On Intellectual Freedom

Intellectual Freedom is "[t]he right under the First Amendment to the U.S. Constitution of any person to read or express views that may be unpopular or offensive to some people, within certain limitations (libel, slander, etc.)" (Reitz, 2010). The other notable legal limit on free speech is obscenity, defined as a work that, taken as a whole, includes offensive sexual content (according to community standards) and lacks serious literary or other merit (Preer, 2008). A few seminal American Library Association (ALA) and Canadian Library Association (CLA) documents define intellectual freedom in libraries. The application of intellectual freedom in libraries has been, and continues to be, a source of tension.

Intellectual Freedom Defined

The ALA Library Bill of Rights defines the principle of intellectual freedom in American libraries (American Library Association, 2010, sec. Mission). The Bill of Rights sets forth the principle of equitable access, stating that library resources are for all members of the community served by the library, and that users' identity, views, or age should not limit their freedom to use the library. It extends equitable access to meeting rooms and exhibit spaces, calling for the availability of "such facilities … on an equitable basis." Furthermore, libraries should be value-neutral: offering information representing all sides of issues, proscribing the exclusion of materials based on the identity or views of their authors or publishers, and not allowing "partisan or doctrinal disapproval" to discourage the inclusion of controversial materials. Lastly, it calls for libraries to resist censorship and affirms their role as sources of support for those who campaign against the abridgement of intellectual freedom (American Library Association, 1939).

In the Position Statement on Intellectual Freedom, the CLA explicitly defines intellectual freedom as, "the fundamental right … to have access to all expressions of knowledge, creativity

and intellectual activity, and to express their thoughts publicly" (1974). The document declares intellectual freedom to be a fundamental obligation of the profession, similar to the preamble of the ALA Code of Ethics' identification of the commitment to intellectual freedom as a "special obligation" of the library profession (1997). The second statement of the Code of Ethics reaffirms the importance of this precept and adds an obligation to "resist all efforts to censor library resources" (American Library Association, 1997); the CLA Statement echoes this sentiment. In fact, there is no significant difference between how the ALA and the CLA define and commit themselves to intellectual freedom.

The ALA and CLA documents discussed above are concerned with the application of intellectual freedom to libraries, but it is the ALA/American Association of Publishers Freedom to Read Statement that provides a broader philosophical basis for intellectual freedom (1953). The Freedom to Read Statement definitively links maintaining intellectual freedom with the continued survival of a democracy. It states that the collision of the values of individuals or groups is inevitable in a democracy and that information providers cannot "suit the demands of one group without limiting the freedom of others" (1953, p. 2).

There is one other facet of intellectual freedom worth examining: the First Amendment rights of library employees. The closest any of the documents discussed above comes to addressing this issue is the Code of Ethics, which advocates "conditions of employment that safeguard the rights ... of all [library] employees" (American Library Association, 1997). There is, however, supplemental guidance to be found in the ALA *Intellectual Freedom Manual*, wherein "Questions and Answers on Speech in the Workplace" affirms that, as part of libraries' "responsibility to protect intellectual freedom[,] … librarians have a special responsibility to create a workplace that tolerates employee expression more than other professions" (Office for

Intellectual Freedom, 2001). This document notes, though, that workplace speech is governed by contract law, which can be (and usually is) more restrictive than one's First Amendment rights in a public forum. The manual recommends balancing considerations of survival against the ethical obligation to speak out against bad policy, and cautions that the ALA does not provide "mediation, financial aid, or legal aid" (Office for Intellectual Freedom, 2001) to librarians in such situations. This very limited support for free expression in the workplace is in stark contrast to the ALA and CLA's full-throated support for other areas of intellectual freedom.

Evolution of Intellectual Freedom in Libraries

In 1908, Arthur Bostwick wrote of the need for public libraries to censor bad (immoral), false, or ugly (offensive) materials to protect users. This was the dominant model of service in the early days of librarianship. In the early 1920s, Haines wrote that librarian's should not be censors; they should be selectors, choosing the best books as judged by a number of factors. With the 1938 Bill of Rights, libraries adopted the basic principles of intellectual freedom as it applies to libraries: selection of materials without regard for the background or beliefs of the author, representation of all sides of controversial issues, and nondiscriminatory rules for the use of library meeting rooms. Despite this, the profession continued to consider service its dominant ethical precept, and so continued to self-censor by avoiding "untrue" materials.

In 1953, Lester Asheim furthered the argument for selection by firmly tying it to intellectual freedom. Preer writes that, in Asheim's view, "the selector sought to protect the right of the reader to read; the censor sought to protect the reader from the possible effect of reading" (2008, p. 95). In the four decades following the adoption of the original ALA Code of Ethics, the ethics of librarianship continued to evolve. The 1975 Statement on Professional Ethics represents "the watershed," in the words of Preer, in the shift from an ethics of multiple

obligations (to users, community, trustees, and others) to an ethical commitment to the values of librarianship. The single overriding obligation is now seen to be to the Library Bill of Rights, which in turn is intrinsically committed to intellectual freedom (Preer, 2008).

The advent of the Internet Age may have pushed librarianship into yet another role, from selector to facilitator (Maness, 2006). (Although, with the pressure exerted by CIPA, many libraries have regressed to the role of censor.) The size and ready availability of material on the Internet is a disruptive force. Despite librarians' efforts to select the best websites for users, it is clear that for most internet users, including those accessing the web from the library, librarians are no longer selectors in any meaningful way. There is resistance in some libraries to users' use of computers for purposes that strike librarians as not in keeping with the libraries mission, such as social networking and games. The 1990 ALA Freedom to View Statement extended the principles of the Freedom to Read Statement to visual media; perhaps the profession now needs to get together behind a "Freedom to Interact Statement."

Conflict with Other Ethical Precepts

Intellectual freedom is at the center of repeated controversy over libraries' denial of meeting room use for religious or other impermissible purposes. Intellectual Freedom sometimes means inclusion of racist, sexist, and otherwise offensive ideas. This can lead to conflict with the ethical precept of diversity in libraries, as minority groups may be the targets of these offensive ideas and therefore be less likely to use the library. The distinction between inclusion and endorsement is sometimes too fine for some users' comfort.

Rubin identifies a "fundamental tension between entrepreneurship and democracy" (2004, p. 121), that is, between intellectual property and intellectual freedom. Specifically, copyright naturally conflicts with the free flow of ideas that benefits an open society (Rubin,

2004). As intermediaries between copyright holders (the creators and distributors of content) and users (the consumers of content), libraries sit astride the balance between intellectual property and intellectual freedom. In practice, while libraries do balance these interests, they inevitably lean to the side of intellectual freedom and users. Rights holders have a vested interest in restricting reproduction of their content; libraries' mission is "to disseminate information as freely as possible" (Rubin, 2004, p. 142). In addition, the ALA and CLA guiding documents show much more extensive support for intellectual freedom than for intellectual property—intellectual freedom, after all, is the fundamental obligation of modern libraries. Finally, there are powerful interests—namely enormous media companies—on the side of copyright holders, whereas most individual users are ignorant of or uninterested in the debate over abridgement of users' rights; therefore, it falls to libraries to take up the fight on behalf of users.

The rise of digital media has brought new urgency to this conflict. To legally lend or photocopy physical materials, libraries depend on two broad exceptions to rights holders exercising absolute control over use and reproduction of their content: Fair Use and the Right of First Sale. Until recently, rights holders could only react if they discovered use that exceeded the parameters of fair use (for example, if a library photocopied and distributed photocopies of a work in its entirety.) Now, Digital Rights Management (DRM) technology can lock down content such that any reproduction—legal or illegal—is prevented, and the Digital Millennium Copyright Act (DMCA) makes it illegal to break DRM, even for legitimate purposes, such as fair use (Rubin, 2004). The current set of exemptions from the restrictions of the DCMA issued by the Librarian of Congress, which have the force of law, include breaking some DRM schemes for legitimate purposes (i.e., fair use) (U.S. Copyright Office, 2010). Nevertheless, many other

DRM schemes are still off-limits and, in any case, breaking DRM can be an onerous task. As such, the combination of DRM and the DCMA represents a significant barrier to intellectual freedom. At first, digitalization of media appeared to effectively annihilate all barriers to copying and distributing content, but the current technological and legal landscape has rendered digital media in some ways more restricted than physical media ever was.

Conclusion

Regarding the conflict between intellectual property and intellectual freedom, Rubin asks if there is a limit to librarians' obligation to disseminate information as widely as possible (2004). Librarianship's answer, at least in modern times, is "yes," but that limit is only that which is illegal, namely slander, libel, and obscenity. Libraries should not restrict users' access to "dangerous" materials; they should promote the core values of Librarianship, namely intellectual freedom. The support of intellectual freedom occasionally (some might say constantly) demands pushing back the encroachment of intellectual property restrictions over more and more content. It also sometimes means risking offense to groups of users that libraries otherwise do their best to serve. The guiding documents of the ALA and the CLA strongly support the view that libraries' "special obligation [is] to ensure the free flow of information and ideas to present and future generations" (American Library Association, 1997).

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