Fashioning the Bounds of Free Speech

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Fashioning the Bounds of Free Speech was a curated, multi-sited fashion and art exhibition that explored how symbolic speech and expressive conduct have shaped the limits and possibilities of freedom of expression. The exhibit was displayed in the Cornell Fashion + Textile Collection (CF+TC) and Johnson Museum of Art from Sept. 2023 to Jan. 2024 and was part of the university's annual academic theme, *The Indispensable Condition: Freedom of Expression at Cornell.* The exhibit contributes new knowledge to the field by exploring free speech through fashion, and how it may be suppressed, and in other instances, celebrated and protected. We used the taglines "Fashion Speaks!" and "Express Yourself!" in exhibit promotional materials (Figure 1) to continually remind audiences that the fashioned body is communicative, dynamic, and meaningful. At the same time, we wanted visitors to understand that the freedom to dress to express has been hard fought and remains at the crux of socio-cultural battlegrounds that shape people's lives personally, professionally, and politically. As curators, we chose to explore the bleeding edge of the expression/repression dialectic by using examples indicative of an uneven landscape in the U.S. that has been produced by late capitalism, ongoing colonialism, and other injustices. In other words, freedom of expression is not equally available to all. We looked to fashion and art as an expressive, symbolic forms that have shaped, and are shaped by, differing relationships with the Free Speech clause of First Amendment, structures of power, and other legal and social doctrines. Garments, accessories, ensembles, and artworks displayed in the exhibit show how boundaries of freedom of expression in the U.S. have been exposed, challenged, and (re)configured.

Curatorial practice and publicly accessible exhibitions have the potential to positively contribute to transformative justice (Green and Reddy-Best, 2022; Huhn and Anderson, 2021; Ünsal, 2019). This ideological and theoretical underpinning, along with the guiding principles of our institutions, encouraged us to center social justice in our exhibition (Stanciel, et al. 2022). Our college's mission to "improve lives," and the university's academic theme year required us to think critically and creatively about free speech in the context of fashion as well as human and environmental health and well-being. Academics, journalists, and everyday Americans are constantly debating the "free speech issue" at varying scales (Chemerinsky & Gillard, 2019; Smeltzer & Hearn, 2015; Wille, 2020), which makes this exhibition timely and responsible to the current cultural milieu (Green, et al., 2019).

Our exhibition explored the tension between expression and repression of one's fashioned appearance, from history to the present day and on-campus to the larger U.S. nation. Expression can be legally restricted; therefore, much of our literature review centered around court rulings and legislation that regulate appearance (Faux, 2014; Jimenez & Kolsun, 2009; Scafidi, 2005; Watt, 2013). At the same time, we reviewed literature related to the social psychology of clothing and informal social codes and cultural pressures that impact dress (Eicher & Evenson, 2014; Luuvas & Eicher, 2019; Kaiser, 1997; Kaiser & Green, 2022; Peters, 2023; Tulloch, 2004). By bringing together scholarship from the social sciences, humanities, and law, the exhibition explored the limits and possibilities of the fashioned body's ability to express identities and ideologies.

Constitutional protections for fashion can be traced to the landmark Supreme Court case *Tinker v. Des Moines* (1969), when a group of students were suspended in 1965 for wearing black armbands with white peace signs to their public school in support of a "Christmas Truce" during the Vietnam War. The court's decision supported the students and affirmed First Amendment constitutional rights in public schools, but also established fashion as a protected form of "symbolic speech." A couple of years later, *Cohen v. California* (1971) expanded these appearance-related protections by establishing fashion as a potential form of "expressive conduct." These cases, among others, have upheld that one's fashion can be safeguarded from censorship by the U.S. government. But entities outside the government may still have the power to repress speech, and under certain conditions, constitutional rights may be forcibly revoked or willingly ceded. Private entities like businesses, corporations, and nonprofits can restrict the speech of employees, patrons, and students. When individuals get dressed and enter a privately-owned physical or virtual location, like a retail space, restaurant, club, home, or social media platform, speech and appearances can be legally restricted. However, anti-discrimination legislation, like the Thirteenth Amendment, Fourteenth Amendment, Equal Pay Act of 1963, Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Equal Employment Opportunity Act of 1972, and Americans with Disabilities Act of 1990, among others, can be used to defend symbolic speech and expressive conduct more broadly.

Creative expression can also be safeguarded through intellectual property (IP) protections like patents, trademarks, copyright, and truth-in-advertising consumer protections like the Indian Arts and Crafts Board Act of 1990. The latter legislation protects the work of Native American designers' by combating misrepresentation and criminalizing false claims of "Indian-made" products. Similarly, Trademarks assure consumers of authenticity, while also protecting IP. Copyrights and patents also protect IP, but not all designs qualify. Certain functional designs, like Personal Protective Equipment (PPE), can be patented whereas fashion garments are typically

considered "useful items" that cannot be copyrighted or patented. The recent Supreme Court decision in *Star Athletica, LLC* v. *Varsity Brands, Inc.* (2017) established that only design features that can be separated from the item, like a textile design, can be copyrighted, not the entire garment design. Logos and brand names can be trademarked, but sometimes these same laws may have the unintended consequence of restricting rights for designers. Legislation can work for and against protecting an individual's creative expression.

We also explored social mores and other kinds of cultural pressures outside of the legal realm through on- campus examples. By focusing on Cornell's unique history, we aimed to make the exhibit relevant to our primary audiences—students, staff, faculty, alumni, and parents. Although freedom of expression has been upheld as a core value of the university from its founding, we examined examples of peer pressure and other limits. Expression through fashion has been constrained in the interest of the collective at varying scales, by community group dynamics as well as institutional expectations, rules, and social conduct codes. At the same time, Cornell community members have mobilized fashion to fight for ever greater freedoms for students and citizens alike. One important caveat of the university's "indispensable condition" of free expression was that it come "with responsibility" (Becker, 1945). According to the university's 1960 Student Code, this tenet allows "each student the greatest possible freedom of action consistent with the welfare of the community" (Code, 1960: 54). These principles resonate with dress as an embodiment of rights of expression and repression since the university's founding.

Early on in our curatorial process we began collaborating with an artist/illustrator to develop an overall aesthetic for the exhibit graphics. Our inspiration for the graphic design component came from photographs by alumna Margaret Bourke White, a groundbreaking documentarian who used her camera to speak. Her photographs tell stories of people and places, from the university campus in the 1920s to her later work as a photojournalist and the first ever woman war correspondent. We incorporated portions of Bourke-White's photographs held in the university's art collection as backdrops to the CF+TC exhibit cases (in accordance with fair use guidelines) and created illustrations that adapted portions of her images for the exhibit graphics while grounding them in local histories and representing diversity of perspectives. The use of black and white images as background, bleeding red lines, and chalk-like illustrations helped to convey the idea that the boundaries between freedom and responsibility, independence and restraint, repression and expression, visibility and invisibility, anarchy and compliance, among others, may at first appear to be stark but are in fact blurry and nebulous. A maximalist aesthetic captured the dynamism of collective and individual actions that have shifted these lines over time (Figure 8).

Because the CF+TC cases are in a hallway and enclosed by glass, we decided to use the glass fronts to both obstruct vision and inform, once again using the design element of line to link episodes in an excess of information (Figure 8). These graphics were intentionally overwhelming, but visitor response was positive.

The CF+TC section of the exhibition included 5 exhibition cases (Figures 2 - 8) and a large display of hanging textiles in the atrium leading into the exhibition area (Figure 9). These banners are part of Aram Han Sifuentes's Protest Banner Lending Library and present the anonymous viewpoints and activist values of those who attended a workshop at the university's art museum during the 2019 exhibition *how the light gets in*, where they were also displayed. The first exhibition case ran along a hallway leading from the atrium to a lobby area where the remaining cases were located (Figures 2 & 8). This section of the display introduced visitors to the fraught histories of expression and repression on Cornell's campus, from student-created rules and regulations—both explicit and implicit—to the university's restrictions and their changes over time. The remaining cases were grouped together in a lobby area and explored the expression/repression dialectic across time and place. While the exhibit focused on the U.S., we wanted to highlight the importance of specific locations, spaces, and places in shaping one's rights to expression. We looked to the workplace, government-run spaces, and private virtual spaces, among others, to explore a range of different court cases, organizations, symbols, individuals, and groups that have contributed to shaping and reshaping the bounds of free speech.

One exhibit case explored tensions around public versus private spaces (Figure 6). Here, we displayed a circa 2010 "Tea Party Patriots" t-shirt with a Make America Great Again (MAGA) hat to discuss the 2018 Supreme Court decision in *Minnesota Voters Alliance v. Mansky,* which determined that a Minnesota law banning political attire from polling places violated the Free Speech Clause of the First Amendment (as long as the insignia were not an endorsement of a particular candidate, but a general sentiment). Alongside this ensemble, we showed another twist on a MAGA hat, saying "Make America Gay Again", to show how symbolism can be appropriated, reframed, and challenged. Between these two ensembles we displayed a tunic featuring social media icons to encourage visitors to think about other spaces where dissonant ideologies come into tension.

In the case alongside the MAGA ensembles, we displayed examples of uniformity (Figure 7). The First Amendment protects freedom of expression from government censorship, but certain government-run spaces repress fashion expression. Uniformity removes individual distinctions in service of the collective. We used two examples of contrasting 1940's uniforms in this case: a woman's detention center jacket and a New York City Police Department uniform. Replacing one's personal style with a uniform can be both a marker of disempowerment (e.g., an incarcerated person's uniform) or power (e.g., a police officer's uniform).

Workplace regulations and employment restrictions were an important theme of the next exhibition case, which focused on a case study of American Airlines (AA) and how their employees have drawn upon anti-discrimination legislation to protect their rights related to dress and appearance (Figure 5). We included the uniform and

hairstyle of a baggage handler in the exhibition case, similar in appearance to what AA employee Renee Rogers would have worn when she was fired for defying a grooming policy that forbade women to wear hair in cornrows. Rogers sued AA in 1981 based on sex and race discrimination. A U.S. District Court sided with the airline in *Rogers v. American Airlines* (1981) because the judge held that the hairstyle was an "easily changed characteristic," rejecting Rogers's argument that cornrows were historically and culturally significant to Black women. We included a CROWN ACT sweatshirt behind the ensemble to represent ongoing fight against hair discrimination. This law has now been passed in more than twenty states and prohibits discrimination against natural and protective hairstyles, like cornrows and afros. At the far end of the case was a sculptural wig by Beninese artist Meschac Gaba, titled *Lincoln Memorial.* Created from synthetic braided hair, the artwork points to the ways in which political systems, cultural traditions, and freedom of expression through fashion are linked.

The next case explored intellectual property (Figure 7), and included pieces by Emilio Pucci, CHEVAL, Bethany Yellowtail, Jessica Metcalfe, Levi's, Issey Miyake, and Galaxy Glasses. These served as examples of trademarks, copyrights, patents, and truth-in-advertising protections. This section highlighted laws that could be used to both protect and restrict expressive freedoms.

The final exhibition case in this section featured a collection of 19 screen printed surgical masks by free speech activist and artist Ai Weiwei (Figure 3), which were created in June 2020 to raise money for COVID-19 emergency relief efforts. The diverse set of designs on display highlight themes of free speech, human rights, and resistance against established thought and include iconography like a surveillance camera, handcuffs, and middle finger symbols to draw attention to mechanisms for suppressing speech. We ended the exhibit with this case because Weiwei used a fashion-related item that literally covers mouths and hinders vocalization to comment on society's freedom of expression and how it may be restrained.

The section of the exhibition displayed in the university's art museum brought together the exhibition's themes through the display of artworks that centered the fashioned body (Figure 10). These included photographs by Mary-Ellen Mark, Danny Lyon, Alfred Eisenstaedt, Robert Frank, and Margaret Bourke-White that capture the role of fashion in expressing identities, group affiliations, political views, and social priorities. Perhaps no work encapsulated these ideas more clearly than Elisabeth Masé's *Das Kleid* ("The Dress"). As part of a 2019 temporary exhibition, *how the light gets in,* which centered on themes of immigration, the museum hosted a performance organized by Masé in which six local women with differing socio-cultural backgrounds and levels of expertise with textile arts spent four days collectively embroidering the panels of a linen dress with red thread.

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Figures

Figures 1 – 10 (from left to right, top to bottom).