Testing the Limits of Academic Freedom: Controversial Art on College Campuses

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Abstract

In recent months, the principle of academic freedom has made headlines. From legislative attempts to exercise control of campus activities to the passionate response to Ward Churchill's comments about victims of 9/11, efforts to limit the free exchange of ideas appear with increasing regularity. This article reviews the confrontation between controversial art and academic freedom on the campuses of Wichita State, Washburn, and Indiana University within the past three years.

Academic freedom is fundamental to American universities. According to a statement recently released by the Global Colloquium of University Presidents, a meeting of chief executives from leading research institutions, "scholars and students must be able to do their work without fear of intimidation or reprisal...and universities must remain autonomous."[3] In its most common usage, academic freedom "describes the right of teachers to conduct their classrooms and studies in the way that they believe to be most consistent with a pursuit of truth." Although not specifically referenced in the First Amendment, a 1967 Supreme Court ruling declared "that academic freedom was a transcendent value entitled to the protection of the First Amendment."[4] As a general rule, this protection has been extended to most forms of visual art, although not without controversy. In recent years a number of campuses have confronted the limits of academic freedom while exhibiting 'controversial' artwork.

The controversies that accompanied the exhibition of Emily Jacir's "Where We Come From" at Wichita State University and the placement of Jerry Boyle's "Holier Than Thou" sculpture on the campus of Washburn University in Topeka touched on the boundaries between free artistic expression and political partisanship. Individuals who avowedly supported the principle of academic freedom sought to limit the free expression of ideas conveyed by the art. The resurrection of debate about Thomas Hart Benton's "Indiana Murals" at the University of Indiana placed the principle of

[3] Varsalona, Devin, "University Presidents From Around the World Issue Statement Supporting Academic Freedom," The Chronicle of Higher Education. Today's News (June 30, 2005).

[4] Roland, D., "Free Speech on Public College Campuses: Academic Freedom," www.firstamendmentcenter.org (January 2005)

academic freedom at odds with the bedrock values of tolerance and diversity that form the core of American institutions of higher learning. In all three cases, the individuals involved became embroiled in a slippery encounter between the principle of academic freedom and the legitimate interests of individuals and groups who objected to the arts' political messages. Resolution, in each case, did not end discussion or debate. In fact, echoes from all three events continue to resonate on each campus and within the surrounding community. It is my belief that reflecting on these controversies might prove useful to individuals negotiating similarly rough terrain.

I. Wichita

The Ulrich Museum of Art at Wichita State University, the area's premier showcase for contemporary art, organizes three or four one-person "Project" exhibitions each year. The purpose of this series is to showcase the work of younger artists beginning to establish significant national and international reputations. Each Project artist visits campus to give a public lecture about his or her work and interact individually with students. The Project series supports the Ulrich's mission as a university museum dedicated to bringing in vital new art and artists for the benefit of students and the wider community. Emily Jacir was selected as a Project artist on the strength of her international exhibition record.

Jacir might best be described as a conceptual artist who uses her own experience as a Palestinian-American raised and educated in the Middle East and the United States to explore notions of cultural identity, geographic dislocation, and community. The museum curator selected a body of work entitled "Where We Come From," an exhibit that would be shown to critical acclaim and without controversy at the Whitney biennial in New York and on other college campuses. Jacir's work documents with words and images the responses to a simple question that she posed to Palestinian acquaintances: "If I could do anything for you, anywhere in Palestine, what would it be?" As an American citizen, Jacir can travel with relative freedom in Israel and the occupied territories, so she was able to act out what her interlocutors could not: visit a long-abandoned family home in Bethlehem, enjoy a special dish at a fondly-remembered Tel Aviv restaurant, visit a relative's grave in Jerusalem. Those who made the requests were typically not allowed to go to these places, and they asked Jacir to do in their stead the regular, everyday things they could no longer do. The resulting exhibition consisted of thirty text labels reproducing the requests made to the artist, accompanied by Jacir's photograph of the place or activity in question. "Where We Come From" invites the viewer to consider the day-to-day reality of Palestinian life, and it puts a human face on what is, for most of us, abstract and distant. It is a powerful and moving exploration of universal themes of displacement, longing, and nostalgia.

The voices that speak so eloquently in "Where We Come From" do so from their own unique personal history and point of view. Nowhere in the exhibition is the historical background of the current Israeli/Palestinian conflict addressed, nor the reasons that Palestinian travel is restricted. Nevertheless, the museum staff understood clearly that

any work of art that takes as its subject the situation of Palestinians will inevitably be viewed in political terms. In particular, they wanted to reach out to the Jewish community in a way that would indicate that the university was not adopting a political stance on the Israeli-Palestinian conflict, but merely exhibiting important work that used the conflict as the point of departure to explore larger themes. In the summer of 2004, David Butler, director of the Ulrich museum, solicited my feedback about how the community might respond to the exhibit. My name had been suggested because of my experience coordinating Wichita's annual Holocaust commemoration programs and my educational activities within the Jewish community.

During the summer and fall preceding the exhibition opening in January 2005, Butler contacted Wichita's two rabbis and the executive director of the Mid-Kansas Jewish Federation to let them know about Jacir's exhibition. From my personal experience with the Jewish community, I knew that anything even implicitly critical of Israeli policy would not be well received. Butler thought it important, however, to communicate to potential critics that the museum's purposes were artistic, not to favor a political point of view. There was no official response from Congregation Emanu-el, the more liberal of the two organizations, although no doubt many individual members were disturbed by what they viewed as criticism of Israeli policy. Several museum supporters who are active in Jewish organizations went out of their way to express their support of the exhibition, even if they disagreed (sometimes strongly) with the viewpoints expressed in it. Others did what they could quietly, behind the scenes, to mediate the situation, with varying degrees of success. Before long, intense lobbying efforts against the exhibit surfaced.

The first line of opposition was voiced by the executive director of the Mid-Kansas Jewish Federation. In the organization's bi-monthly newsletter, she expressed her concern that Jacir's art portrayed the "suffering caused to the Palestinians by the occupation," without identifying the entities "on whom most of the blame rests—Yassir Arafat, the Palestinian Authority, Hamas, Islamic Jihad, the Al Aqsa Martyr's Brigade and their enablers (the UN, the EU activists, etc.)." In her view, Jacir's art presented only one side of the conflict, and she was worried that this lack of balance would provide fodder for anti-Israeli sentiment within the Wichita community. She had expressed similar concerns when she met with Butler during the summer to discuss Jacir's exhibit. A second wave of criticism that moved the discussion surrounding the exhibition beyond the museum's direct purview was initiated by individuals within the Jewish community who were also active supporters of Wichita State. In a series of conversations that occurred in mid-November, a small circle of people with close ties to the university and its top administrators tried to persuade the university to cancel the exhibit. This development pitted important and valued benefactors against the principle of academic freedom and, in so doing, intensified the discussions that swirled around the Jacir exhibition. In addition, members of the faculty also weighed in on the issue; some supported the decision to show Jacir's work and others challenged its artistic credentials.

By the second week of December, the lobbying efforts produced a full-blown crisis. The Vice-President for University Advancement, whose area of responsibility includes

the Ulrich, relayed a request from the Mid-Kansas Jewish Federation to include a pamphlet that would be made available to museum visitors to provide "balance" and alternative perspectives on the Israeli-Palestinian conflict. Although the museum had previously resisted outside pressure to allow the inclusion of such "mitigating" material, it could not refuse a direct request from the central administration. When Jacir was informed of this plan, she launched an internet appeal for help and, within seventy-two hours, the museum received more than one hundred e-mail messages (with several hundred more to follow) from around the country and the world, blasting it for the decision to display an "alternative" informational brochure in conjunction with the exhibition. As the museum staff soon learned, the public outcry also carried over to the university and the Mid- Kansas Jewish Federation. What began as two-party conversations within the confines of Wichita had evolved into a momentary international *cause celebre*. In the days that followed, a number of us worked tirelessly to salvage the exhibition and, along with it, the reputation of Wichita State University. Only when we received the following letter from the Mid-Kansas Jewish Federation did it appear possible to salvage the exhibit:

> "We would like to communicate the following to you:
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> 1. The MKJF recognizes and supports the right to freedom of speech and freedom of expression and is opposed to censorship.
> 2. The MKJF believes that the university has a role to play in creating dialogue and should be a forum for ideas.
> 3. The MKJF's request to have materials at the exhibit was an attempt to provide the museum-goers with context and different viewpoints of this complex issue.
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> We want to work with the university and the museum and be part of the solution to this problem. If it is inappropriate to ask that materials be placed at the space where the exhibit is then we will not ask the university to accommodate this request.
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> If it is not our place to provide this context, we believe that the university/museum has the responsibility to provide context and different viewpoints in the approach to this conflict. By having the exhibit, the university is presenting one side of the situation without giving a voice to the other side. We therefore ask that the university/museum be the one to decide what the counterpoint to this exhibit should be and where it should be located.

Apparently the firestorm unleashed by Ms. Jacir's plea for support had reached into the offices of the Mid-Kansas Jewish Federation and compelled the organization to re-think its strategy. The decision to drop the demand for an informational brochure provided an opening for us to go back to square one: an exhibition with no counter message presented in the museum. A meeting the next day resulted in the following statement issued by the Vice-President for University Advancement on behalf of the university:

> Wichita State University is aware of the discussion generated by the scheduled exhibition of work by artist Emily Jacir at the Ulrich Museum of Art. The University is committed to going forward with the exhibition without conditions or limitations that could be considered to compromise the integrity of Ms. Jacir's work as an artist. The University appreciates the widespread interest in the artist and the exhibition.

The statement's release immediately quieted the wave of protests that had engulfed the museum's office and the university for the previous week. Although e-mails, letters and op-ed pieces continued to fly until the exhibition opened in mid-January, the worst of the crisis was over. Emily Jacir's art would be exhibited as planned, without additional materials being placed in the museum.

II. Washburn

At Washburn University in Topeka, a public institution located about two hours northeast of Wichita, a controversy surfaced just prior to the start of fall classes in 2003 over a sculpture by Jerry Boyle displayed on campus. Entitled "Holier Than Thou," Boyle's 38-inch bronze bust depicts a clergyman wearing a bishop's miter, a ceremonial hat worn by Catholic officials when dressed in full regalia. At the base of the sculpture is a placard that reads:

Holier Than Thou
By Jerry Boyle

> The artist says, 'I was brought up Catholic. I remember being seven and going into the dark confessional booth for the first time. I knelt down, and my face was only inches from the thin screen that separated me and the one who had the power to condemn me for my evil ways. I was scared to death, for on the other side of that screen was the persona you see before you.'[5]

Boyle's sculpture was one of five pieces selected by the Campus Beautification Committee in the university's annual competition that brought the winning works of art to campus for twelve months. The beautification committee is comprised of individuals from across the campus and the cost associated with the competition and hosting the artwork is privately funded. There were ninety submissions entered into the competition for the academic year 2003-04.

[5] The description of Boyle's sculpture and the text on the placard is found in Graves, Terry, "Washburn's bust of a statue," www.enterstageright.com (March 1, 2004).

Boyle's "Holier Than Thou" set off a firestorm of protest when faculty and students returned to campus in the fall. Apparently members of the campus community, not all of whom were Catholic, viewed the sculpture as offensive and unjustly critical of the Catholic Church. In particular, critics of the statue felt that the miter's phallic shape and the "expression of wary disgust" worn by the bishop were purposely intended to mock the Roman Catholic Church. In January 2004, Washburn biology professor Thomas O'Connor and student Andrew Strobl filed suit to remove the sculpture from campus. In their view, the sculpture "...mock[ed] their deeply held religious beliefs and convey[ed] the impermissible, state-sponsored message of disapproval of Catholicism." They also argued that displaying the statue sent a "clear message" that they were "outsiders" of the school community.[6]

Debate over Boyle's statue swirled around the First Amendment, a fact that is plainly evident in an official statement released by Washburn University. "The sculpture was not selected nor placed to make a political statement but rather as a work of the creative arts. We regret that some have taken offense, but universities must continue to be venues for the free exchange of ideas." The plaintiffs O'Connor and Strobl contend that the message conveyed by Boyle's "Holier Than Thou" statue "impinges upon their First Amendment right to be free from state-sponsored hostility to their religion." When the case was tried in Federal court, the limits of academic freedom were openly debated. Testifying on behalf of the plaintiffs, Archbishop James P. Keleher of Kansas City, Kansas, claimed that the statue "made a mockery of the teaching of [the Catholic] faith and of the authority of [the] church." Speaking on behalf of the university, Washburn President, Jerry Farley, testified about art's important educational role and the need for college campuses to openly and freely discuss controversial issues. The chief academic officer of Washburn, Ronald Wasserstein, commented that removing the art would have a "chilling effect on the university."[7]

Ruling in favor of the university, Senior District Judge G. Thomas Van Bebber wrote, "In an environment of higher learning on a college campus, the court cannot conclude that a reasonable observer would perceive the university's display of 'Holier Than Thou' as an attack on Catholics." Van Bebber compared the location of the sculpture, between the student union and its main administrative building, to that of an "outdoor museum," and he pointed out that placing the sculpture on campus was meant to "enhance the beauty of the campus."[8] While the decision resulted in Boyle's statue remaining on campus for the intended twelve months, the judge's ruling was not celebrated by either side. The plaintiffs vowed to appeal and the university administration clearly understood that "Holier Than Thou" had offended many people.

[6] Originally found in www.dailycamera.com and quoted in Graves, "Washburn's bust."
[7] Courtroom testimony is described in Martin D. Snyder, "Dante Comes to Kansas," www.aaup.org/publications (2004).
[8] AP news release.

III. Indiana

While it would be tempting to conclude that the controversies at Washburn and Wichita State Universities reflect the political culture of Kansas, art's ability to provoke extends beyond the Sunflower state. In spring 2002, African American students at Indiana University, Bloomington, resurrected discussion over a panel from Thomas Hart Benton's Indiana Murals called "Cultural Panel 9, Parks, the Circus, the Klan, the Press." The panel is one of twenty-six painted by Benton in 1933 when state officials commissioned him to produce a mural depicting Indiana's cultural and industrial history for the Chicago World's Fair. The massive project evoked controversy from its inception and, especially, once the artist determined to give the mural a didactic function to teach both the positive and negative aspects of Indiana's history.[9] While some objected to Benton's "progressive presentation of history," the major focus of controversy has centered on Panel #9's depiction of the Ku Klux Klan. The panel is described by the authors of *Thomas Hart Benton and the Indiana Murals* in the following manner:

> Tiny figures robed in white appear at the center distance, where a burning cross stands against a Dark sky. Here, the Ku Klux Klan gathers between a church...and a raised flag, representing the forces of Protestantism and patriotism that fronted a national white supremacist movement in the 1920s...As many as 40 percent of all native-born white men in the state paid dues to join between 1921and 1928. As the largest social organization in Indiana, the Klan loomed over state politics, briefly controlling most state and local offices at its peak of power in 1924.[10]

When the World's Fair closed, Benton's murals were stored in a barn at the state fairgrounds. In 1939 the mural was acquired by President Herman B. Wells of Indiana University to adorn the campus' new auditorium. Due to space limitations, however, only sixteen of the panels could be displayed in the new auditorium's grand lobby; four panels were placed in a small theatre adjacent to the new auditorium; and two of the panels were installed in Woodburn Hall, the home of the School of Business. Although the room where Panel #9 was installed, Woodburn 100, was originally an auditorium, it was later converted into a lecture hall that has been used regularly for classes ever since.[11]

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[9] This description of the mural is provided by IU art historian, Nanette Brewer, and found in Caitlin Snavely, "IU's Choice of Art: Encouraging or Discouraging Diversity?" published at www.journalism.indiana.edu

[10] Quoted in a statement given by IU Chancellor Sharon Stephens Brehm announcing her decision not to remove the panel, the text of which is cited at http://news info.iu.edu/news/page/print/296.html (March 25, 2002).

[11] *Ibid.*, and "Parks, the Circus, the Klan, the Press in Its Context," http://www.indiana.edu/~deanfac/benton

Several times since the panel was hung in Woodburn 100, and more frequently from 1990 forward, students have taken issue with the public depiction of the KKK in a classroom setting. The controversy that erupted in 2002 was spearheaded by IU's Black Student Union and supported by some members of the faculty and administration. From the perspective of many African American students, the panel was not conducive to an educational environment because it was displayed in a classroom, isolated from the artist's entire presentation.[12] An African American student commented that "[t]he classroom is supposed to be equal playing ground. Having the murals there makes everyone in the room uncomfortable."[13] Students who supported this viewpoint lobbied the university administration to remove Benton's mural from the classroom.

After weeks of controversy that received extensive media coverage, Sharon Stephens Brehm, then chancellor of IU Bloomington, held a news conference to announce her decision regarding the request to remove the offensive mural. In her opening remarks, Chancellor Brehm situated the controversy at the crossroads of the university's commitment to diversity and freedom of expression. In a thoughtful reflection on the conflict, Brehm commented that the commitment to diversity and freedom of expression "are not antagonistic. Indeed, they are necessarily interdependent. Freedom of expression requires difference of perspective and of opinion, to be any freedom at all. And without freedom of expression, diversity is restricted, oppressed and excluded from powerful positions in society." Chancellor Brehm concluded that removing the panel from Woodburn Hall would be "morally wrong." The decision to leave the panel in place coincided with the Chancellor's announcement to launch an aggressive program to promote diversity at IU.[14] In circumstances very similar to those that transpired on the campuses of Wichita State and Washburn Universities, the controversy subsided without the conflict being resolved.

Conclusion

Definitive conclusions about the controversies discussed here are elusive, especially since their fallout continues to be felt. On our campus in Wichita, most of us involved in mounting the Jacir exhibition breathed a collective sigh of relief when it closed. While we took solace in knowing that the principles of artistic and academic freedom ultimately prevailed, we worried about the collateral damage. It is likely to be quite some time before the museum considers hosting potentially controversial shows, and it is difficult to gauge whether donor support for the museum will suffer in the future.

[12] Statement from Chancellor Brehm.
[13] Snively, "IU's Choice of Art."
[14] Statement from Chancellor Brehm.

At Washburn, the removal of Boyle's sculpture in June 2004, to make way for a new exhibit, did little to heal the wounds inflicted during the legal battle. Thomas O'Connor, the Washburn professor for thirty-nine years who filed suit against the university, commented that the controversy over the statue changed the way in which he interacts with the university. In his words, the entire experience has left "deep scars."[15] The situation at Indiana University is a bit more hopeful. Students who take courses in the lecture hall where Benton's oft-debated panel is displayed spend the first day of class discussing the mural and "its controversial power." According to Charles Nelms, former Vice-President for Student Development and Diversity at IU, "we have awakened some in the majority who now understand the invisibility issue better and are actively lobbying for more art from cultures other than the dominant white one on campus, as well as for the long-needed increase in enrollment by people of color. A movement is slowly taking shape."[16] Whether or not this movement results in a more diverse campus is impossible to say at present.

In spite of the unique circumstances that contributed to each of the controversies, a number of common themes emerge that are worth considering. As is evident from the situations described above, controversies are conditioned by the place and time in which they develop. Contrary to what one might expect, opposition to Emily Jacir's implicit criticism of Israeli policy occurred in a city with a tiny Jewish community as opposed to New York with a sizeable Jewish population. The negative response to Jerry Boyle's portrayal of a Catholic bishop occurred on the campus of a public university at which Catholics are a minority. And, in a similar vein, Benton's mural elicited controversy at a campus where African American students account for only 4 percent of the undergraduate student body. These situations suggest the possibility that minorities who live in places where they are significantly outnumbered may be more sensitive to art that casts a negative light on their ethnic/cultural heritage than members of minorities who live within larger ethnic communities. Perhaps there is a correlation between a minority group's relative size and its level of confidence and security. The timing of an exhibit also affects viewers' responses to it. This is especially true with the Benton mural that only periodically engendered controversy between 1936 and 2003. At Wichita State University, opposition to the Jacir exhibit was inflamed by the recent hiring of a rabbi by a more traditional congregation who continued the campaign against the museum and university long after other members of the Jewish community realized that the art would be shown without any accompanying information or counter exhibit. Context for viewing art is critical to how it will be perceived: the people involved, when and where they view the art, and the political and cultural climate in which they live determine the response.

[15] Hollingsworth, Barbara, "Controversial statue removed from campus," *The Capital-Journal* (June 29, 2004).

[16] Nelms, Charles, "Art, Diversity and Censorship: Who Decides?" Sydney S. Berger Lecture, University of Southern Indiana (March 28. 2003).

The events on all three universities also demonstrate that when art is shown on campuses, especially art with political implications, those responsible for exhibiting it should be prepared for the unexpected. Even when no offense or disrespect is intended, it can be taken as such. No matter the response, however, universities should not shy away from controversy. To do so jeopardizes a fundamental principal of universities within democratic societies: the free and open exchange of ideas. As the president of Washburn University reminds us, college campuses are places where "controversial issues can be discussed and perhaps should be discussed." Restricting freedom of artistic expression on campus may lead to restricting what is being taught in the classroom or housed in the library. [17] IU's Charles Nelms echoes this view when he states that colleges are in the "controversy business." They are "where you go to confront everything, all your values, to open all that baggage that you're carrying around and look at it as carefully and as hard as you can."[18]

An underlying component of each controversy was the institution's commitment to, and definition of, diversity. Chancellor Brehm of Indiana University stated at her press conference that the Benton controversy was actually about diversity as opposed to art. Charles Nelms also interpreted the discussion surrounding the Benton mural within this context. More importantly, he clearly understood the fundamental challenge of promoting a diverse campus environment. According to Nelms, "diversity means that levels of comfort and comfort zones are going to disappear and that there will be rocky times on the way to true pluralism."[19] The events at Washburn and Wichita demonstrate the veracity of this claim. In both cases individuals who were committed to the ideal of academic freedom were uncomfortable with the ideas expressed by the artists Emily Jacir and Jerry Boyle. Their level of discomfort was so intense that they sought to censure the artists' ideas by either preventing the exhibit from being shown or having the offensive art removed from campus. Although neither effort succeeded, the controversies at both campuses, and that which recently engulfed Indiana University, reveal a disjuncture between an institutional commitment to diversity and that of the individuals within the campus community. Living within a diverse environment requires an ability to be comfortable with disagreement and difference. No matter how self-confident any of us may be, we are likely to bristle at ideas that challenge our core values and beliefs.

When the smoke clears from the events that transpired at Wichita State, Washburn and Indiana Universities, it will become clearer that functioning within a diverse environment takes practice. A theoretical commitment to the principles of artistic and academic freedom occasionally needs to be tested for these principles to evolve into reflexive practice. While I would not encourage anyone to seek controversy, it should not be instinctively shied away from. Once embroiled in controversy, however, one's

17 Snyder, "Dante comes to Kansas."
18 Nelms, "Art, Diversity and Censorship."
19 *Ibid.*

ability to talk candidly about values, professional integrity, and the personal impact of being the focal point of a debate about academic freedom will enable individuals to see clearly through each crisis and to craft a vision for moving ahead. The bonds forged through our ordeal at WSU leave me hopeful that the museum and the university have been strengthened by the decision to show Emily Jacir's work. I would venture to guess that there are individuals at Washburn and Indiana Universities who would share this sentiment.

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