and socially constructed. *It reveals the operation of hierarchies, the polarization of values and the powers of an authority-active monologue which pretends to universal necessary truths to seduce and capture the reader* (italics added) (Young, 1990: 158).

The news text recycles and reproduces social order and as a result, preserves the position of the powerful by maintaining the status quo.

The present study maintains that in fact there is a preferred reading position offered to the reader of the news discourse surrounding the publication ban. Whether it is the position assumed by each individual reader remains an interesting and worthwhile question to ask, but is beyond the scope of the present study. The preferred reading offered by the news discourse surrounding the publication ban is rooted in the theory of

political liberalism: This makes sense, given that the mass media function within a particular political, economic, social and cultural system, which is rooted in liberalism. The news discourse, thus, is rooted in the very political ideology it opposes, since it challenges the ban and the legal tradition that lies behind it, which are also based on liberal principle. In other words, the news discourse surrounding the publication ban exposes the contradictions of liberalism, since it reiterates and reaffirms the ubiquitous collision between the liberal rights of free press, in terms of the *individual's* right to know, and the right to a fair trial, maintained in the *collective's* interest. Thus, the news discourse's oppositional standpoint is in fact contained within the hegemonic order of liberalism. As such, the news discourse, although claiming otherwise, contributes to the manufacture and maintenance of dominant views.

Because the Canadian news media function within a liberal capitalist system which allows for their fruitful existence, it seems reasonable that they would advocate the full realization of their liberal rights of free speech and free press. In its contradictory nature, then, the discourse surrounding the ban maintains that freedom of expression and of the press are fundamental rights in a free and democratic society. While these rights may be expressed as fundamental in the Charter, the news discourse's understanding of them in attempt to overturn the ban is inaccurate and misled, because they do not account fully for the limitations of these rights as maintained in the s.1 of the Charter, nor do they account

for statutory and common law, both of which permit limitations on freedom of the press. Nor does the discourse represent the First Amendment in an accurate, precise and thorough manner, since it insists that the American system guarantees freedom of the press in absolute terms. Thus, the main argument put forth by the Canadian media is problematic, because it is extremely selective in its reporting of the free press/fair trial debate and recounts Charter and First Amendment rights on a very superficial level, thereby promoting a position which generates sympathy for their position by promoting increased press freedom.

The debate that looms within the news discourse

It is the conflict between the ideals of individualism and collectivism and the all-pervasive concern over the degree of governmental interference that motivates the terms of the debate as proposed by the news discourse surrounding the ban. The debate over the extent of governmental interference, as discussed in terms derived from the dominant and hegemonic ideology of liberalism, is expressed clearly by Stephen Bindman, of Southam News who asks: "Under what circumstances can the freedom of the press to report on trials or broadcast matters of public importance be suppressed in order to protect a fair trial?" (Ottawa Citizen, Jan. 24, 1993: A3) The Canadian judiciary recognizes the rights of freedom and equality, but within what they consider to be reasonable limits. In fact, the Canadian legal tradition is marked by its concern over the

balance between rights and limits and it was this concern that led Justice Kovacs to ban publication of the Karla Teale manslaughter trial. Since freedom of the press is not conferred in absolute terms, but in fact can be restrained within Canadian law, Justice Kovacs decided that the Court should "protect the trial process *in the interests of the public* by imposing a temporary and partial ban" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p. 166). Judge Kovacs' decision, thus, represents a collectivist liberalism.

The news discourse exposes the contradictions of liberalism, therefore, because it promotes the ideals of earlier liberalism, such as the individual's right to a free press and hence to know, while discounting the Court's right to act in the interest of society at large, by preserving the right to a fair trial. The news discourse expresses clearly its position vis-a-vis the fair trial/free press debate by quoting a CBC lawyer who, in appealing the ban, argues that "what we're hoping to achieve is a clear statement from the Supreme Court that will recognize the importance in our society of freedom of expression and the freedom of discussion that flows from that" (Ottawa Citizen, Jan. 24, 1993: A3). Its standpoint is reiterated in the Ottawa Citizen, which contends: "Kovacs shortchanged the other side of the balance, the public's right to know. It is a right without meaning when freedom of the press is infringed and the public's own access to a trial denied" (Ottawa Citizen, July 7, 1993: A10). It could be argued, therefore, that the news discourse

surrounding the ban ultimately promotes an American liberalism which, as was indicated earlier, is individualistic and stresses the respect that each individual is *owed*, as opposed to the type of liberalism that is characteristic of Canada, which is more communitarian and stresses the respect that is owed *to* others and the community at large (Greene, 1989: 11). In other words, the question over the extent to which the government should interfere, a concern which continues to plague liberalism, is being debated within the news discourse surrounding the publication ban.

Freedom of the press, as a necessary condition of a liberal society, is anything but well understood in our country. What is probably least understood about the freedom of the press is that in practice, its exercise must be qualified by all other freedoms that are demanded, and bestowed in Canada (Black, 1982: 56). In fact, none of our rights and liberties can be enjoyed to the full extent without some of them being limited. Freedom of speech and of the press are forever clashing with other rights, such as the right to a good reputation or to a fair trial, and are thus rarely realized in absolute terms. However, all these rights ultimately give way to the primary duty of the state to defend the collective security against any dangers. Without this protection, the society itself might disappear. This is one of liberalism's leading paradoxes and, as was mentioned earlier, is a central driving force in the debate surrounding the Karla Teale case. Given the nature of Canada's position concerning the rights to freedom of speech and of the press, in which the Court

has the right to limit them in the interest of the collective by protecting the public from the horrid details of the murders, and by protecting the societal right to a fair trial, the question that remains is why there has been such a strong movement against the publication ban. Justice Kovacs' decision appears reasonably grounded and implemented, given its legal and political framework. However, in recognizing these limitations, the Canadian media, apparently, do not agree to them. As such, the news discourse surrounding the ban is illustrative of the conflict that exists between the Canadian press and the courts, since its dominant reading argues quite forcefully against the ban, and in support of the full realization of the rights to free speech and a free press.

While it is the purpose of this study to examine and reveal the preferred reading position offered by the news discourse surrounding the ban, it is essential to account for those articles and editorials which assume a less critical stance towards the ban, and in some cases offer full support to Justice Kovacs' decision. In fact, Todd Gitlin maintains that in order to secure its hegemonic status, the media necessarily allow for the expression of oppositional positions. While this thesis has argued that the dominant position offered by the news discourse is in fact one of opposition, there is another reading position available, which opposes and challenges what I have defined as the *dominant* reading position. This is the discourse within the news coverage which commends the ban. While this standpoint is far weaker than that discourse which opposes the ban, because it is not

given equal publicity, it does nevertheless exist, and therefore must be accounted for. One of the central arguments in favour of the ban rests on the assumption that the victims' families and the community at large would be better served with a publication ban in effect. A Globe and Mail article expresses this sentiment succinctly when it explains that friends of Kristen French pleaded with the court to "honour the wishes of the dead girl's family and keep the gruesome details of their friend's death away from the curious eyes of sensation seekers" (Globe and Mail, July 6, 1993: A3). The idea that the community would be better served with a publication ban in place, and the notion that some information is *not* socially valuable is expressed in an editorial entitled WE WILL HEAR DETAILS OF HOMOLKA CASE SOON ENOUGH. In this editorial, Slinger states that "there are things some of us would rather not know. We will, in time, and for the life of me I can't imagine how it will make us better as individuals, as a community" (Toronto Star, July 8, 1993: A2). Another common, and related theme that emerges as dominant within the discourse that approves of the ban is that the media merely want to profit from this sensational story: "some media outlets aspire to nothing higher than a good wallow in a blockbuster story" (Globe and Mail, 1994: A1). The Globe and Mail on July 17, 1993, states that "commercial impulses follow the outbreak of deviant impulses, of course, and the eruption of horror has again proved the media equivalent of striking an oil gusher" (Globe and Mail, July 17, 1993: A5). This same article quotes William Trudell of the

Ontario Criminal Lawyers Association who affirms that "this [kind of case] sells newspapers, and the media have not been able to discipline themselves ..." (Globe and Mail, July 17, 1993: A5). The contention that the media merely want to profit is expressed clearly by John Barber, who maintains that "lifting the ban ... will have no effect on [Karla Teale's] conviction or sentence, although it will certainly sell more newspapers and glue more ghouls to their television sets" (Globe and Mail, Dec., 1993: A5).

In a editorial comment entitled CIRCUS-STYLE PRESS HAD IT COMING, John Miller contends that "the press probably got what it deserved" (Globe and Mail, July 8, 1993: A17). In this same editorial, Miller quotes David Lepofsky, an influential constitutional lawyer: "News organizations will appear in court, from time to time, to assert ... that they are attempting to enforce the public's rights ... Yet they secure no prior authorization from the public before doing so ..." (Globe and Mail, July 8, 1993: A17). Lepofsky is also quoted as saying "news outlets, like the producers of any product or service consumed by the public, can be properly seen as private operations that have no special rights and over which the public has no effective control" (Globe and Mail, July 8, 1993: A17). In other words, this editorial also shares the view that the media, while it cites "principle" as its reason to oppose the ban, merely wants to profit from the publication of the proceedings of the Teale trials. An additional theme evident throughout the news discourse which endorses Judge Kovacs' ban is that both the media and the

public have exposed an immature comprehension of their Charter rights to freedom of the expression and of the press. In several articles, Attorney-General Marion Boyd is quoted as saying that the public does not have a full appreciation and understanding of the complexity of the judicial system, and that both the media and the public "do not know the issues that were discussed. [The media and public] do not have the information on which the judge made his decision. The judge has made a decision according to what he thought was appropriate in the case" (Globe and Mail, July 8, 1993: A1). This same sentiment is repeated in the Montreal Gazette, which states: "The point is that Mr. Justice Kovacs knew things that the news organization did not know when he ordered the ban" (Montreal Gazette, July 26, 1993: A4). While the aforementioned quotations represent only a brief overview of the positions upheld within the news discourse which offer approval for the ban, they serve to illustrate that, in fact, there is a discourse which upholds Justice Kovacs' decision. In addition, the arguments presented by those journalists and professionals who endorse the ban serve to qualify the dominant discourse, which opposes the ban. These approving viewpoints also reveal the shallowness and superficiality of the dominant position upheld with the news discourse by exposing what some see as the media's ulterior motives, while also highlighting their insubstantial understanding and portrayal of Justice Kovacs' decision and the Canadian legal system in general. While it is important to explore the argument within the news discourse which endorses the ban, it is equally

important to examine the possible explanations for the ban's extensive coverage in Canadian news.

The Karla Teale publication ban: why has it received such extensive media attention?

Since it is essential, as Allison Young makes clear, to understand news texts as contingent and socially constructed, it is important to explore the economic, political and social conditions upon which the news discourse surrounding the publication ban rests (Young, 1990). Since the legal and economic frameworks have already been discussed, the remaining task is to provide a brief outline of the news discourse's socio-political context. The enduring question that plagues this analysis is why this particular publication ban has received as much media attention as it has, and why has the news discourse so vehemently upheld the right to a free press in the face of this ban. In other words, what makes this ban so controversial and why does it deserve such extensive coverage in the Canadian media?

Firstly, the most obvious explanation for the extensive coverage of the Karla and Paul Teale murder trials is their inherent value, since their story fits all the prerequisites of newsworthiness, as defined by the news industry. Because of a growing sense of fear that has been instigated by an increasing crime rate, tales of murder and torture generate greater interest, since everyone seems somehow affected by this social trend. As such, the newspaper industry, by exploiting this social fear, is able to generate revenue by selling

the story, which appeals to and expresses the readers' fears. Crime stories, and in particular the Teale case, are therefore inherently newsworthy in nature. As such, the ban on publication of the Karla Teale manslaughter trial is of interest to the media, both national and international, because it can easily and effectively attract readers, thereby generating profit.

Secondly, due to the seemingly never-ending nature of the publication ban, there is concern over whether justice is being rendered as swiftly as it can be. As such, there is an expressed fear that the publication ban is protecting the legal institution, as evidenced in the following statement: "[the ban] was to protect the judge and the Crown from the outrage of the public" (Winnipeg Free Press, July 9, 1993: A1) or at least Karla Teale herself: "A publication ban shields [Karla Teale] from any discussion in the press as to her particular involvement" (Vancouver Sun, July 5, 1993: A4). This fear has raised questions about whether justice has been done: "... Star reporters ... raised grave concerns about whether justice was done" (Calgary Herald, July 10, 1993: A2). Due to the uneasiness over the nature and length of the ban, there is an expressed concern amongst media workers that they will never be able to publish the details of both trials. An examination of the discourse reveals a sense of increasing concern on the part of Canadian media workers, who have not been authorized to publish the details of the trials, while their international (in particular, American) counterparts have been able to publish the

details of the murders. The international interest in the case, thus, has become a sound reason within the Canadian media to reject the ban. George Bain, in Maclean's writes that "various [Canadian] media entities have used the fact of publication in the United States to imply ... that Canadians are being done out of something that is their due because of a less enlightened judicial system of this side of the border" (Maclean's, Jan. 24, 1994: 63).

American interest, thus, has sparked controversy and can be held partially accountable for the extensive Canadian news coverage, because Canadian citizens have been able to gain access to American newspapers and magazines by simply crossing the border, or acquiring photocopied, faxed or computer-generated copies of these stories. As such, the ban is represented as futile to Canadian media workers.

In addition, the ban has been subject to international media scrutiny, both in the mainstream press and on computer networks. Because gossip and innuendo have continued to flow openly, and on an international level since before the trial, it can be argued that this attention has been a central contributing factor to the Canadian media's questioning of the effectiveness of a nationally-imposed publication ban. It is apparent, therefore, that there are an abundance of potential political, economic, societal and technological reasons that can explain the extensive news coverage that the Karla and Paul Teale cases, and the publication ban itself, have received. By espousing an argument against the ban that is rooted in the political ideology of liberalism and that draws on the

dominant conception of the inevitable new age of information, the news discourse surrounding the publication ban makes a strong case against the imposition of Justice Kovacs' "gag-order," or any other ban, for that matter.

An ideological analysis of the liberal discourse: freedom of the press

A dominant and prevailing assumption throughout the news discourse surrounding the ban is that the public has an absolute right to a free press. Freedom of the press, as represented by staunch liberalists, and the news discourse surrounding the ban, is the "only amulet that can ward off the evil spirit of totalitarianism which seeks to seduce man into slavery" (Clarke, 1981: 29). Oliver Clarke, in an article entitled "A Free Press Is What Makes Democracy Work," argues that individual rights are inextricably bound up with the freedom of the press. Clarke maintains that where the press is not free, the people are not free. As such, a free press with all its faults will make democracy work. While the people who live in democratic countries most often see freedom of the press as simply a formula to protect the media from punishment, Clarke contends that they must begin to fight for the maintenance of a free press because the freedom of the press and individual freedom are one and the same and "every freedom lost to the press diminishes their own freedom" (Clarke, 1981: 34). It is with the same zeal that the Canadian media argue for their rights against the imposition of what they perceive to be an unjust publication ban. However, this majority position upheld within the news discourse is simplistic and superficial to say

the least, since it does not account fully for the Charter of Rights and Freedoms' limitation clause. Nor does the news discourse offer a sufficient understanding of the practice of statutory and common law bans. The news discourse's misleading representation of the Canadian legal tradition of bans is captured in the following statement, made by John Duncanson in an editorial entitled WHY THE STAR WILL APPEAL: "When balancing [the principles of right to a fair trial and public's right to know], Canadian courts have traditionally come down squarely on the side of the former" (Toronto Star, July 9, 1993: A26). The Canadian media's superficial understanding of Canadian law has led many journalists to conclude that "[Kovacs'] argument ... is a copout" (Ottawa Sun, July 6, 1993: 10). This sentiment is expressed aptly by the Ottawa Citizen: "In trying to protect the rights of an accused, the judge has abused the public's right to know. So doing, he threatens to cast the administration of justice into disrepute" (Ottawa Citizen, July 7, 1993: A10). The dominant discourse also maintains that Justice Kovacs' decision is "bizarre" and "questionable": "It is supposed to be a fundamental principle of Canadian judicial proceedings that the courtroom is a public place of business" (Calgary Herald, July 6, 1993: A3). While the Canadian legal system does recognize the importance of an open court system, it is also essential to remember that publication bans, such as Judge Kovacs', are neither unusual or unprecedented. While some of these statements are simply untrue, they *are* representative of an entire line of thought evident throughout the news coverage

which falsely maintains that the publication ban was legally and constitutionally unprecedented and unfounded.

An additional assumption that emerges as dominant within the news discourse surrounding the ban is that the First Amendment guarantees freedom of expression and communication media in absolute terms, and as a result, the American system is superior to the Canadian. The First Amendment, which maintains that "Congress shall make no law ... abridging the freedom of speech, or of the press" (Schmidt, 1981: 57), rests on the liberal belief that absent of government interference, a free and diverse "marketplace of ideas" will flourish (Horowitz, 1991: 22). Accordingly, truth can be discovered only through the robust and open debate among individuals, free from governmental interference (Horowitz, 1991: 27). However, the First Amendment does not impose any governmental obligation to promote free expression or to guarantee equality of access to the marketplace of ideas. The First Amendment merely ordains a laissez-faire conception of the government's role in dealing with the media. America's First Amendment rests on the assumption that "right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection" (Schmidt, 1981: 60). The majority opinion within the Canadian media relies extensively upon the First Amendment in support of its argument that the publication ban should be overturned: "It is always good to remember that, unlike the United States, freedom of the press in Canada is given

by the people, not by the Constitution. There is no equivalent of the First Amendment in Canada ..." (Calgary Herald, July 8, 1993: A4). However, the dominant news discourse represents only a very superficial understanding of the First Amendment and the freedoms it guarantees, because it fails to acknowledge that freedom of the press is *not* absolute in the United States, and that prior restraints, as well as other limitations on speech, are acceptable under certain circumstances. As such, a false understanding of the First Amendment is perpetuated throughout the news discourse: "[such a ban] would be unconstitutional in the United States" (Globe and Mail, July 6, 1993: A3). The glorification of the American system is repeated by Tracey Tyler who writes that "judges in the United States would be "wary" of imposing such a ban "because it would create civil disorder, whereas here in Canada, judges are less reluctant ..." (Toronto Star, December 1, 1993: A4). Tyler also reveals an admiration for the American media in the following statement: " One of the biggest reasons Canadian judges have been able to shield courtroom testimony in a way American judges wouldn't is the difference in the "power relationship" between the media and the justice system ... The American press is very powerful ... They've asserted themselves throughout the century ... " (Toronto Star, Dec. 1, 1993: A4). Chris Cobb also acknowledges the Canadian media's approval of the American legal system and media when he states that "the Washington Post [article on the Teale trial] was enough to set the media snowball tumbling downhill" and that Canadian

media "react[ed] like grateful, poor relations to recognition from beyond our borders" (Ottawa Citizen, July 7, 1993: A11). A Maclean's article states that the Canadian media feel that it is " ... because of a less enlightened judicial system on this side of the border", that they are being cheated out of *their* story, while publication in the United States is allowed (Maclean's, Jan. 24, 1994: 63). Although the dominant discourse surrounding the ban may in fact illustrate a superficial understanding of the First Amendment and media rights in the United States, it nevertheless serves to exemplify the news discourse's glorification of American media law. In other words, it can be argued that implicit within the news discourse surrounding the ban is a desire for the Americanization of Canadian law, vis-a-vis access to information and freedom of the press.

An analysis of the news discourse surrounding the ban reveals another and related assumption, which assumes the marketplace of ideas metaphor as its basis. The marketplace of ideas metaphor was originally expressed by John Milton and John Stuart Mill, who both argued that free speech is essential in the advance of knowledge and the discovery of truth. Classical liberalism is associated with the idea of the minimal state and the belief that only a free market economy, without political intervention, can preserve individual rights and liberties. G. Stuart Adam, in an article entitled "Truth, The State and Democracy; The Scope of the Legal Right of Free Expression" writes that freedom of expression and a marketplace of ideas are essential to the development of Truth, which is,

according to Emerson, the cornerstone to democracy, essential to individual self-development and essential for social change (Emerson, 1963: 3). The marketplace metaphor appears within the news discourse of opposition that surrounds the publication ban: "it is a defining characteristic of a free society that the marketplace decides what books, magazines, newspapers, posters, plays, poems [and information] are worthwhile, not the government" (Vancouver Sun, July 15, 1993: A11).

Central to the argument proposed by the news discourse surrounding the ban, therefore, is the desire for the Canadian legal system to respect and value more highly the liberal principles of free expression and the right to a free press, which would be only minimally restricted and which promotes a plurality of views in order to ensure that truth is attainable. In support of this general position, the news discourse relies extensively on several additional and key arguments. These arguments, or thematic contentions, which are also addressed by G. Stuart Adam in his discussion of freedom of expression, focus on the integrity of the Imagination, a distrust in the state and democracy itself (Adam, 1992:349). Adam's work, along with additional literature discussing the liberal right to free expression and a free press, will prove helpful in understanding the liberal ideology that ultimately prevails within the news discourse surrounding the ban, and throughout the media in general.

The hegemonic nature of the news discourse surrounding the publication ban is made evident by the fact that, while trying to maintain an oppositional character, it continues to illustrate a continued faith in the power of the individual to uncover the truth, which is a liberally inspired notion and expectation. The idea that there is in fact a truth to be discovered is also a liberal conception, and is reiterated throughout mainstream mass communication studies, since it sees the journalist, as any other individual, as a distant and uninvolved observer of *reality*. Staunch liberals maintain that the integrity and value of the individual's ability to uncover truth, or the power of the Imagination (Adam, 1992: 349) is fundamental in the realization of complete freedom of expression. The Imagination is the power of creation, and influences the way we organize, record and communicate human experience. Essentially, the Imagination is the "agent of truth" (Adam, 1992: 349). The concept of the Imagination is central to John Stuart Mill who wrote, in On Liberty:

Though the silenced opinion be an error, it may, and very commonly does, contain a portion of the truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied (Mill, 1984: 116).

Truth, thus, must be protected from the power of the State to censor. In other words, the products and processes of the Imagination should not be subject to the scrutiny of the state.

A central contention of the free press discourse, which draws on the liberal belief in the Imagination, is that the failure to recognize the importance of a free press results in the failure to recognize and expose the truth. For instance, a Globe and Mail article on July 6, 1993, discussing public reaction to the recently imposed ban states that "Many people did want to know, saying that the truth, however awful, should come out" (Globe and Mail, July 6, 1993: A2). Murray Thompson, editor of the St. Catharine's Standard, argues that if the publication ban were enforced, people would be unable "to know what is true and what's not" (Globe and Mail, July 8, 1993: A17). Marni McCall, in an editorial in the February 1st edition of the Ottawa Citizen, argues that the ban "must be overturned, because Canadians cannot assess for themselves whether Homolka's punishment is fair" (Ottawa Citizen, Feb. 1, 1993:). This kind of statement implies that, with a ban in place, the public will not be able to rationally assess the accuracy of the punishment, nor will they ever really know the truth. The preoccupation with the discovery of truth is made evident in the following statement: "Some of the [people in the] crowd [outside the Court House] said that the community has waited long enough to hear the truth ... It's been going on so long and we have to know what happened" (Globe and Mail, July 6, 1993: A3). While the accent appears to be on the *discovery* of truth, or on the process of gaining knowledge, truth, as pre-existing knowledge, is seen as necessary for a truly democratic society to exist. For Thomas Emerson, the full realization of the right to freedom of expression (as

embodied in the First Amendment) demands that discussion be kept open no matter how certain or erroneous the information may be. Open discussion is essential to rational social judgment and to the manifestation of truth (Emerson, 1963: 7). Thus, an open justice system is also necessary to the manifestation of truth and the ability to assess rationally: "it is the very seriousness of the case which makes it important that the public should know what is going on ... the principle at stake ... is that people should be permitted to see justice done. In [the case of the ban] they have been denied this right on questionable grounds" (Winnipeg Free Press, July 8, 1993: A6). It is apparent, therefore, that the news discourse surrounding the ban reveals a certain faith in the Imagination, and the ability to attain *the truth*, a preoccupation that is inspired by and thus perpetuates the ideals of the liberal, and hegemonic order.

An additional rhetorical claim made within the news discourse surrounding the ban is the assertion that in undertaking its news gathering activity, the media act on the public's right to know. In fact, journalists typically use the rhetoric of the "public's right to know" in pursuit of information which they deem newsworthy. For example, the statement "Kovacs shortchanged the other side of the balance - the public's right to know" (Ottawa Citizen, July 7, 1993: A10) clearly demonstrates the media's preoccupation with the individual's right to knowledge. The rhetoric of the public's right to know is evidenced in the following statement as well: "there are serious grounds on which to criticize the

judge's ban, including the public's right to know about court proceedings in a timely manner" (Newsweek, Dec 6, 1993). It becomes apparent that the news discourse is more concerned with assuring "the opposing principle [of] the public's right to know what goes on in the courts" (Globe & Mail, Dec 2, 1993: A5), than with the societal right to a fair trial. However, the public does not have a legal right to compel a potential news source to pass on newsworthy information. While the Charter guarantees both the right to disseminate information and the right to receive it, this pertains only to the right of willing speakers to transmit information to willing listeners, and willing listeners to receive information from willing speakers (Lepofsky, 1991: 81). As such, the right to know should not be inflated or overextended because it does not provide the public with the right to compel access to information from a person or an organization who does not wish to impart the information.

The liberal contention that the individual has an inherent right to know and the liberal belief in the importance of truth, which are promoted in the news discourse surrounding the ban, are ideals that are premised on the rationality of individuals. In this respect, then, liberalism assumes that individuals are independent, rational beings, capable of making unbiased choices among competing market alternatives (Horowitz, 1991: 34). The idea that individuals are rational and can form their own opinions is central to the dominant discourse surrounding the ban, since it was motivated primarily by a distrust in

the rational capacity of potential jurors. In maintaining the individual's rational ability, the news discourse relies upon and extracts from the theory of liberalism, thereby assuming and perpetuating the hegemonic order. The Globe and Mail reports that Crown attorney Murray Segal has asked for the ban to ensure that details from Karla Teale's trial would not interfere with Paul Teale's right to a fair trial by "ensuring jurors would be untainted by publicity from Ms. [Teale]'s case" (Globe and Mail, July 5, 1993). The December 6, 1993, issue of Newsweek, an American magazine, highlights the problematic nature of the gag order, from an American perspective:

there are serious grounds on which to criticize the judge's ban, including the public's right to know about court proceedings in a timely manner. *The black-out prevents Canadians from forming an opinion on the appropriateness of Homolka's sentence* (italics added) (Newsweek, Dec, 1993: 36).

The Canadian news discourse expresses this concern as well: "the ban must be overturned because Canadians cannot assess for themselves whether [Teale]'s punishment is fair" (Ottawa Citizen, Feb. 1, 1993: A7). An article in the July 28, 1993, Globe and Mail argues that "without a public record, a record *that can be corrected as new evidence is introduced*, the public won't be able to know what is true and what is not" (italics added) (Globe and Mail, July 28, 1993: A17). An underlying assumption of all these arguments is that individuals are rational beings and should be given the opportunity to formulate their own opinions, and be given the chance to influence political and judicial decisions. John

Stuart Mill, and other democratic theorists, argue that the

right to know and to contemplate and to reflect and to choose was justified by the promise that any individual would become more accomplished, more thoughtful and more wise that he or she might have been if the field of information and truth was unduly restricted (Adam, 1986: 115).

It is argued, therefore, that freedom of expression not only allows rational individuals to formulate opinions, but that it also promotes the intellectual growth of all individuals.

The news discourse has argued that the ban imposed by Justice Kovacs directly undermines the individual's rationality. As do many of the Canadian newspaper articles that comprise the news discourse surrounding the ban, the July 9, 1993, Ottawa Citizen quotes Robert Martin, a law professor at University of Western Ontario as saying that "[the ban] assumes that members of the public are led unwittingly by news accounts ... [and that] anyone who ends up in the jury box ... would be incapable of independent thought" (Ottawa Citizen, July 9, 1993: A4). In fact, many articles have argued that modern day jurors can put out of their minds what they have read in the newspaper or seen on television and act on proper instruction, thereby assuming the rationality of individuals. In fact, the Toronto Star, July 8, 1993, cites a Carleton University research project which discovered that "jurors in mock trial settings were most influenced by the strength of the evidence presented and a judge's instructions. Only when the evidence was extremely weak did external factors influence their decision" (Toronto Star, July 8, 1993:

A32). While this may be the majority position upheld within the news discourse, it does not necessarily represent the *reality*. Furthermore, several American studies have shown that jurors are in fact influenced by what they are exposed to via the media. For instance, a 1990 Michigan State University study divided 791 potential jurors into groups which were comprised of two groups of six-member panels. One group was given negative material about the defendant (previous criminal convictions, incriminating evidence) while the other group was not. The study found that those panels which had been exposed to the negative information convicted the defendant 62 per cent of the time, while the groups that were not familiar with the incriminating information convicted in 21 per cent of the time (Globe and Mail, March 31, 1994: A9). A University of California study also confirmed that pretrial publicity sways jurors. While the dominant discourse surrounding the ban did in fact cite more frequently the Carleton University study, it must be pointed out that there were a handful of articles that recognized the threat of bias in the news. For instance, the Calgary Herald quotes Klaus Pohle, of Carleton University, who offered confirmation of the Michigan State University conclusions: "the media have become very influential ... "there's been more awareness of the powers of the media and the all-pervasiveness of the media" " (Calgary Herald, July 7, 1993: A5). Pohle also affirms that "the national and international dimension of the media is with us ... often information that is prejudicial presses itself on jurors' minds whether they think it does or not" (Calgary

Herald, July 7, 1993: A5). The majority position upheld within the news discourse, however, assumes that the individual *does* possess the ability to rationally assess what goes on in the court, and therefore remains critical of the Court's assumption that an individual may in fact be prejudiced as a result of media exposure.

While Justice Kovacs notes that "today's jurors are intelligent people, well able to put from their minds something they heard elsewhere ... Jurors, too, are able to decide upon the evidence" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p.162), he is quick to remark that Parliament also continues to recognize the possibility for prejudice in the minds of jurors *potentially* caused by the publication of evidence at preliminary hearings. In fact, Justice Kovacs ultimately concludes that he acknowledges "the right of the Crown in this case to assert the societal right to a fair trial where excessive publicity will prejudice an impartial jury" (Her Majesty the Queen v. Karla Bernardo (Teale), *supra*, p.163). While there were no jurors during the Karla Teale manslaughter trial, Justice Kovacs' decision was made in light of Teale's future Court proceedings. An analysis of the news discourse surrounding the ban reveals that the majority position upheld defines the ban as "insulting to citizens" and that "the bottom-line judgment is that Canadians can't seem to be trusted to hear this and not go berserk, or hear this and not be able to give Paul Teale a fair trial" (Halifax Chronicle Herald, July 9, 1993: A1). Thus, the Canadian media stand firmly in opposition to the decision put forward by Justice Kovacs. In so doing, the

dominant discourse exposes its liberal roots by maintaining the rationality of individuals. This opposition is expressed succinctly by Allan Fotheringham, who writes: "... what is depressing is Judge Kovacs' low opinion of the twelve Canadian citizens who will eventually comprise the Paul Teale jury" (The Financial Post, July 10, 1993: 3). This sentiment is forcefully reiterated in an editorial in the Halifax Chronicle Herald, July 9, 1993:

Sensationalism, or even straight reporting of gruesome evidence, does make jury selection more difficult (and always has), but surely not impossible. People are not stooges of the media; the screening of potential jurors is thorough and fair. Evidence is that people who make the final 12 take seriously their responsibility to weigh objectively only evidence presented in court (Halifax Chronicle Herald, July 9, 1993: C1)

A second theme evident within the news discourse surrounding the ban is the general distrust in the state, a sentiment which is expressed persistently by liberals and which is a central assumption of the freedom of expression discourse. The state is seen as a coercive power that can crush invention and opposition (Adam, 1992: 349). For Mill, the only way to keep "governors from abusing their power was to install a system of reporting and commentary on the activities of the government. The only means of removing the defects of a vicious government is through the freedom of the press" (Adam, 1992: 357). This distrust in the state is conveyed throughout the discourse: "Publicity tends to keep all parties honest, especially the powerful and those who should be publicly

accountable" (Ottawa Citizen, July 7, 1993: A10). The headline to a July 6, 1993, Toronto Star article reads RESIDENTS CALL PUBLIC LOCKOUT ANOTHER INJUSTICE (Toronto Star, July 6, 1993) while an article in the Montreal Gazette states that they went to court to overturn the publication ban in order to support the principle that "the justice system should operate under total and immediate public scrutiny" (Montreal Gazette, July 6, 1993: A9). A principle contention of early liberalism was that the government would encroach upon individual rights if not guarded, and that it was in fact inefficient (Eccleshall, 1984: 42). These fears are also expressed within the news discourse surrounding the ban. A Toronto Star article states that "ultimately, justice must be seen to be done for the public to have any confidence in our courts" (Toronto Star, July 9, 1993: A26). An editorial in the Winnipeg Free Press, July 8, 1993, which speaks of the "questionable" nature of the publication ban, reads that "justice is not only the property of the courts - of the judges and lawyers. It is the common property of all society and, except in the most unusual circumstances, *all society ought to have the right to see justice unfold, or to read or hear reports about how it unfolded* (italics added) (Winnipeg Free Press, July 8, 1993: A6). This view maintains that the justice system must remain open so that the public can take stock of the state and its politicians. The state is seen as unreliable because the power that it possesses creates too many opportunities to be wrong and because it represents narrow interests. This distrust in the state is expressed by Milton,

who described the agents of the state as both inept and unimaginative (Adam, 1992: 353)

According to the liberalist, a free press provides a decisive check on government

(Horowitz, 1991: 34).

The general distrust in the state acts as a driving force for the news discourse's negative reaction to the publication ban. In fact, the fear that the publication ban will result in a series of never-ending extensions is at the root of the media's opposition to the implementation of the ban. As such, the news discourse surrounding the publication ban serves to perpetuate the argument that justice is not being rendered as swiftly as it should be and expresses the fear that the ban may in fact become permanent. If such were the case, the public may never know the truth, and the legal system would continue to effectively conceal whether a deal was made with Karla Teale's lawyer and to what avail. The expressed concern over the nature of the ban is evident in the Ottawa Citizen, which reads: "its a very disturbing ruling, because although its is couched in temporary terms, temporary could last a very long time" (Ottawa Citizen, July 6, 1993: A2).

A third theme that emerges as dominant throughout the news discourse surrounding the ban is a preoccupation with *Democracy* itself, a theme which questions to what extent the state should be integrated into society (Adam, 1992: 350). In its oppositional nature, the news discourse surrounding the ban persistently associates free speech with democracy, implying that free speech is a necessary prerequisite to

democratic life. The Ottawa Citizen expresses clearly the concern over the loss of democracy in the following statement: "the retired provincial police officer [who overtly broke the ban by mailing 152 copies of the Sunday Mirror's banned article on the Karla and Paul Teale trial] argued during his trial this week [that] the ban is part of a slow erosion of democracy in Canada" (Ottawa Citizen, May 21, 1994: A5). Liberal philosophers share the belief that certain liberties or rights must be secured for a recognizable democratic system or process to occur. Free speech, as recognized in a democracy, is seen by free press advocates as a way to incorporate the "Truth" into social arrangements and individual purposes (Adam, 1992: 356). Liberal thinkers advocate free speech on the grounds that genuine freedom requires that the "court of public opinion rather than the courts of law should be used to censure and condemn" (Adam, 1986: 118). In other words, the public, which is the foundation of the political process in liberal society, has the right to contribute within the political arena. Freedom of expression provides for participation in decision-making through a process of open discussion which is available to all members of a society. For the liberalist, then, freedom of expression in an open forum is indispensable to the operation of a democratic form of government.

John Barber, in an article in the Globe and Mail, writes that those who oppose the ban insists that the plea bargaining, which may have played a role in Karla Teale's twelve year sentence, must be made public to ensure that the justice system remains

accountable to the people it serves (Globe and Mail, Dec 2, 1993: A5). "Openness is what symbolizes justice in this country; not locked doors and gag orders. So much for constitutional rights and so much for justice being seen to be done", reads an Ottawa Sun article (Ottawa Sun, July 6, 1993: 10). A Globe and Mail article quotes Ernie Ford, the head of the Society of Professional Journalists in the United States, as saying that such a ban "would be unconstitutional in the United States" (Globe and Mail, July 6, 1993: A3). While this may in fact be a misleading statement, it does illustrate the fact that, within the media, the First Amendment serves as an emblem of democracy, and a goal to achieve. On the same day, an additional article quoted the news director from WIVB (a Buffalo station) as saying "all we want is to let our public know what's going on, that is all we want to accomplish" (Globe and Mail, July 6, 1993: A1). The news discourse affirms that openness, and the ensuing right to a free press, are essential to the full realization of democracy, and to quash this right is to work against democracy. However, while openness is essential, it may be suppressed under Canadian law, in order to maintain other democratic rights, such as the right to a fair trial.

The fear in the loss of democracy is expressed most forcefully in an editorial in the Vancouver Sun, July 6, 1993: "Yesterday's decision by an Ontario judge to exclude the public from Karla [Teale's] trial is what one would expect from a court in a country run by a dictatorship, not in Canada" (Vancouver Sun, July 6, 1993: A8). Thomas Emerson

clearly expresses the liberal notion that freedom of expression is essential to the democratic process when he writes that "governments derive their just power from the consent of the governed" (Emerson, 1963: 10). It follows, then, that the governed must, in order to exercise their right of consent, have full freedom of expression both in forming individual judgments and in forming the common judgment. Liberal philosophers argue that since facts are discovered and opinions formed *only by the individual*, the system demands that all persons participate. John Stuart Mill argues this point succinctly when he writes that:

If all mankind minus one, were of the opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind (as quoted in Emerson, 1963: 9)

The right of all members of society to form their own beliefs and communicate them freely to others must be regarded as an essential principle of a democratic society (Emerson, 1963: 9). Because the news discourse surrounding the publication ban reiterates the liberal contention that freedom of expression is essential to ensure the public participation in the democratic process, it centers around discussions of what constitutes democracy itself. Ultimately, these arguments serve to maintain the notion that publicity is the soul of justice. "In the interest of accuracy, continuing the cloak of silence would be harmful to the public and the administration of justice" (Toronto Star, Dec 1, 1993: A32). The fear that the "gag order" may threaten democracy is expressed most clearly in the

Toronto Star which reads:

... Buffalo talk show WGR played Nazi marching music while hosts Tom Ragan and Karen Pingar said the gag order imposed by Mr. Justice Francis Kovacs was like some tactic from the former Communist Soviet Union (Toronto Star, Dec 1, 1993: A1).

While there are several reasons that can explain the Canadian media's reliance on the liberal argument of freedom of the press in its opposition to the publication ban, G Stuart Adam maintains that it is important to recognize that there might be some benefit in allowing a wide range of freedom for journalists, and that it is "no more absurd to connect their work to democracy than to connect the work of lawyers to notions of justice" (Adam, 1986: 119). Adam argues that the right of citizens to know, to utter and to argue freely are also possessed by journalists, and that the exercise of these rights by journalists gives birth to the democratic process. Furthermore, Adam maintains that the law should permit journalists a wide range of freedom within which to practice their trade. In fact, Adam maintains that "the more freedom, the more discussion, the more democracy" (Adam, 1986: 119). According to Adam, then, the journalist's role is to promote a truer and richer form of democracy, and to therefore function as the watchdog of the state. Adam states that in the face of a publication ban, journalists view democracy as the central issue, and it is this that they fight for. Adam, thus, sees the media as the guardians of democracy -- a quintessential liberal notion of the press. The news discourse surrounding the ban uses the freedom of expression argument extensive' rooting its opposition in a

liberal theory of the press. As a result, the news discourse serves to promote Adam's ideas about the nature of the journalistic practice.

However, there are several difficulties with the conception of the media as the public's agent, as proposed by Adam. The relationship between the press on the one hand, and the public on the other, lacks the key ingredients of agency. A principal usually selects their agent, instructs them and has the power to terminate their agency, if so desired. However, the public has neither selected the media as an institution, nor individual journalists, to serve as their agents. The public does not instruct reporters on their conduct, nor do they have the authority to discharge a reporter whose performance is unsatisfactory (Lepofsky, 1991: 79). This "agent of the public rhetoric" functions to assign the media the status of a quasi-governmental agency, and serves to depict the media as the public's watchdog on courts and other governmental agencies. However, David Lepofsky, author of "Open Justice" (1991) maintains that this conception is problematic and could turn democracy on its head (Lepofsky, 1991: 80). Lepofsky argues that the public's representative is not the media, but the government, which was elected by the public and which is constitutionally accountable to the public. The open justice rhetoric, which affirms the media's role in maintaining democracy, tends to lead towards a belief that reporters should enjoy special rights, in excess of those enjoyed by all members of society. The anti-egalitarian notion that some members of society should enjoy more

rights than others is contrary to the fundamental tenets of democracy. It does not follow from this discussion that the media do not have an important role to play in the constitutional system of open justice. However, as Lepofsky contends, it is important that the media's function and status not be exaggerated or inflated in the terms that some media rhetoric can at times suggest (Lepofsky, 1991: 81).

Todd Gitlin argues that the modern situation, which invites vulnerability to rumour, news, trends and fashion, is lacking the assurances of tradition, and a shared political power, and as such, people have come to rely on mass media for direction in this obscure world (Gitlin, 1980: 1). While he recognizes that the process is cyclical, in that the media have contributed to this uncertainty and obscurity, his work emphasizes people's growing reliance on the media for concepts, heroes, guidance, public values and symbols in general. As such, "the media produce fields of definition and association, symbol and rhetoric, through which ideology becomes manifest and concrete" (Gitlin, 1980: 2). An ideological analysis reveals that the news discourse surrounding the *Lan* opposes and challenges this legal action, and calls upon the principle of free press in its defense. In so doing, the news discourse assumes liberalism as its political and ideological framework. This news discourse promotes increased freedom of the press and as such it illustrates a disregard for the legal tradition in Canada that has allowed for Justice Kovacs' decision. In addition, and in order to gain support for its position, the news discourse has offered

only a very shallow interpretation of Canadian and American media law. In light of the theory offered by Todd Gitlin and Stuart Hall, it seems reasonable to conclude that, while it represents itself as "oppositional," the news discourse ultimately reproduces the terms and conditions of the system it is critical of. By representing itself as oppositional, while remaining *within* the dominant ideological mindset, the news discourse surrounding the ban clearly illustrates the contradictory nature of the hegemonic order. In other words, the news discourse surrounding the publication ban exhibits a hegemonic purpose, because it paints itself as oppositional in nature, when in fact it merely functions to support the ideological status quo. Stuart Hall reminds us that the encoding of mediated messages constructs the limits within which decoding takes place. While there is no doubt that some misunderstandings between decoder and encoder exist, "the vast range must contain some degree of reciprocity between encoding and decoding moments, otherwise we could not speak of an effective communicative exchange at all (Hall, 1980: 136). In other words, the preferred reading position offered by the news discourse surrounding the ban, which is couched in terms derived from the hegemonic order, will no doubt be understood and received by a vast majority of readers.

The Canadian media's news discourse, which is rooted in the liberal ideal of a free press, is further maintained by an additional argument which promotes the liberal ideal free flow of information, on an international level. This discourse reiterates the "global

village rhetoric" as well as the "end of the nation" rhetoric. As such, this argument accepts the dominant ideology of the information age as its basis -- a conception of the information age which is extremely deterministic in nature. By maintaining that the publication ban is futile due to increased access to information via new communication technologies, the news discourse surrounding the ban provides ample reason to accept the principle of free speech and thus makes a strong case against the ban.

CHAPTER FOUR

UNDERSTANDING THE NEWS DISCOURSE: LIBERALISM AS HEGEMONIC; THE FREE FLOW OF INFORMATION; THE MYTH ABOUT GLOBALIZATION; AND THE IDEOLOGY OF THE INFORMATION AGE

The second discourse: globalization

The ban on publication of the proceedings of the Karla Teale manslaughter trial has instigated debate within the news media. Chapter three has illustrated how the news discourse has assumed a position of opposition to the ban, and has shown that its opposition is rooted in the political ideology it questions -- liberalism. The predominance of the discourse of liberalism is expressed in its concern for the liberal rights of free speech and free press, which are two constitutional rights that are sometimes overlooked within the Canadian judiciary. The devout observance of the ideals of liberalism is maintained by a second discourse evident within the news coverage of the publication ban. This second discourse affirms the predominance of liberalism on an international level, calling for a globalized world order based on the assumption that information (as well as other resources) should be able to flow freely across national boundaries. This discourse, which calls for a globalized order and reiterates the "end of the nation-state" rhetoric, is based on the assumption that with increased access to information via computer networks and other communication technologies, a publication ban is both impossible and pointless. Thus, an underlying assumption of this globalization discourse is deterministic in nature and assumes the ideologically dominant conception of the information age as all-powerful and

inevitable. This second dominant discourse reiterates the liberal ideal of the free flow of information, both nationally and more importantly, internationally. The notion of the free flow of information in an international arena originates in the Universal Declaration of Human Rights, which is quoted in the Introduction. By promoting the ideal of the free flow of information via the new information technologies, the news discourse surrounding the publication ban promotes the liberal ideals of the free market concept. The overt concern for the rights of a free press and free speech, in addition to the promotion of the free flow of information through a deterministic conception of the information age, has meant that the news discourse surrounding the publication ban is rooted in and hence supports the ideals of a liberal society, in which the information industry, like the economy, is free. The second discourse serves to perpetuate these liberal ideals not only on a national level, but on an international level as well. In other words, the news discourse surrounding the ban assumes a globalized world order based on the ideals of liberalism.

The dominant discourse of globalization is rooted in the deterministic conception of the information age and the free flow of information doctrine. This view of globalization has become an increasingly influential and dominant ideal in our society, due to the physical ease with which information can flow from one nation-state to another. The technologically deterministic conception of a globalized world based on the principle

of the free flow of information maintains that with the introduction of new technologies, information can flow more easily across frontiers and should be allowed to do so. In other words, the news discourse surrounding the ban, by promoting the liberal ideals of free speech, free press and free flow of information, both reiterates and reproduces the myth of what Marshall McLuhan has called "the global village" (McLuhan, 1989: 1). By adopting the global village concept modeled after a liberal political ideal, the news discourse surrounding the ban also assumes that Canada, as an autonomous nation-state, will and *must* meet its demise. A clear comprehension of the dominant conception of globalization requires an understanding of its liberal roots, which are both historical and academic in nature. A review of the liberal origins of the globalization discourse will reveal the ideological foundations of the news discourse surrounding the ban.

The liberal ideology: a global and hegemonic concept

At the beginning of "Towards A Global Culture?" Anthony D. Smith asks: "Can we not at last discern the lineaments of exactly that world culture which liberals and socialists have dreamed of and hoped for since the last century?" (Smith, 1990: 171) Liberal thought, which sees the process of modernization as eroding localism and creating large, mobile participant societies whose structures dissolve all boundaries, promotes the notion of an homogeneous global culture. Proponents of the liberal theory seek universality in their claim that all countries proceed along an essentially similar path from

traditionalism to modernity. Consequently, this approach maintains an intense striving for universally applicable propositions (Philips, 1991: 153). Proponents of the information age argue that because the technological or post-industrial society depends more and more on information, traditional societies are at risk of becoming obsolete and that, in fact, "the information age is characterized by the triumph over the traditional culture" (Ravault, 1987: 179). This type of "globe talk," which advocates the universally hegemonic status of liberalism which, since it has entered the realm of common sense, has been claimed by many as *the ideology* of the modern world (Hall, 1986:46). Liberalism's claim to universality is based on the fact that it is not "for this group or that nation in this time, but for all human beings at all times in all places" (Hall, 1986:47). Liberalism, as a political ideology, has maintained hegemonic status in the international arena, because it has been equated with stability and order.

At the end of the Second World War, Europe lay devastated and divided, due to the emergence of Nazism and fascism. As such, Europe was no longer seen as the centre of progress. The war itself has destroyed millions of lives, wrecked Europe's infrastructure and left the world polarized between the capitalist West and the communist East (Held, 1992: 14). Yet, forty years later, the triumph of the West was proclaimed and liberal democracy predominated over all political and economic alternatives. The changes of political regime which transcended upon Central and Eastern Europe in 1989-90

(Poland, Hungary, East Germany, Bulgaria, Czechoslovakia and Romania) were world shattering at the very least (Held, 1992: 17). The marked division between the democratic capitalist and state socialist worlds began to disappear. The cold war was a war no more. Consequently, liberalism was affirmed as the agent of progress and capitalism as the only credible economic system: "ideological conflict, it was said, was being steadily displaced by universal democratic reason and market-oriented thinking" (Held, 1992: 14).

Liberalism gained widespread acceptance because it provided a universalistic ideology which represented its norms as the basis of a "harmony of interests" (Cox, 1986: 223)

Francis Fukuyama, a former deputy director and consultant to the U.S.

Department Policy Planning Staff, wrote a revealing essay entitled "The End of History," which attempted to restore faith in the supremacy of Western values and which, although it has been discredited, has nevertheless come to define the dominant discourse of globalization. In his work, Fukuyama proclaimed the triumph of the West and "the end of history as such; that is, the end point of mankind's ideological evolution and the universalization of Western liberal democracy as the final form of human government" (Fukuyama, 1989: 3). While Fukuyama has been subject to considerable criticism, many of his detractors agree that currently, the world is facing a lack of competitors in the world ideological market place, and as such, liberalism seems the only viable possibility (Held, 1992: 15).

Fukuyama maintains that the end of history has been reached because ideological conflict is virtually at the end. Accordingly, liberalism is seen as the last victorious ideology. In fact, Fukuyama maintains that there is a world consensus concerning the legitimacy of liberal democracy, since its chief rivals, communism and fascism, have failed. While Fukuyama recognizes that conflict will continue to arise from diverse sources, he nevertheless affirms that the liberal democratic revolution acts as the final stage of historical evolution. Consequently and in light of post-modernist theory, Fukuyama proclaims the exhaustion of the bold "grand narratives" of human emancipation which once struggled for dominance in the world (Held, 1992: 15). However, he insists that the struggle between meta narratives has come to an end because one grand theory (liberalism) now rules over all others. Fukuyama's essay was widely acclaimed, and provided proper justification for the pronouncements made by the leading governments of the West in the 1980s (United States and Great Britain). It reinforced the message of the neo-liberal New Right which proclaimed the death of socialism, while praising the market and minimal state as the only viable forms for the future. While Fukuyama's essay is only one expression of this globalized liberal ideology, it is nevertheless representative of a whole body of thought which is, at present, part of a growing ideological trend.

"The End of History" has been challenged on several fronts. for treating liberalism as unity and therefore not properly accounting for the different forms of liberalism, for

ignoring the fact that liberalism is an ideologically contested terrain; and for failing to analyze the meaning of liberalism and democracy and their variants (Held, 1992: 16).

However, his conception of modernity, which celebrates the victory of the liberal concept, is compatible with the current view of the information age, which maintains that information should be able to flow unrestricted across borders. His views, thus, comprise the dominant conception of the world as globally interdependent and unified. By upholding the liberal right to the free flow of information and co-opting the "globe talk," the news discourse surrounding the ban also assumes the prevailing view that the world has become an interdependent and unified whole.

The influential conception of the new global world order shaped by the ideals of liberalism is also expressed by and *informed by* Rene Jean Ravault, who maintains that the information age is firmly grounded in a particular set of traditions, which are American in nature. Accordingly, Ravault maintains that as societies become more technologized and scientized, they also have to adopt the goals and objectives of the already technologized and modern societies, since the goals are not independent from the means (Ravault, 1987: 182). It follows, then, that since the ideological ends of those countries having already reached the highest level of technological development are materialistic and most often liberal, countries becoming technologized have no choice but to share these similar goals. Hence, they must abandon their traditional ideologies and become assimilated into the

Western, or liberal model. In fact, Ravault's article entitled "Down to Earth Communication: From Space Technologies and Global Economies to ... Petty Humans and their Parochial Cultures!" (1992) advocates a universal model of communication and culture based on the American model, since he sees the United States as the most communication-oriented society on earth. His approach views America as the "homeland of communication while most other countries are considered as entrapped within the tyranny of their vernacular cultures and language" (Ravault, 1992: 533). It is Ravault's contention, then, that the American-style of communication, which relies heavily upon new communication technologies, is far superior to and more advanced than traditional society. By promoting the liberal ideal of the free flow of information and the deterministic conception of technology as inevitable and uncompromising, the news discourse surrounding the ban maintains its flawed nature, because it has not adequately recognized the progressiveness and superiority of the new technologies. In other words, the publication ban has failed to acknowledge the superior nature of communication technology and in fact, has ultimately *denied* their existence and their transmission capabilities. In its traditional nature, then, the publication ban has failed to account for the new technology. This sentiment is expressed repeatedly throughout the news discourse surrounding the ban, and will be discussed in greater detail shortly.

While the information technologies are portrayed as culture-free within the dominant discourse of globalization and surrounding the ban, Rene Jean Ravault, as well as other communication scholars such as Herbert Schiller, contend that in fact they are modeled after the ideology of specific capitalist (liberal) nations. Schiller would extend this argument and assert that in fact, these technologies serve the interests of specific Western nations. It is argued, therefore, that we are moving rapidly toward a homogeneous world unified by the ideology of the information age, which is American, hence liberal in origin. Like Francis Fukuyama, Ravault's assessment of the ideological origins of the information age merely reflects one person's interpretation of the modern world. However, as with Fukuyama, Ravault's discussion of the origins of the information age is representative of the dominant discourse about the information age and the global village.

The growing recognition that the world has become a single unified place has rekindled intellectual interest in Enlightenment notions of a universal community of humankind (McGrew, 1992: 62). At the root of this vision is the notion that the needs and interests of all human beings are universally similar. It is this vision which has shaped the emancipatory aspirations of liberalism and which has encouraged liberals to promote the emergence of a cosmopolitan world society -- "a global community in which transnational social bonds and universally held notions of peace, justice, equality and

freedom defined the conditions of human existence" (McGrew, 1992: 77). In fact, much of our present day thinking about globalization derives from these nineteenth century traditions. As was mentioned earlier, the liberal conception of a globalized world has come to define the *dominant* discourse about globalization. The liberal concept of globalization, which has become increasingly associated with the widely used and widespread perception that modern communication technology has shrunk the globe, is reproduced and reiterated within mainstream American social sciences. This intellectual affirmation serves to reinforce the dominant view that the world is becoming increasingly intertwined. This process, evidently, leads towards the realization of the global village.

Marshall McLuhan's enthusiasm for the global village, which involves both the process of retribalization and the integration of an electronic world, has marked the birth of a growing interest in the nature and significance of technological innovation. McLuhan, who has argued that "we live today in the Age of Information and of Communication" (McLuhan, 1967: 264), has served to promote the attraction of the "rhetoric of the technological sublime" (Czitrom, 1982: 148). In fact, McLuhan's conception of the information age accounts only for the impact of technologies on social formation. As such, McLuhan's work emphasizes the global aspect of the new information technologies: "In the long term, we must surely accept that telecommunications development will lead to increased interpenetration [and] increased interdependence, tending toward McLuhan's

global village" (Robins and Webster, 1987: 181). McLuhan's global village can be held partially accountable for the nature of the dominant conception of globalization.

It is apparent, therefore, that the substantial body of literature within communication studies and the political sciences, in addition to specific historical facts and events, support the popular notion that liberalism has become a universally applicable ideology. However, is it safe to assume that since this liberal conception of globalization prevails both within the news discourse surrounding the ban and within society in general, we have entered a global arena in which independent nation-states as autonomous political units are no longer necessary, and in which all nations are guided by the universal principles of liberalism? While the dominant discourse of globalization advocates the end of vertically discrete nation-states and the emergence of a single, universal community of fate (McGrew, 1992: 79), it is important to understand that globalization, as a real process, is characterized by considerable complexity and ambiguity. This realization leads to a consideration of the highly intriguing question as to whether the process of globalization is bringing into being a truly global society or whether this is simply a benign illusion.

An analysis of the news discourse: globalization

In its opposition to the publication ban, the news discourse has assumed an argument which is rooted in the political theory of liberalism. While it has already been

demonstrated how this ideology has been made manifest on a national front, it has yet to be disclosed how this liberalism has been expressed on an international level. Through its reiteration of the dominant conception of globalization as inspired by such thinkers as Francis Fukuyama, the news discourse surrounding the ban has ultimately served to manufacture and maintain the hegemonic order, in which the ideals of liberalism, such as freedom of expression and the free flow of information, are affirmed and sustained. An analysis of the discourse will reveal how the rhetoric of globalization, or of the global village, is expressed in and through the media's coverage of the publication ban.

There are several dominant thematic trends which appear throughout the news coverage surrounding the ban and which fortify the globalization discourse. The dominant themes of globalization which are repeated throughout the news discourse and which correspond to those myths about globalization listed by Ferguson in "The Mythology about Globalization" are as follows: a belief in global cultural homogeneity, a belief that "more is better" and that time and space have disappeared. Regardless of whether the characteristics of globalization are in fact myth or reality, they nevertheless comprise the dominant discourse about globalization.

A Newsweek article, on December 6, 1993, states that "in the age of the global village, no democratic society can wall itself off entirely" (Newsweek, Dec 6, 1993 36). While this statement comes from an American magazine, its sentiment is expressed

throughout the Canadian news discourse surrounding the Kovacs' publication ban. One of the myths of globalization that Ferguson describes is that of global cultural homogeneity, which relates directly to McLuhan's notion of the global village and to media imperialists' notion that the world has become increasingly intertwined, both economically and culturally. In opposition to the publication ban, the news discourse reiterates the rhetoric of globalization and promotes a universal homogeneous world order. The inevitability of the global village concept is highlighted in the following statement. "This [ban] demonstrates the difficulty of an Ontario court ruling being enforced in a very international communications setting ..." (Toronto Star, Dec 1, 1993: A1). The Ottawa Citizen, notes that "[this ban] shows how out of touch our institutions are with reality that they are seizing copies of newspapers in the age of fax machines and computers" (Ottawa Citizen, Nov 28, 1993: A4). At the root of this statement lies the implication that an international information environment and a homogeneous and unified global culture already exist.

The news discourse surrounding the ban reveals a preoccupation with the attainment of truth (for the public good) which is seen as possible only through the increased accessibility to knowledge and information. For example, it has been argued that if the publication ban were enforced, people would be unaware of what is true and what is not. In fact, the general argument presented by the Canadian print media is that

"the truth, however awful, should come out" (Globe and Mail, July 8, 1993: A32). These statements imply that, with a publication ban in place, the public will not be able to rationally assess for themselves the accuracy of the punishment, nor will they ever really know the truth. Truth, therefore, can only result from increased access to information, whether it is accessed through the mainstream press, or the computer-based networks. In addition, the news discourse reveals a preoccupation with the right to know, a liberal ideal that is dependent upon access to information: "It is the very seriousness of the case which makes it important that the public should know what is going on" reads on Winnipeg Free Press editorial (Winnipeg Free Press, July 8, 1993: A6). A July 6, 1993, Vancouver Sun article quotes a St. Catherine resident as saying "[we] deserve to know what happened in the two crimes that terrified the region" (Vancouver Sun, July 6, 1993: A4). In calling for increased access to information and full support for the individual's right to know, what the news discourse surrounding the ban ultimately achieves is the promotion of the free flow of information doctrine, which is a necessary component of the global village concept. An additional component of the dominant discourse about globalization which is outlined by Ferguson is the "more is better" myth, which serves to justify the idea that more information is necessary for the public good. This myth, as referred to by Ferguson, is therefore apparent throughout the news discourse surrounding the publication ban. According to the news discourse, then, "more (information) is better " While the

Canadian news discourse feigned to be oppositional in spirit, promoting itself as an alternative to the mainstream as represented by the Canadian legal tradition, what it merely succeeds in doing is to assume the dominant conception of globalization and thus the underlying hegemonic order as represented by the ideology of liberalism.

In their opposition to the imposition of the publication ban, the Canadian media have been persistent in their contention that new information technologies have made it extremely easy to obtain information about the trial from both national and international sources and that any law restricting access to information is futile. According to Marjorie Ferguson, an additional component of the dominant discourse about globalization is the idea that time and space have disappeared. Whether the notion that time and space have disappeared is fact or fiction, it remains a central component of the globalization discourse which is at the heart of the news discourse surrounding the publication ban.

The common implication that the consequences of information technologies render distance in space and variance in time irrelevant is clearly illustrated by the following statement: "Ross Irvine [president of Public Relations Management Ltd.] says he signed onto a computer information service and had a text of the [Bernardo (Teale)] story on his desk within ten minutes of hearing of the Ontario ban" (Ottawa Citizen, Nov 8, 1993).

The ability to transcend time and space is evident in the following statement as well:

Freenet members can still see [the Homolka board] with a few extra keystrokes. By connecting to out of town Freenets, like the one in

Finland, the bulletin board can still be found on Usenet, a service that runs on the Internet (Ottawa Citizen, Nov 28, 1993: A4).

This kind of statement is characteristic of the oppositional discourse surrounding the ban

For example, the December 6, 1993, edition of Newsweek comments that "details filter into everyday gossip from computer bulletin boards and data bases from foreign news media that are beyond the judge's reach" (Newsweek, Dec. 6, 1993) There are, therefore, numerous examples of the news discourse's perpetuation of the notion that time and space have disappeared, and that as a result, access to information has increased considerably.

The Ottawa Citizen makes this clear in the following expression of gratitude: "thanks to the information highway, people can find out just about anything they want to know by hooking up to a computer network" (Ottawa Citizen, Feb. 1, 1994: A7). In other words, the information age has allowed for increased access to information and as such, any attempt on the part of a federal government to control the flow of information is futile. It follows, then, that the nation-state, as an independent political entity, can no longer exist in the information age, because nationally imposed laws restricting the flow of information are no longer enforceable. Since Stuart Hall suggests that the media *not* be viewed as a mirror of reality, but instead reminds us that a mediated text is socially, politically *and* economically constructed, it is imperative to look for the ideological component of the news discourse surrounding the ban. Because several of the key elements of the discourse of globalization appear throughout the news discourse surrounding the ban as recurrent

themes, and because it has been maintained that the global village concept is rooted in a liberal ideology, it seems reasonable to argue that the news discourse surrounding the ban reiterates the terms derived from the dominant and hegemonic order -- that of liberalism.

An additional, and fundamental assumption of the globalization discourse which is also evident within the news coverage of the publication ban is that a globalized world order has resulted in the demise of the nation-state. As such, globalization, as represented by mainstream American researchers and the dominant discourse has been, and continues to be associated with a "crisis of the territorial nation-state" (McGrew, 1992: 87). Daniel Bell captured this sentiment most clearly when he wrote that the nation-state was "... too small for the big problems of life, and too big for the small problems of life" (Bell, 1987: 14 in McGrew, 1992: 87), while Philip Schlesinger writes "it would be foolish to deny that the nation-state is under serious pressure as both an instance of political power and as an icon of sovereignty" (Schlesinger, 1991: 302). Yet, as Marjorie Ferguson reminds us, the concept of globalization, which she sees as a myth rather than a reality, ignores the counter pull of localism and the rich traditions of variance, which continue to prevail today (Ferguson, 1992: 90). However, there is a strong argument which indicates that globalization is dissolving the structure of the nation-state as we know it and it is this argument which comprises the dominant discourse of globalization and is evident within the news discourse surrounding the ban.

Rob Martin, a law professor at the University of Western Ontario is quoted in the Ottawa Citizen as saying that the foreign interest in the banned details of the Teale case, which are easily accessible to Canadian citizens is "increasingly an issue of Canadian sovereignty" (Ottawa Citizen, Nov. 28, 1993). Due to a globally implemented information highway, in which information can flow across national boundaries, distinctions between the internal and external domains are difficult to maintain. Such interconnectedness, which is visible on an economic and cultural front as well, creates a situation in which decisions that are made in one country, such as Justice Kovacs' decision to ban publication of the Karla Teale manslaughter trial, can produce consequences or conflict in other nation-states. Citizens of these other nation-states demand regulation of those transnational activities which impinge upon their interests and rights, such as the publication ban.

The idea that one nation-state may challenge another's political and legal action, due to increased interconnectedness and the fear of potential implications and repercussions is evidenced by the fact that the American press have shown a keen interest in the publication ban, and have strongly opposed it for fear that it may impinge upon their rights and freedoms, as guaranteed in the First Amendment. The fear expressed by the American media is based on the assumption that this publication ban not only denies them access to the information, but that it may also mark the beginning of a new trend in legal

administration that may ultimately change the status of the rights guaranteed by the First Amendment. The American desire to protect their rights is expressed in the July 16, 1993, Globe and Mail, which quotes the news director of WIVB, a radio station in Buffalo, N. Y., describing the American position vis-a-vis the Canadian imposed publication ban: "all we want to do is let our public know what's going on, that's all we want to accomplish". (Globe and Mail, July 16, 1993: A1). Some theorists argue, therefore, that in such conditions of interdependence, the inability of governments to fulfill the demands of their citizens without international cooperation is evidenced of the declining competence of the nation-state. The conviction that the government can no longer accommodate the citizens' interests in an increasingly interconnected world and that therefore the state should no longer possess ultimate power is expressed clearly in the following statement made in opposition to the publication ban:

... in Canada, various media entities have used the fact of publication in the U.S. to imply that Canadians *are being done out of something that is their due* because of a less enlightened judicial system on this side of the border (italics added) (Maclean's, Jan. 24, 1994: 63).

The distrust in the state is exposed in an Ottawa Citizen commentary written by Chris Cobb and entitled A LITTLE ATTENTION FROM U.S. REPORTERS CREATES BIG FRENZY IN CANADIAN MEDIA: "Canadian journalism -- particularly in Ontario -- was in a frenzy ... because U.S. mainstream media suddenly took an interest in the Teale case" (Ottawa Citizen, Dec 7, 1993: A11). This sentiment illustrates the impact that the

international attention has had on the shape and form of the Canadian media's reaction to the ban. Within the news discourse surrounding the publication ban, the failure of the Canadian state to act in the interest of its citizens, given the fact that there was little international cooperation, serves as a primary reason to overturn Justice Kovacs' decision

Because "American reports are not bound by a ban in a Canadian court" (Ottawa Citizen, July 15, 1993), the American media have been able to cover the Teale trial extensively. As such, Canadian citizens have been able to gain access to the banned details, making the Canadian imposed publication ban appear futile. Strongly associated with the argument that maintains the declining competence of the nation-state is the notion that the traditional instruments of state policy have been undermined by the accelerating forces of globalization and that as a result, the state's capacity to enforce its demand on others is declining. This argument, which cites the ineffectiveness of nationally imposed policy and law, is characteristic of the news discourse surrounding the ban and has been clearly exemplified by many of the aforementioned excerpts from the news discourse. The critical examination of the Canadian imposed publication ban is also evident in a Globe and Mail article, which reveals that Ernie Ford, who is head of the society of Professional Journalists in the United States, and who predicted that American reports would plot to "defy Kovacs' bizarre ruling," believes that the ban would be considered "unconstitutional in the United States" (Globe and Mail, July 6, 1993: A3). Recent studies, which have

explored the relationship between globalization and the effectiveness of state strategies for managing the domestic socio-economic domain, have shown that, in fact, greater interconnectedness between states imposes intense pressures for the unification in state socio-economic strategies (McGrew, 1992: 87). Again, this is a sentiment that is expressed forcefully throughout the news discourse surrounding the ban: "extensive coverage in the United States has also raised concerns that any publication ban would be ineffective" (Ottawa Citizen, July 15, 1993). In other words, the news discourse maintains that because the Karla Teale trial has been covered in the American press, the Canadian legal institution, as embodied in the Justice Kovacs publication ban, is criticized as both incompetent and inept. As a reason to overturn the ban, thus, the news discourse maintains that in the era of fax machines and computer networks, the unification of national legal policies seems the only effective political strategy. As such, the Canadian press, just like their southern neighbours, would also be able to report on the proceedings of the trial.

Clearly, what these arguments lead to is the belief in the diminution of state autonomy and the idea that globalization has imposed tighter constraints on the exercise of state autonomy across a range of policy domains. State autonomy, which can be defined in terms of a state's capacity to act independently within certain parameters, and in the pursuit of domestic and international policy objectives, is also challenged according to

those who envision a new global arena. Finally, the combined consequences of decreasing competence and diminishing autonomy have contributed to the erosion of state authority and legitimacy. The argument maintains that because globalization undermines the competence and autonomy of the nation-state, it reduces the effectiveness of the government which, in turn, undermines the legitimacy and authority of the state. The argument which maintains that globalization is compromising the authority, autonomy and competence of the modern nation-state is a powerful and compelling one.

While generalizing about the process of globalization may be dangerous and lead to error, there have been some influential thinkers, like Francis Fukuyama and Rene Jean Ravault, who maintain that the nation-state, as an independent political unit, is dissolving due to external and internal globalizing forces. Lorimer and O'Donnell, in an article entitled "Globalization and Internationalization in Publishing" argue that communications industries are being subject to globalization, which they see as the outgrowth of the free flow of information doctrine. The free flow doctrine argues for the removal of any impediments to the flow of information, "the principle being to encourage the flow of information about everything from anywhere to everywhere" (Lorimer and O'Donnell, 1992: 496). The "end of the nation-state" rhetoric, which maintains that we have entered the era of a truly homogenous global culture in which national, political and cultural boundaries can be easily transcended, has been co-opted by the mainstream and is evident

throughout the news discourse surrounding the publication ban. This conception of globalization has been able to successfully assume dominant ideological status because it serves the interests of the dominant, or ruling class, and is inspired by the dominant ideology of liberalism. An examination of the news discourse surrounding the ban reveals that the media have willingly accepted the dominant conception of globalization, which envisions the demise of the nation-state, in order to substantiate their claim that free speech, press and flow of information are more essential to the realization of democracy than the preservation of a fair trial. This argument, however, is questionable and indeed problematic in nature. The dominant position upheld within the news discourse is misleading, because it ignores the Charter's limitation clause, common law and statutory law. In addition, it fails to provide an accurate assessment of whether the forces of globalization did indeed have an impact on the effectiveness of this particular bar, by prejudicing potential jurors. In its oppositional mode, then, the news discourse maintains the hegemonic boundary, because it couches its opposition within the dominant conceptualization of globalization, which, in turn, is defined by the liberal political tradition. The news discourse surrounding the publication ban was able to legitimize their claim that we have entered a new and increasingly global society by assuming the dominant conception of the information age, which infers that, since the new communication technologies are unyielding and uncompromising, they must therefore be

accommodated.

An analysis of the news discourse: the ideology of the information age

Jennifer Daryl Slack's work on examining the dominant conception of the information age facilitates an understanding of the technologically deterministic argument that lies at the center of the news discourse surrounding the ban. It has been argued that this conception of the new technology, which is deterministic and approving in nature, has been used to substantiate an argument for the free flow of information. Slack's work, therefore, serves as a reasonable starting point for the analysis of the news discourse surrounding the ban, which perpetuates the view that new information technologies will inevitably change the present world order and as such, any attempt to restrict access to them, or the information they impart, is pointless. Since it is impossible to control these new technologies, the free flow of information only makes sense.

Slack maintains that the information revolution is an ideological phenomenon, and thus we must examine and criticize the processes of determination and symbolization that constitute the information revolution (Slack, 1984: 247). In other words, the information revolution is articulated ideologically and is linked specifically to a particular economic, technological, ideological and political concept (Slack, 1984: 249). The ideological contest over the information age is a struggle to develop a system of meanings which can achieve dominance over other meanings, in order to achieve common sense status. In this

process of struggle, through hegemony, an ideology may emerge as dominant. For Slack, the dominant representation of the information age that has and continues to emerge is reprehensible, because it highlights the

equation of the development of information technologies with social progress; the quantification, commodification and privatization of information; ... the positioning of the information age as a whole new superior way of life; ... the uncritical and overwhelming optimism/determinism about the future of information technologies in the exercise of social power (Slack, 1987: 11).

In other words, the dominant conception of the information age is liberal, deterministic and uncritical in nature.

According to theorists such as Daniel Bell, whose work has informed the dominant conception, the information age is characterized by the end of ideology. Others, however, argue that in fact the information age is connected directly to particular economic, cultural and political circumstances. Slack, for instance, argues that it is essential to understand that the ideology of the information revolution and age has been formed or constructed in the synthesis of particular political, economic, ideological and environmental practices and that "it is held together with a particular ideological cement" (Slack, 1984: 249).

Although Slack does not suggest where this ideological cement may originate, Rene Jean Ravault, along with others, argues that the information age is connected to an American, hence liberal ideology which serves as the epitome of the technological society.

Proponents of the information age argue that because the technological or postindustrial

society increasingly depends on information (which is understood as factual and objective in nature), traditional societies which rest on superstition, religion and the past, will soon be obsolete. Ravault, on the other hand, argues that the information age remains firmly anchored in a particular set of values, beliefs and opinions, which are liberally inspired. This dominant conception of the information age, which remains uncritical, liberal and deterministic in nature, is being questioned seriously: "Such questioning, of course, underscores the paradoxical nature of the ideology of the information age, that is an ideology that pretends to be non ideological" (Ravault, 1987: 181).

The hegemonic conception of the information revolution is asserted everywhere in the media, public relations, advertising and so on (Slack, 1984: 250). Thus while Slack maintains that there is a real information revolution going on, it is still an ideological phenomenon, because it is part of a system of ideas, concepts and images within which it is meaningful (Slack, 1984: 249). Slack's work on the dominant conception of the information age is useful in trying to understand the ideological component of the news discourse surrounding the ban. Slack, like Stuart Hall and Todd Gitlin, reminds us that the media function as a constructed entity, which defines its content within pre-established boundaries which are defined by the status quo. Since the news discourse surrounding the ban has been shown to exhibit liberal tendencies, it only makes sense that it would also assume the dominant conception of the information age

Slack contends that within this dominant representation, information and technology are defined as the agents of progress and as valuable commodities. This technologically and economically deterministic conception of the new age of information has been informed by the conceptions of technological development presented by Daniel Bell, and his notion of the postindustrial society. Bell's conception of the information age is a powerful one, because it has been considered to be balanced, objective and academic in nature. Thus, it has been and continues to be valued and hence influential. Because Bell argues that knowledge and information are becoming the strategic resources and transforming agents of the postindustrial society, he offers a very technicist portrayal of the information age. As such, "he has created an effective ideological smoke screen which is now impeding any understanding of social and technological developments" (Robins and Webster, 1987: 96). For Bell, technological developments become "the basis of increased productivity" and knowledge, which he defines as

an organized set of statements of facts or ideas, presenting a reasoned judgment or an experimental result, which is transmitted to others through some communication medium in some systemic form (Wiezenbaum, 1980: 443).

becomes the central form of capital and the "crucial resource of the economy" (Robins and Webster, 1987: 104). In espousing this economically deterministic description of the new technology, Bell's work manages to promote the idea that this technology is merely the most recent phase in the history of the technological mediation of capitalist social

relations. Bell sees technology as promising the "steady increase of wealth and a rising standard of living by peaceful means" (Robins and Webster, 1987: 99) and as such, he cannot conceptualize information as anything other than an economic phenomenon

The notion of information as an economic phenomenon, or a commodity is evident throughout the news discourse surrounding the ban. For example, the statement "News travels more quickly than any other commodity" (Newsweek, 1993, Dec 6:36) clearly indicates the media's contention that information can, in fact, lead to increased capital. According to Bell, knowledge replaces labour power as the source of value, and therefore becomes the key to productivity and profits. Like labour, then, information becomes a commodity. Slack maintains that, within the dominant discourse, information is developed to be bought and sold and protected like any other kind of commodity, and the global economy is becoming increasingly dependent on trade in information. The Canadian media's argument against the ban is, in the first instance, premised on the idea that information is a commodity. The realization that information is in fact a commodity serves the media's interests in that it becomes a justification for the publication of information strictly for profit-making reasons. Additionally, the media have assumed the dominant conception of the information age in their opposition to the ban, and argue that since the banned information is available via the new communication and information technologies, they too should be allowed to publish this information. This argument,

which is premised on the free market concept, maintains that the media, or any other organization or individual, should be granted the right to publish that information which already exists and has been circulated within the public domain. In other words, the government should not have the power to restrict the flow of information, or any other commodity: "it is a defining characteristic of a free society that the marketplace decides what [commodities] are worthwhile, not the government" (Vancouver Sun, July 15, 1993:

A11). Because the information about the trial has become available via the new communication technologies, information's status as a commodity has been boosted. In other words, the news discourse reveals an increasing feeling of discontent on the part of media workers, who have been unable to participate in the dissemination of the information about the Karla Teale trial. Because the information already exists within the public domain, there is an even greater desire felt by the Canadian media to gain access to the information about the trial and publish it. Marni McCall writes that, with the "information highway" in operation, it is difficult to control the flow of information, because "every connection to the net would have to be monitored and every unauthorized transmission would have to be blocked. ... Because it is clear that the ban cannot be enforced [because the information is available via the Internet], it must be overturned" (Ottawa Citizen, Feb. 1, 1993: A7).

Bell's theory of post industrialism also maintains that any real social change of the future will come with technology. From Bell's technicist perspective, in which technology is considered socially neutral, new technologies promise decentralization, flexibility and the fulfillment of individual needs. Accordingly, the process of communication and access to information is seen as a condition of freedom and everyone's right. The optimism about the information age and its ability to increase access to information reflects a deeply held Western belief that in an open society, the availability of truthful information becomes an instrument of long term social progress toward equal justice and prosperity (Marvin, 1987: 49). The contention that the attainment of information is a right and that the legal restriction of its flow is not done in the people's interest is characteristic of the news discourse surrounding the publication ban. A common sentiment expressed throughout the news discourse is that because the "internet is increasingly available direct to individuals" (Ottawa Citizen, Feb. 1, 1993: A7) and thus an increased amount of "information has been available to Canadian (via fax and bulletin boards)" (Hamilton Spectator, Dec 29, 1993: A1), the free and widespread access to the banned information has made the publication ban "a joke" (Ottawa Citizen, Nov. 29, 1993: A3). In an Ottawa Citizen article entitled MUZZLING THE MEDIA, it is maintained that because of the information highway, "people can find out just about anything they want to know by hooking up to a computer information network" (Ottawa Citizen, Feb 1, 1993 A7) A

January 29, 1994, article in the Ottawa Citizen also points to the increased accessibility of information by stating that "all the information in the universe will soon be accessible to everyone at every moment" (Ottawa Citizen, Jan. 29, 1994: A6). Increased access to information, then, has become a primary component in the construction of the information age and has served as a justification for the Canadian news discourse's desire to overturn the ban.

An additional sentiment expressed throughout the news discourse is the extremely deterministic notion that technology is the agent of social change and the hallmark of progress. The deterministic quality of the information age is apparent in the headline to a February 1st commentary in the Ottawa Citizen: MUZZLING THE MEDIA; TRIAL PUBLICATION BANS COUNTERPRODUCTIVE IN ERA OF INFORMATION HIGHWAY. In arguing against the ban, the news discourse maintains that the legal system should change in order to contend with the new technology, and excludes the idea that the technology should be implemented so that it is accommodating to the existing system: "the ability of organizations to control the dissemination of information has been outstripped by the ability of individuals to obtain information directly" (Ottawa Citizen, Feb. 1, 1993: A7). The media's argument against the ban, which cites the increased access to information via the new technology, and the lack of understanding and hence ineffectivity on the part of the legal system as viable reasons to overturn the decision, is

evidenced in the following statement as well: "... the practical point is that [the ban] was doomed from the outset" (Ottawa Citizen, Nov 28, 1993: A). The Ottawa Citizen reads "It's just a farce ... the courts, governments and business are not equipped to handle this type of technology and information distribution" (The Citizen, Nov 28, p A4). The inevitability of the new information highway is exemplified in the following statement as well: "Lurid trial details are leaking so rapidly that the ban has become so virtually unenforceable [that it] should [therefore] be withdrawn" (Toronto Star, Dec 1, 1993 A1). In addition, the Ottawa Citizen, on December 7, 1993, reads: "Courts will likely agree that publication bans are flawed and futile in these days of multiple and uncontrollable high tech methods of communication" (Ottawa Citizen, Dec 7, 1993: A11), again highlighting the deterministic quality of information technology. This technological determinism is evident in the following Toronto Star headline: GAG ORDER DIDN'T DETER US FROM LEARNING TEALE DETAILS (Toronto Star, Dec 28, 1993: A4). This headline points out the perceived ineffectiveness of the ban. In the same article, a subtitle reads "news got out," despite the publication ban, and due to fax, computer bulletin boards and international press.

The dominant conception of the information age, which serves as an underlying assumption of discourse of globalization, is assumed and reiterated throughout the news discourse surrounding the publication ban. By co-opting the language of this dominant

conception of the information age, the news discourse has effectively promoted the terms of a new world order, in which the flow of information across national borders remains unrestricted. This argument, which is rooted in a libertarian model of globalization and the information age, calls for the full realization of the free flow of information doctrine. As such, the news discourse surrounding the publication ban argues against the maintenance of the Canadian state, as represented by Justice Kovacs' decision, and calls for the end of nationally imposed laws restricting the flow of information. The news discourse surrounding the ban promotes itself as oppositional in nature, oppositional that is, to the dominant socio-political system. The Canadian media represent its arguments against the ban and the legal system that lies behind it as alternative, and as critical of a system that would allow for the imposition of a "gag order." However, because the news media, which exist within a capitalist and liberal society, define the terms in which an oppositional movement may be discussed, the alternative standpoint offered by the discourse is not as alternative, or as critical, as it may think and portray itself to be. In other words, its opposition is expressed through its preoccupation with the liberal right to a free press and the free flow of information. At the same time, the news discourse assumes the dominant conception of globalization and the information age, which assume and reaffirm the ideological status quo. As such, the news discourse surrounding the ban merely recites and reproduces the very hegemonic order it pretends to be critical of.

Globalization as myth -- the revival of the nation-state

An ideological analysis has demonstrated that the news discourse surrounding the ban *has* assumed and hence continues to perpetuate the dominant conception of globalization. The discourse of globalization implies that the nation, as a sovereign state, is no longer a viable political possibility. While the examination of globalization and its implications may be beyond the scope of this thesis, a review of the literature that contemplates the issue seems in order. While the dominant conception of globalization, which reveals a liberal origin and which assumes the demise of the nation-state and the dominant conception of the information age, has entered the mainstream and thus has been, and continues to be reproduced within the media, there are those scholars who maintain that globalization does not necessarily imply global cultural homogeneity

Marjorie Ferguson argues that questions of collective identity are increasingly problematic, because we are facing an increasingly pluralist world. While Anthony Smith recognizes that telecommunications and computerized information networks have enabled transnational corporations to transcend differences in culture and language, he also sees these same communication networks as making possible a denser, more intense interaction between members of a particular nation or cultural community (Smith, 1990: 175). This alternative perspective claims that we have entered a postmodern era, in which nationalism as movement and ideology remains dependent on the nation as a cultural form. Johann P

Arnason, who wrote "Nationalism, Globalization and Modernity" (1990), argues that it is necessary to keep in mind that globalization is not necessarily synonymous with homogenization. Rather, he sees globalization as a new framework of differentiation. In other words, Arnason stresses the need to include individuals, societies, relations between societies and humankind as the major component of the global-human condition (Arnason, 1990: 224). According to this line of thought, the differentiating impact of globalization strengthens national identities and communities.

While Anthony Smith recognizes as real the process of cultural imperialism, through the rise of the transnational corporation, he, like Arnason, does not envision the demise of the state. However, he does argue that today's imperialisms are non national, that they are not extensions of ethnic or national ideologies (Smith, 1990: 176). As such, they are supported by a technological infrastructure which is "cosmopolitan" in the sense that the telecommunications base will eventually erode cultural differences and create a genuinely global culture based on the properties of the media themselves (Smith, 1990: 176). According to postmodern theory, however, the media are no longer presented as a force of ideological unification (Tetzlaff, 1991: 51). David Tetzlaff, who wrote "Popular Culture and Social Control in Late Capitalism" (1991), maintains that while mass-produced culture may in fact contribute to the maintenance of the social order in late capitalism, "it does so more through social and semiotic fragmentation than by forging any

sort of ideological unity among the subordinate" (Tetzlaff, 1991: 49). Postmodernism, therefore, sees a global culture that is eclectic, but will "wear a uniformly streamlined packaging" (Smith, 1990: 176). As such, Smith argues that standardized, commercialized mass commodities will draw their contents upon revivals of traditions, folk or national motifs and styles,

so that a global culture would operate at several levels simultaneously: as a cornucopia of standardized commodities, as a patchwork of denationalized ethnic or folk motifs, as a series of generalized 'human values and interests,' as a uniform scientific discourse of meaning, and finally as the interdependent system of communications which forms material base for all the other components and levels (Smith, 1990: 176).

A global culture in the postmodern sense, then, is seen as pre-eminently a constructed one. From a postmodern perspective, however, the central problem in any project to construct a global identity and hence global culture is that collective identity is always historically specific because it is based on shared memories and a sense of continuity between generations (Smith, 1990: 180). Because the nation presupposes and remains dependent upon this collective identity, the project of a global culture is next to impossible.

In conclusion, Smith has argued that given a world of nation-states and ethnic identities, and the media's representation of these fundamental human divisions and their cultural contours, any homogenization of a global culture seems impossible. The fact that we easily recognize these divisions proves the vitality of ethnic and national distinctions. Although the media discourse surrounding the publication ban has co-opted the discourse

of globalization as a major component of the ideology of the information age, the fact remains that Canada, as an autonomous political unit, has not met its demise. While the statistics indicate that one out of four Canadians know some details about the case (Hamilton Spectator, Dec 29, 1993: A1), many argue that this ratio is not indicative of a failed ban. In other words, nationally imposed laws still retain a certain level of applicability in the postmodern world. While there are signs of a partial homogenization of cultures, Smith argues that we are still far from mapping out the kind of global culture and cosmopolitan ideas that can truly supersede a world of nations. "We must not confuse an essentially illusory effect with the continuing reality of ethnic and national divisions" (Smith, 1992: 12). Smith believes that we are witnessing the continuing hold of national cultures with their ethnic myths and memories in an increasingly independent world (Smith, 1990: 188). Postmodernist theory, which stands in opposition to theories which favour grand metanarratives, promotes the existence of active, local collectivities. As such, consent, in the Gramscian sense of a dominant ideology, is structured without consensus (Tetzlaff, 1991: 69). Instead, it finds "different conceptual bases at each subcultural site -- a host of hegemonic ideologies coax different groups [or nations] of people with different rewards, [and] opportunities for different identifications" (Tetzlaff, 1991: 69). In other words, the dominant ideology of late capitalism permits struggle and opposition, which can be seen in the resistance to the globalizing forces of

homogenization and the persistence of the nation-state.

According to Mike Featherstone, the varieties of response to the globalization process clearly suggest that there is little possibility of a truly global culture -- "rather, there are cultures in the plural" (Featherstone, 1990: 6). Yet, as several authors have pointed out, the ease and speed with which today's global cultural flow circulates has contributed to the sense that the world has become a singular place. This sense of the inevitable global cultural flow which is facilitated by technological innovation and has contributed to a homogeneous global identity is a central component of the ideology of the information age. In addition, this line of thought has been co-opted by the new discourse in its fight against the ban on publication of the proceedings of the Karla Fale trial. The argument maintains that with increased access to information via communication technologies, information can flow more efficiently over time and space. In other words, information can transcend national borders. Since this is an argument which is strongly upheld within the mainstream media, and which examines closely the political and cultural sovereignty of Canada, the question that remains to be explored, perhaps in another research project, is whether or not Canada, or any other nation, can continue to enforce its own laws given the information environment and the prevalence of the globalization myth. The discourse surrounding the ban maintains the futility of national laws in the face of a global village, and international communication studies has

also tended to support the notion of a homogeneous global culture. However, there are those scholars who remind us that, although our world may be more intertwined politically, economically and culturally, a world without the strong presence of nations and nationalism is far from a reality. Perhaps, as Marjorie Ferguson points out, globalization is nothing more than a myth.

CONCLUSION

THE NEWS DISCOURSE SURROUNDING THE BAN: A DOMINANT READING POSITION OFFERED, BUT NOT NECESSARILY ACCEPTED

In the analysis of the news discourse surrounding the ban on publication of the Karla Teale manslaughter trial, the theory and methodologies offered by the critical tradition in communication studies have been implemented. Since the critical tradition maintains that it is imperative to examine the process through which language and symbolization function to construct meaning and represent the world, this approach appears most able to adequately analyze the ideological dimension of the news discourse surrounding the ban. In its analysis, then, this thesis has attempted to show that the dominant reaction to the ban on publication issued by Justice Kovacs on 5 July 1993, as expressed within the news discourse surrounding this particular ban, is one of opposition. While there may be several factors contributing to this reaction, this dominant news discourse of opposition is rooted in the political theory of liberalism. The news discourse's liberal roots are made manifest in its preoccupation with both the right to a free press and the right to the free flow of information, on both a national and international level. As such, the two dominant ideological discourses evident throughout the coverage of the publication ban are the free press discourse and the globalization discourse, to which the liberal conception of the information age is central.

The news discourse's reaction to the publication ban is worthy of critical attention because, in arguing against the ban, it appears to challenge the liberal political system, as represented by the Canadian legal tradition. Yet, at the same time, the news discourse surrounding the ban ultimately defends and develops the very political situation it feigns to challenge, by promoting the liberal ideal of free press and the free flow of information. In other words, the news discourse surrounding the publication ban ultimately reiterates the terms of the hegemonic order. This study has also argued that the liberal ideal of free and open communication is further maintained within the news discourse by a technologically deterministic argument that affirms that publication bans are futile due to increased access to information via communication and information technologies. This argument, as expressed by the news discourse surrounding the publication ban, is also highly ideologically charged, in the interest of liberalism. In addition, this dominant reading position is problematic because it represents only a very superficial understanding of the media's rights in Canada, ignoring common law, statutory law and the Charter's limitation clause. The news discourse also misrepresents the First Amendment and American common law, by portraying the American legal system as the defender of freedom of the press in absolute terms. Upon close examination, the news discourse surrounding the ban appears to glorify American media law and in fact worship the First Amendment as the symbol of liberalism and democracy.

This dominant discourse within the mainstream press is motivated in part by the fact that foreign media outlets, and in particular the American press, have been successful at gaining access to information about the case through various sources. Regardless of whether this information is fact or fiction, foreign media have been able to publish and profit from it. However, American involvement with this case does not stop at the reporting of the banned details of the Teale murders. In fact, the American press has also expressed ambiguity and disagreement with the very legal principles upon which the decision to ban publication in this particular case rests, given that the American legal system allows for a wider range of free press than does the Canadian. As such, the American press have been very vocal in their opposition to the ban, and have overtly challenged it. It can be suggested, therefore, that the Canadian news discourse's realization that the information about the case has been published and profited on by foreign media outlets, in particular the American media, while they have been unable to publish it themselves, is a central contributing factor to their general resistance to the publication ban. Such a realization, therefore, has contributed to the news discourse's liberal and technologically deterministic argument that, in a world that has become increasingly globalized and in which information can flow very easily across national borders, a publication ban is pointless. Instead, the dominant discourse surrounding the ban promotes the liberal ideal of freedom of the press and of the flow of information

which, they argue, is facilitated by the recent and increasing access to information via communication technologies. In so doing, the news discourse surrounding the ban exhibits full support of the terms of a global world order, in which nationally imposed laws, especially those concerning access to information and publication bans, are no longer practical, or for that matter, useful. As a result, the news discourse surrounding the publication ban supports the ideals of what Marshall McLuhan has called the global village. In so doing, the news discourse surrounding the ban advocates the ineffectivity of nationally imposed laws which restrict the flow of information, and thus calls for the dissolution of the nation-state as an independent political entity.

The Karla Teale manslaughter trial, and the ensuing ban on publication have received extensive coverage within the Canadian media and as such, have been central to the lives of many Canadians who have maintained a strong interest in the developments of the case throughout the year. Because the Karla Teale trial and the Kovacs' publication ban have received such extensive media attention, thereby implying a certain amount of interest expressed by Canadian readers, one may wonder if, perhaps, the views represented within the discourse *are* reflective of either a *popular belief* that we are witnessing the annihilation of the nation-state, and the rise of a homogeneous and unified world order, or if a new world order *has in fact been realized*. If this were not the case, would the trial and publication ban still be considered newsworthy and of interest to

Canadian citizens, both academic and not? The critical school, and in particular, the work of Stuart Hall and Todd Gitlin, serves to remind us that what we see and read within the media, whether it be print, radio, film or television, is rarely, if ever, reflective of a reality, and to say so is to grant too much power to the media, and to ignore the processes of production. The messages that we read and hear each day, and that comprise the *world events of the day*, are, in fact, framed and even distorted by their social, political and economic context, the processes of production and the interests of the media elites. Since we have become increasingly reliant upon the media for concepts, guidance and symbols, the media possess the power to "produce fields of definition and association, symbols and rhetoric, through which ideology becomes manifest and concrete" (Gitlin, 1980: 2). The media, thus, serve a hegemonic purpose, and as such function to maintain the ideological status quo.

While Stuart Hall maintains that messages are, in fact, constructed before they are sent, and that they therefore possess an ideological dimension, he affirms that the mediated message is not necessarily received in the same way by each individual reader, viewer or listener. In other words, Hall recognizes that the audience is composed of a mixture of individuals, all of whom relate differently to the ideological position offered by the "text". Thus, the idea of the passivity of the audience has been dismantled in favour of the "preferred" and "oppositional" reading. While Hall contends that the potential for

misunderstanding is limited, since our communication systems work to encode our language for us in advance, there does exist the possibility of a lack of "fit" between the processes of production and reception. Thus, while it is possible to recognize a dominant ideological position evident within the news discourse surrounding the publication ban, which, it has been argued, is rooted in liberalism, not all readers will decode the discourse in accordance with this particular and dominant meaning system. In other words, some readers may in fact assume the dominant hegemonic position, while others may acknowledge the legitimacy of the hegemonic definition but make a negotiated application of the text, while still others may assume an oppositional code, in which s/he deconstructs the message in order to reconstruct it in an alternative form (Hall, 1980: 138). Some critics argue that the approach offered by Hall merely *recognizes* the possibility of oppositional readings while continuing to emphasize just how difficult it is to resist these preferred readings. These theorists emphasize to a much greater extent the active interpretation of audience members. While an analysis of the readership is beyond the scope of this thesis, it may prove insightful and interesting as an additional research project.

Works Cited

- Adam, G. Stuart. "Truth, State and Democracy: The Scope of the Legal Right of Free Expression" in Canadian Journal of Communication. Vol 17, 1992.
- Adam, G. Stuart. Journalism, Communication and the Law. Scarborough, Ontario: Prentice-Hall of Canada Ltd., 1976.
- Arnason, Johann, P. "Nationalism, Globalization and Modernity" in Theory, Culture and Society. London: SAGE, Vol 7, 1990.
- Beckton, Clare. Law and Media. Toronto: Carswell Co., Ltd., 1982.
- Bell, Daniel. "The Social Framework of the Information Society" in The Computer Age: A Twenty-Year Review. Edited by Michele L. Dertouzos and Joel Moses, Cambridge: MIT Press, 1981.
- Cantley, Bryan. "Judges aren't always so quick to impose publication bans" in Media Magazine. Vol 1, No 1, April, 1994.
- Carragee, Kevin. "Interpretive Media Study and Interpretive Social Science" in Critical Studies in Mass Communication. Vol 7, No 2, June, 1990.
- Clarke, Debra. "Constraints of Television News Production: The Example of Story Geography" in Canadian Journal of Communication. Vol 15, 1987.
- Clarke, Oliver. "A Free Press is What Makes Democracy Work" in Voices of Freedom: A World Conference on Independent News Media: Working Papers. Talloires, France. The Edward R. Murrow Centre of Public Diplomacy, 1981.
- Cox, Robert. "Social Forces, States and World Orders: Beyond International Relations Theory" in Neo Realism and its Critics. Edited by Robert Kohane, New York: Columbia University Press, 1986.
- Czitrom, Daniel J. Media and the American Mind: From Morse to McLuhan. Chapel Hill: University of North Carolina Press, 1982.
- Eccleshall, Robert. "Liberalism" in Political Ideologies. Edited by R. Eccleshall, V. Geoghegan, R. Jay & R. Wilford, London: Hutchinson & Co. (Pub) Ltd., 1984.

- Edwin, Black. Politics and the News: The Political Functions of Mass Media. Toronto: Butterworths, 1982.
- Emerson, Thomas Toward A General Theory of the First Amendment. New York: Random House, 1963.
- Ericson, R. et al , Representing Order: Crime, Law and Justice in the News Media. Toronto: University of Toronto Press, 1991.
- Featherstone, Mike. "Global Culture: An Introduction" in Theory, Culture and Society. London: SAGE, Vol 7, 1990.
- Ferguson, Marjorie. "The Mythology about Globalization" in European Journal of Communication London: SAGE, Vol 7, 1992.
- Fiske, John. Television Culture. New York: Methuen & Co., Ltd., 1987.
- Franklin, Marc A. The First Amendment and the Fourth Estate: Communications law for undergraduates, 2ed. Mineola, New York: The Foundation Press, Inc., 1981.
- Fukuyama, Francis. "The End Of History" in National Interest, No. 16, 1989.
- Gans, Herbert Deciding What's News: A Study of CBS Evening News, NBC Nightly News, Newsweek and Time. New York: Random House Inc., 1979.
- Garnham, Nicholas "Toward a Theory of Cultural Materialism" in Journal of Communication, Vol 33, No. 3, Summer, 1983.
- Gauthier, Michelle. CBC's and Radio-Canada's Structured Mediation of the Constitutional Crisis: A Comparative Analysis of the Journal's "Untying the Knot" and Le Point's "Le Nationalisme Quebecois". M.A. Thesis, School of Journalism and Communication, Ottawa: Carleton University.
- Giddens, Anthony. "The Orthodox Consensus and the Emerging Synthesis" Rethinking Communication, Vol 1: Paradigm Issues. Edited by B. Dervin, L. Grossberg, B. O'Keefe and E. Wartella, London: SAGE, 1989.

Gitlin, Todd. "Media Sociology: The Dominant Paradigm" in Theory and Society Vol 6, No 2, September, 1973.

Gitlin, Todd. The Whole World Is Watching: Mass Media in the Making and Unmaking of the New Left. Berkely: University of California Press, 1980.

Greene, Ian. The Charter of Rights. Toronto: James Lorimer and Company Publishers, 1989

Hackett, Robert A. "Decline of a paradigm? Bias and Objectivity in News Media Studies" in Critical Studies in Mass Communication 1 (3): 230, September, 1984

Hall, Stuart. "Cultural Studies and the Centre: Some Problematics and Problems" in Culture, Media, Language: Working Papers In Cultural Studies, 1972-1979. Melbourne: Hutchinson & Co. Ltd., 1980.

Hall, Stuart. "Encoding/Decoding" in Culture, Media, Language: Working Papers in Cultural Studies, 1972-1979. Melbourne: Hutchinson & Co Ltd., 1980.

Hall, Stuart. "Introduction to Media Studies at the Centre" in Culture, Media, Language Working Papers in Cultural Studies, 1972-1979. Melbourne: Hutchinson & Co Ltd., 1980.

Hall, Stuart. Politics and Ideology. Milton Keynes, England. Open University Press, 1986.

Hall, Stuart. "Recent Developments in Theories of Language and Ideology: A Critical Note" in Culture, Media, Language: Working Papers in Cultural Studies, 1972 - 1979. Melbourne. Hutchinson & Co Ltd., 1980.

Hall, Stuart. "Ideology and Communication Theory" in Rethinking Communications, Paradigm Issues. Edited by B. Dervin, L. Grossberg, B. O'Keefe and E. Watella. London: SAGE, 1989.

Hall, Stuart. "The Question of Cultural Identity" in Modernity and its Futures: Understanding Modern Societies. Edited by Stuart Hall, David Held and Tony McGrew, Cambridge Polity Press in association with the Open University, 1992.

- Held, David. "Liberalism, Marxism and Democracy" in Modernity and Its Futures: Understanding Modern Societies. Edited by Stuart Hall, David Held and Tony McGrew, Cambridge: Polity Press in association with the Open University, 1992.
- Hardt, Hanno. "On Ignoring History: Mass Communication Research and the Critique of Society" in Critical Communication Studies. Routledge, 1992.
- Horowitz, Robert B. "The First Amendment Meets Some New Technologies" in Theory and Society. Vol 20, 1991: 21-72.
- Jones, Ann. Women Who Kill. New York: Holt, Rinehart and Winston, 1980.
- Kesterton, Wilfred, H. The Law and the Press in Canada. Ottawa: Maclellan and Stewart Ltd., in association with the Institute of Canadian Studies, Carleton University, 1976.
- Knuttila, Murray. State Theories, From Liberalism to the Challenge of Feminism. Halifax: Fernwood Publishing, 1992.
- Khun, Thomas. The Structure of Scientific Revolution. Chicago: University of Chicago Press, 1962.
- Levy, Harold J. "Press-umed Innocent" in Freedom of Expression and the Charter. Edited by David Schneiderman, Toronto: Thomson Professional Pub. Canada, 1991
- Lepofsky, David. "Open Justice" in Freedom of Expression and the Charter. Edited by David Schneiderman, Toronto: Thomson Professional Pub. Canada, 1991.
- Lorimer, R and E. O'Donnell. "Globalization and Internationalization in Publishing" in Canadian Journal of Communication. Vol 17, 1992: 493-509.
- Martin, Robert and G. Stuart Adam. A Source book of Canadian Media Law. Ottawa, Carleton University Press, 1989.
- Marvin, Carolyn. "Information and History" in The Ideology of the Information Age. Edited by Jennifer Daryl Slack, Norwood, N.J.: Ablex, 1987.
- McGrew, Anthony. "A Global Society?" Modernity and its Futures: Understanding Modern Societies. edited by Stuart Hall, David Held and Tony McGrew. Cambridge: Polity Press in association with the Open University, 1992.

McLuhan, Marshall. Understanding Media. New York: McGraw-Hill, 1964.

McLuhan, Marshall. The Global Village: Transformation in World Life and Media in the 21st Century. New York: Oxford University Press, 1989.

McQuail, Denis. Mass Communication Theory: An Introduction, 2nd Ed. London: SAGE, 1987.

Olen, Jeffrey. Ethics in Journalism. New Jersey: Prentice Hall, 1988.

Ravault, Rene-Jean. "The Ideology of the Information Age in as Senseless World" in Ideology of the Information Age. Edited by Jennifer Daryl Slack, Norwood, N.J.: Ablex, 1987.

Ravault, Rene-Jean. "Down to Earth Communication: From Space Technologies and Global Economics to ... Petty Humans and their Parochial Cultures" in Canadian Journal of Communication. Vol 17, 1992.

Robertson, Stuart. M. Courts and the Media. Toronto: Butterworths, 1981.

Schiller, Dan. Objectivity and the News: The Public and the Rise of Commercial Journalism. 1981.

Schneiderman, David. Freedom of Expression and the Charter. Toronto: Thomson Professional Pub, Canada, 1991.

Schudson, M. "The Sociology of News Production" in Media, Culture and Society. London: SAGE, Vol 11, 1989: 263-282.

Schlesinger, Philip. "Media, The Political Order and National Identity" in Media, Culture and Society. London: SAGE, Vol 14, 1991: 297-308.

Slack, Jennifer Daryl. "The Information Revolution as Ideology" in Media, Culture and Society. Vol 6, 1984.

Slack, Jennifer Daryl. "Introduction" in Ideology of the Information Age. Edited by Jennifer Daryl Slack, Norwood, N.J. Ablex, 1987.

Smidt, B.C., "The First Amendment and the Press" in What's News: The Media in American Society. Edited by Elie Abel, San Francisco: Institute for Contemporary Studies, 1981.

Smith, Anthony D. "Is There A Global Culture?" in InterMedia. Vol 20, 1992.

Smith, Anthony D. "Toward A Global Culture?" in Theory, Culture and Society. London: SAGE Vol 7, 1990

Tetzlaff, David. "Popular Culture and Social Control in Late Capitalism" in Media, Culture and Society. London: SAGE, Vol 13, 1991.

Turner, Graeme. British Cultural Studies: An Introduction. Cambridge, Mass: Unwin Hyman, 1990.

van Dijk. News As Discourse. Hillsdale, New Jersey: Lawrence Erlbaum Associates, Publishers, 1988.

Wiczenbaum, Joseph. "Once More: The Computer Revolution " in The Computer Age: A Twenty-Year View. Edited by Michael L. Dertouzos and Joel Moses, Cambridge: The MIT Press, 1981.

Williams, Raymond. "Base and Superstructure in Marxist Cultural Theory" in Rethinking Popular Culture: Contemporary Perspectives in Cultural Studies. Berkeley: University of California Press, 1991.

Young, Allison. Femininity In Discourse. London: Routledge, 1990.

Universal Declaration of Human Rights: A Standard Achievement, 15th Anniversary Edition, New York: U.N., 1963.

Public and Media Access to the Criminal Process: Working Papers. Canada: Law Reform Commission of Canada, 1987.

Her Majesty the Queen v. Karla Bernardo (Teale) (5 July, 1993), (Ont. gen. dir) [unreported]

Newspaper articles

Abbate, Gay. "Arrests In Seizure of Papers With Homolka Story A 'Sham:'" Globe and Mail, December 13, 1993.

Abbate, Gay. "Teale lawyer joins publication ban appeal, Homolka trial secrecy called unfair" Globe and Mail, July 9, 1993.

Alaton, Salem. "Amid the expressions of chagrin and dread, its hard to ignore the excitement that attends our discussions of the slayings" Globe and Mail, July 17, 1993: A5.

Bailey, Ian and Wendy Cox. "Trial ban comes under fire" Calgary Herald, July 6, 1993: A3.

Bain, George. "Cross- border journalism" Maclean's, January 24, 1994: 63.

Barber, John. "Right To A Fair Trial A Sacred Principle" Globe and Mail, December 2, 1993: A5.

Bindman, Stephen. "Top court to weigh rights to fair trial against freedom of the press" Ottawa Citizen, Jan. 24, 1994: A3.

Blackwell, Tom. "Judge 'agonized' over ban" Ottawa Citizen, July 6, 1993: A1.

Blackwell, Tom. "Bernardo rape hearing canceled" Ottawa Citizen, May 4, 1994: A4

Blackwell, Tom. "Teale wants wife's deal on killings made public" Ottawa Citizen, June 29, 1993: A1.

Blackwell, Tom. "Crown argues against right to appeal publication ban: third parties will clog courts, Crown argues" Ottawa Citizen, February 1, 1994: A4.

Blackwell, Tom. "News ban in Teale case irks curious spectators" Winnipeg Free Press, July 6, 1993:A3.

Blanchfield, Mike. "U.S. paper banned details of Karla Teale's manslaughter trial" Ottawa Citizen, November 24, 1993: A2.

Blanchfield, Mike. "U S. paper publishes banned details of Karla Teale's manslaughter trial" Ottawa Citizen, November 24, 1993: A2.

Blanchfield, Mike. "Customs can't halt Teale story" Ottawa Citizen, Nov 25, 1993: A4.

Bindman, Stephen. "Gag order didn't deter us from learning Teale details" Ottawa Citizen, Dec 28, 1993: A4.

Bindman, Stephen. "Teale ban a bust - gag order can't stop 1 in 4 Ontarians getting details: poll" Hamilton Spectator, Dec 29, 1993: A1.

--"Newspapers launch challenge to publication Ban" Calgary Herald, July 10, 1993: A2.

Cobb, Chris and Elizabeth Payne. "Journalists respect court ban" Ottawa Citizen, July 7, 1993: A1.

Cobb, Chris and Elizabeth Payne. "Journalists respect court ban" Globe and Mail, July 7, 1993: A1.

Coyle, Jim. "Customs officials go to ridiculous lengths to stop Homolka story at border" Ottawa Citizen, Nov 28, 1993: A10.

Cox, Bob. "Supreme Court hears arguments on gag orders" Ottawa Citizen, January 25, 1994: A5.

Cox, Wendy. "Press outraged, sickened" Winnipeg Free Press, July 9, 1993: A1.

Cox, Wendy. "Public opinion plays major role in how cases are judged -- Lawyer" Halifax Chronicle Herald, July 3, 1993: A10.

Cox, Wendy. "Views differ on influence of media in high-profile trials" Calgary Herald, July 7, 1993: A5.

Duncanson, John and Nick Pron. "Homolka judge bars public, curbs media" Toronto Star, July 6, 1993: A1.

Duncanson, John. "Star bids to reverse Homolka gag order" Toronto Star, July 9, 1993: A1.

Duncanson, John and Nick Pron. "Homolka Judge bars public, curbs media" Toronto Star, July 6, 1993: A1.

Ford, Catherine. "Justice was not seen to be done" Calgary Herald, July 8, 1993: A4.

Finkle, Derek. "The Current Affair Affair" Globe and Mail, December 4, 1993: D1

Fotheringham, Allan. "Judge's Ruling On Homolka Trial An Exercise in Naivete" Financial Post, July 10, 1993: S3.

Fuller, Ann. "Friends of Kristen March in favor of publication ban, but other local residents say community needs the truth" Globe and Mail, July 6, 1993: A3.

--"Press ban sought in trial -- Homolka not innocent victim of fate, Court hears" Globe and Mail, June 29, 1993: A1.

--"Balancing Free Speech with Fair Trial" Globe and Mail, March 31, 1994: A9

--"Which Court's Rulings Are We To Observe?" Globe and Mail, July 8, 1993: A16.

--"Homolka ban evolves into cause celebre" Globe and Mail, January 29, 1993: A3

--"Information Superhighway is Littered With Sleaze" Globe and Mail, April 7, 1994: A18.

--"Which Court's Rulings Are We To Observe?" Globe and Mail, July 8, 1993: A16.

--"News ban decision expected today: judge to rule on Homolka trial", Globe and Mail, July 5, 1993: A5.

--"To see, not to take over" Halifax Chronicle Herald, July 9, 1993: C1

Kainz, Alana. "Information Highway" Ottawa Citizen, January 29, 1994: B1.

Lawton, Valerie. "Border-Hopping Readers Sidestep Teale Gag Order" Toronto Star, July 17, 1993: A4

LeBlanc, Diane. "'Need to know' masks flawed human nature" Halifax Chronicle Herald, July 14, 1993: C1.

Makin, Kirk. "Senior panel of judges stepping into Homolka ban breach" Globe and Mail, 1993: A3.

Mathias, Philip. "In Canadian's eyes, Homolka has yet to be tried" Financial Post, July 10, 1993: S2.

McCall, Marni. "Muzzling the Media: Trial Publication Bans Counterproductive in Era of Information Highway" Ottawa Citizen, February 1, 1994: A7.

Miller, Jon. "Circus- style press had it coming" Globe and Mail, July 8, 1993: A17.

Mittlestaedt, Martin. "Public not versed in justice, Boyd says" Globe and Mail, July 8, 1993: A1.

Nichols, Mark. "Wired World" Mclean's, January 17, 1994: 44-47.

--"Unspeakable Crimes" Maclean's, July 19, 1993: 15-20.

Walker, Robert. "It's just possible the Homolka publication ban was justified" Montreal Gazette, July 26, 1993: A4.

--"The Barbie - Ken Murders, Canada: Blacking Out A Horror Story" Newsweek, December 6, 1993: 36.

Norwell, Iris. "Weighing censorship against the pursuit of justice" Globe and Mail, July 8, 1993: A16.

--"Ex-officer guilty of breaking publication ban in Homolka case" Ottawa Citizen, May 21 1994: A5.

--"Publicity is the sole of justice" Ottawa Citizen, July 7, 1993: A10.

--"Efforts to Ban Karla Teale story gone overboard, says lawyers" Ottawa Citizen, November 28, 1993: A2.

--"Judge orders ban" Ottawa Sun, July 6, 1993: A5.

--"Justice?" Ottawa Sun, 1993: 10.

--"Teale Deal leaves public devastated, lack of information on murders is a 'dirty rotten trick'", Ottawa Sun, July 8, 1993: 5.

Payne, Elizabeth. "Paul Teale Trial Date Could Be In October" Ottawa Citizen, April 6, 1994: A3.

Payne, Elizabeth. "Buffalo media set to defy Teale trial blackout" Ottawa Citizen, April 24, 1994: A5.

Payne, Elizabeth. "Buffalo Media Set to Defy Teale Trial Blackout" Toronto Star, April 24, 1994: A5.

Platiel, Rudy. "Ruling expected to encourage gossip" Globe and Mail, July 6, 1993: A3.

Pron, Nick. "Homolka trial Judge to rule today on request for publication ban: media and public may be barred to protect Bernardo's right to a fair trial" Toronto Star, July 15, 1993: A4.

Pron, Nick. "Crown Feared Leak of Teale hearing Held" Ottawa Citizen.

Pron, Nick. "Lid blown off ban" Toronto Star, Dec 1, 1993: A1.

Pron, Nick. "Ban appeal said without jurisdiction; Civil application in wrong court, crown argues" Tortonto Star, Dec 1, 1993: A4.

Rankin, Jim. "Angry residents call public lockout another injustice" Toronto Star, July 6, 1993: A2.

Shahin, Mike. "FreeNet Pulls Plug on Details of Karla Teale Trial" Ottawa Citizen, Nov 28, 1993: A4.

Shahin, Mike. "Internet Posts Banned Details of Teale Trial" Ottawa Citizen, November 27, 1993: B4.

Slinger. "We will hear details of the Homolka case soon enough" Toronto Star, July 8, 1993: A2.

Smith, Micheal. "Grisly details available on computer networks" Toronto Star, Dec 1, 1993: A40.

Swardson, Ann "Secret tale of murder" Washington Post, Nov 24, 1993: B1

--"Judge rules ban needed so Bernardo trial is fair" Toronto Star, July 6, 1993: A9.

--"Strong evidence sways jurors most studies show" Toronto Star, July 8, 1993: A32.

Tyler, Tracey. "Are reporting bans outdated?" Tracey Tyler, Toronto Star, July 8, 1993: A1.

Tyler, Tracey. "Court looks 'foolish'. professor says" Toronto Star, Dec 1, 1993: A4)

Tyler, Tracey. "Media ban based on false premise, legal experts say -- potential jurors called capable of independent judgment" Ottawa Citizen, July 9, 1993: A4.

Tyler, Tracey. "Judging for ourselves" Calgary Herald, July 11, B1.

--"Ruling due on whether the media can report on Karla Teale trial" Vancouver Sun, July 5, 1993: A4.

--"Justice must seem to be done, too" Vancouver Sun, July 6, 1993: A8.

--"Outrage will greet ban, residents say" Vancouver Sun, July 2, 1993: A6.

--"Residents stunned as Judge bars public from trial" Vancouver Sun, July 6, 1993: A1.

--"Strong secrets for weak reasons" Vancouver Sun, July 10, 1993: A8.

--"Gag order keeps public in dark: Judge upholds fair trial concern over press freedom [Karla Teale Case]" Vancouver Sun, July 6, 1993: A4.

--"Convicted in secret" Winnipeg Free Press, July 8, 1993: A6.

END

3 1 - 0 5 - 9 5

FIN