

## The Complications of Free Speech

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After students stormed the stage and blocked a talk by an anti-illegal immigration activist, Columbia University President Lee C. Bollinger, a First Amendment scholar, quickly criticized the protestors' actions.

"This is not complicated," Bollinger said in an October 6 statement, released two days after student protestors disrupted a talk by the founder of the Minuteman Project, Jim Gilchrist. "Students and faculty have rights to invite speakers to the campus. Others have rights to hear them. Those who wish to protest have rights to do so. No one, however, shall have the right or the power to use the cover of protest to silence speakers. This is a sacrosanct and inviolable principle."

Yet, for some students coming to grips with the fallout from the now infamous incident, the principles guiding protest protocol are more volatile than inviolable, the boundaries of free speech rights anything but "not complicated." Indeed, student leaders say many of their peers support the obstruction of the speech, and several student groups have released ambiguous responses to the event.

"For some students, there's a concern that the term 'free speech' is being used too loosely," said John K. Johnson, a second-year law student and the University Senate representative for Columbia's law school. "It's a concern because when you use that term, with its symbolism and history, it ends up shutting down what can be an objective discussion."

"I've really heard everything," said Christopher Riano, a senior who, as chair of the student affairs caucus within the University Senate, represents all 24,000 Columbia students. The essential question of whether storming the stage constitutes a valid form of protest has been the subject of a healthy debate. Some students believe that the protestors were within the bounds of their own free expression rights when they stormed the stage, Riano said, while others think that by doing so, they were suppressing Gilchrist's free speech rights.

"You can count me squarely in the school of thought that says climbing on the stage crossed the line and was not appropriate," said James Applegate, a professor of astronomy and member of the University Senate's executive committee. "It's kind of a no-brainer. You can have a peaceful protest but you cannot prevent a legitimately invited speaker from speaking."

"I think most of the people are basically going to agree with Bollinger that the protestors should not have done what they did."

But a number of statements from student groups regarding the protest present a blurrier picture. On the one hand, the Engineering Student Council joins Bollinger and Applegate in condemning the protestors: "Students of this university cannot allow irresponsible acts of civil disobedience that promote the rights of one over another. The ESC is disturbed that any students of this university, no matter how few in number, would take part in abridging the right to free speech that this institution grants to all its members."

However, a statement from the Student Governing Board of Earl Hall, a group that oversees all political, religious and activist groups at Columbia, is more vague, both asserting the right of any speaker, regardless of the "repugnance" of his or her views, to freedom of expression, along with the right of students to "express their dissent vigorously through various forms of protest" - in effect not taking a stand regarding whether this particular form of protest, that is, storming the stage, is something to be supported.

Meanwhile, a statement from the Black Student Organization, while stating its members' position that "the right to free speech is an important question to ask about this event and our university community," also raises a question of its own about the incendiary nature of the talk.

"We are upset with the manner in which the Columbia College Republicans organized their speaker event. This event did not use the right to free speech responsibly to create a space for dialogue. Instead this event intended to foster prejudice against Mexican migrants and Muslims," the statement reads in part. The president of the College Republicans, which sponsored the lecture, did not return a request for comment; nor did two student protest leaders.

Law students have also questioned the time, manner and context of the speech, Johnson said, wondering whether it was designed to incite protest rather than provoke vigorous academic debate. And they have wondered why the university does not have clear or consistent policies about when context matters.

For instance, when the university recently revoked its controversial speaking invitation to Iranian President Mahmoud Ahmadinejad, a known Holocaust denier and Islamic fundamentalist, almost immediately after extending it, officials said the event was canceled because the university was unable to organize the speech so that it would "reflect the academic values that are the hallmark" of a Columbia event. In that incident, Johnson said the administration paid attention not only to the Iranian president's free speech rights, but also to the context that would plague an attempt to use the speech as a forum for meaningful academic discourse. In a private university such as Columbia, Johnson asks, rather than a strictly public setting, does context matter when it comes to establishing limits on free speech rights?

Applegate said he doesn't believe that any new guidelines on speaking events at Columbia are necessary, and added that he fears anything resembling a speech code that could have a stifling effect on debate. But Riano said that student leaders are working with administrators to help formulate potential new guidelines that would provide students with a clearer sense of the extent and boundaries of their speech rights on campus in the future.

Students are asking a number of questions as they move forward, Riano said: "The debate even goes further than was it right for them to do this, was it not right for them to storm the stage, where do you draw the line on free speech? We're even discussing whether people have a right on our campus to bring one view and not necessarily challenge that view," Riano said.

"Is it OK at Columbia to peacefully go up onstage, or is it not OK to do that? What exactly is defined as appropriate protesting? Does every speaker have to offer a question and answer session?"

"This has been debated. There might not be a real answer to what free speech is."

Yet, a First Amendment expert said the fact that students are even debating whether going up on stage is a legitimate expression of free speech rights is "chilling."

"It seems like they sincerely believed that they had every right to jump up onto the stage to actually disrupt the speech, that it was part of their free speech rights. That's absolutely wrong; you don't have a free speech right to disrupt an event," said Greg Lukianoff, president of the Foundation for Individual Rights in Education.

"They see it as being so clear what the right opinion is, that of course you can go out and censor wrong opinions. Wrong opinions have no value. But for anyone who really cares about the values of a free society, the idea that students have gotten into their head that they have a right to silence opinions with which they disagree - it's chilling."

**The Protest** In its immediate coverage of the event, Columbia's daily newspaper, *The Columbia Spectator*, reported that protestors took to the stage minutes after Gilchrist began talking. Two students in the International Socialist Organization held a banner saying, "No human being is illegal," sparking other protestors, and then Minuteman supporters, to storm the stage. An ensuing brawl involved more than 20 attendees.

While it's clear that critics of the speaker took the stage when Gilchrist was starting to speak, some issues are in dispute. Minuteman spokesman Tim Bueler said that Gilchrist was "assaulted" and his speech and glasses stolen, while Karina Garcia, a senior who spoke for the protestors in a *Spectator* opinion piece wrote that their peaceful protest "was met with violent attacks by Gilchrist's goons. We were the ones who were punched and kicked."

A Columbia investigation is underway, and students suspected of involvement will be sent letters alerting them of possible charges this week, *The Columbia Spectator* said Friday in its latest report on the incident. The university is also attempting to identify outsiders who may have participated.

The Arizona-based Minuteman Project solicits citizens to monitor the Mexican border. The group, founded in 2004, declares its commitment to peaceful means on its Web site - "The Minuteman Project is not a call to arms." It also states that it has no affiliation with, and will not accept assistance from, separatists, racists or supremacy groups.

Yet, the Southern Poverty Law Center's *Intelligence Report*, a quarterly magazine released by an Alabama-based nonprofit civil rights law firm that tracks the activity of hate groups and extremists, quoted one armed member advocating that, "It should be legal to kill illegals." The publication also quoted another member with a semi-automatic pistol strapped on as saying, "You get up there with a rifle and start shooting four or five of them a week, the other four or five thousand behind them are going to think twice about crossing that line."

However, Lukianoff pointed out that there is not exemption in the first amendment for hate speech.

"This was an attempt at censorship. Censorship is not compatible with a free society," said Lukianoff, who added that he thinks universities perpetuate a culture in which "incorrect" viewpoints aren't tolerated.

Rather than go onstage, he said, students could have conducted their protest outside, held their banners and signs within the auditorium's seating area, or worn T-shirts expressing their views. Storming the stage could be seen as an incident of civil disobedience, Lukianoff said, but only if the protestors did so with the intent that they would accept the designated punishment.

However, another observer of protest rights on campuses said that the students were well within their rights to go onstage. "The students had a right to unfurl banners at an event," said Heidi Boghosian, executive director of the National Lawyers Guild, a liberal bar association that has supported the protestors. "Some people have asked, 'Well, was it crossing the line to go up on the stage?'"

"I don't think that's crossing the line."

"We don't think they caused the violence; they weren't going to stop Gilchrist from speaking; they just wanted to stand there and hold their banner while he spoke," Boghosian said.

"In addition to a crack-down on dissent in this country, there seems to be a waning tolerance for civil disobedience. If you want, you can call the act of jumping on the stage an act of civil disobedience, a practice that has been used for hundreds of years in this country to resist tyranny," said Boghosian, who added that she believed the university would likely have given the students just a "slap on the wrist" if the situation had not turned violent.

Columbia's administration declined to elaborate on the fall-out from the Minuteman protest last week. Even the university's press office denied a request Friday, saying that it was not accepting media inquiries on the subject.

A call to the dean's office was referred to a voice-recording featuring Columbia's official statement on the incident: "This much is a matter of core principle at Columbia: that freedom to speak, to pursue ideas and to hear and evaluate viewpoints totally objectionable to one's own is an essential value to this university, and indeed, to our civil society. . ."