

Zick on The First Amendment in Trans-Border Perspective

Timothy Zick, who is a professor of law at William and Mary Law School, has published *The First Amendment in Trans-Border Perspective: Toward a More Cosmopolitan Orientation* in the last issue of the *Boston College Law Review*. The abstract reads:

This Article examines the First Amendment's critical trans-border dimension—its application to speech, association, press, and religious activities that cross or occur beyond territorial borders. Judicial and scholarly analysis of this aspect of the First Amendment has been limited, at least as compared to consideration of more domestic or purely local concerns. This Article identifies two basic orientations with respect to the First Amendment—the provincial and the cosmopolitan. The provincial orientation, which is the traditional account, generally views the First Amendment rather narrowly—i.e., as a collection of local liberties or a set of limitations on domestic governance. First Amendment provincialism does not fully embrace or protect trans-border speech, press, and religious activities; it views certain foreign ideas, influences, and ideologies with suspicion or hostility; and it envisions a rather minimal extraterritorial domain. First Amendment cosmopolitanism, which this Article offers as an alternative orientation, takes a more global perspective. It embraces and protects cross-border exchange and information flow and preserves citizens' speech and other First Amendment interests at home and abroad. At the same time, it respects foreign expressive and religious cultures and expands the First Amendment's extraterritorial domain. The Article critiques provincialism on various grounds. It offers a normative defense of First Amendment cosmopolitanism that is both consistent with traditional First Amendment principles and better suited to twenty-first century conditions and concerns. The Article demonstrates how a more cosmopolitan approach would concretely affect trans-border speech, association, press, and religious liberties.