

CIVILITY IN UNCIVIL TIMES:
On Malcom X, Martin Luther King, and Jerry Falwell

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[draft – please do not reference without permission]

I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension which is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half truths to the unfettered realm of creative analysis and objective appraisal, so must we see the need for nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood.

– Martin Luther King, Jr., “Letter from a Birmingham Jail”

Someone may wonder why I go about in private, giving advice and busying myself with the concerns of others, but do not venture to come forward in public and advise the state . . . I am certain, O men of Athens, that if I had engaged in politics, I should have perished long ago and done no good either to you or to myself.

– Socrates, *Apology*

1. INTRODUCTION

With the publication of *Political Liberalism*, John Rawls famously laid out a programmatic theory of public reason. In doing so, he picked up an ideological thread that can be traced back through Kant and Locke, and used it to spark a contemporary debate about civility in political deliberation. This means that, for better or worse, Rawls’s theory has been influential in framing the terms of the debate.

One troubling framing effect of Rawls’s influence is that ensuing discussions of political civility¹ have for the most part been undertaken with reference to ideal or idealized circumstances. Aside from some early comments, which he largely retracted later, Rawls had

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¹ I use ‘political civility’ and ‘deliberative civility’ interchangeably, to refer to norms of civility that apply to contexts of political deliberation.

little to say about how norms of civility were to apply in non-ideal circumstances. This has meant that analysis of civility—*qua* deliberative obligation—has not intersected often enough with discussions about the potential virtues and vices of deliberation in real-world public political culture. Yet, it seems reasonable to think, and I will ultimately contend, that there are many individuals to whom and political circumstances in which norms of deliberative civility ought not apply; paradigmatic among such cases are those who are marginalized or ill-served by a society's public deliberative system.

However, that isn't to say that civility should be taken lightly. As emphasized by Cheshire Calhoun (2000), it is important to recognize that dismissing norms of civility comes at a very real moral cost: in doing so, one loses access to a mechanism for demonstrating respect across difference and disagreement. In a deliberative democratic context, this means undermining one of the key contributing factors to a healthy democratic system (and ultimately goes against Rawls's initial non-ideal prescriptions). In this paper, I work through some of the applicability conditions of political civility with appeal to illustrative examples, and suggest ways that—despite initially pessimistic impressions—widespread acknowledgment of civility *can* play a significant role in improving the health of public political deliberation in uncivil times.

2. JOHN RAWLS AND MARTIN LUTHER KING, JR.

On Strengthening the Ideal of Public Reason

It is at least somewhat surprising that Rawls's legacy on civility has taken such a non-ideal turn, since his first instincts about the issue involved taking the non-ideal into account.

Understanding how this is the case will help to make sense of how we ought to apply the ideal of civility to real world deliberative conditions. So, let us consider Rawls's initial thoughts on Martin Luther King and his role in public political deliberation.

First, a quick review. Rawls's *Political Liberalism* depicts a society whose citizens share an "overlapping consensus" regarding a political conception of justice while maintaining distinct, often inconsistent "comprehensive doctrines" (1993, 133–142), and outlines a normative structure to guide this society's public deliberations (1993, 212–247). This structure gives pride of place in political deliberations to public reasons, which is to say ideas and arguments that do not invoke controversial metaphysical, ethical, or religious premises about which citizens reasonably disagree. Thus, Rawls aims to limit the presence in political deliberation of nonpublic reasons—reasons that are evidentially dependent on the adoption of a particular comprehensive doctrine.² Specifically, he characterizes the duty one has to avoid invoking nonpublic reasons in a public context³ as a "duty of civility":

. . . since the exercise of political power itself must be legitimate, the ideal of citizenship imposes a moral, not a legal, duty – the duty of civility – to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason. This duty also involves a willingness to listen to others and a fairmindedness in deciding when accommodations to their views should reasonably be made. (1993, 217)

So, according to Rawls's initial position, a person is in violation of their duty of civility when they publicly advocate for "principles and policies" yet fail to provide adequate grounding for such in public reason.

² One can trace this feature of nonpublic reasons to Rawls's discussion of the burdens of judgment, especially burdens, a, d, and e (1993, 56–57). At the least, this feature is a consequence of the burdens of judgment, which lead people to affirm differing comprehensive doctrines.

³ These official contexts include when advocating publicly for policies or candidates, as well as when voting and explaining one's voting choices to others. Rawls also restricts the scope of the public reason constraint to fundamental political questions of constitutional essentials and basic justice (Rawls 1997, 767).

Note that this definition of civility is narrow in the sense that it makes explicit appeal to Rawls's own view of public reason. One might think that this narrow definition has led to another pernicious framing effect—the result being that that it can be difficult to talk about civility without talking about it in terms of the exchange of public reasons, at least when in the company of political theorists. This might well be puzzling to those who believe they know what it means to be civil, politically speaking, without knowing what a public reason is or how to identify one. While sympathetic to the concern, I am ambivalent to this turn of events on the whole, since, if you squint your eyes right, Rawls's view of civility can be seen to be *both* puzzlingly idiosyncratic *and* profound. For now, then, I will restrict the discussion to civility in this narrow sense (of giving deliberative pride of place to public reasons), with a promise to return to this point later.

Of importance at this point is that Rawls immediately raises concerns about his account's ability to accommodate certain significant uses of nonpublic reasons in the public domain. Fundamentally religious beliefs and commitments, for example, are often taken to be paradigmatic examples of nonpublic reasons.⁴ And Rawls is concerned that, historically, we can find a number of examples where people have advocated for important social changes using religion in ways that apparently violate his duty of civility. Rawls highlights Martin Luther King, Jr., who often supported his speeches with appeal to Judeo-Christian doctrine, as one of these figures, and early nineteenth century abolitionists, who fought for the emancipation of slaves in the south based on religious arguments, as another relevant

⁴ It can be useful to use fundamentally religious reasons as examples of nonpublic reasons even if one thinks, as I do, that it is misleading to identify all religious reasons as nonpublic reasons (see Morgan-Olsen 2013, sec. 3).

example (1993, 247–254).⁵ Not only is it awkward to be forced to label Martin Luther King, Jr. uncivil, but these examples illustrate that a lot of benefit—in terms of moral and political progress—can come from bringing some nonpublic reasons into public discussion. I take this to be a moment of acknowledgement of the non-ideal nature of historical circumstance, as well as recognition that such circumstances can be a constraining feature of the duty of civility.

Rawls eventually accommodates this type of case by adding an additional proviso that expresses his mature view; briefly put, the proviso states that the expression of nonpublic reasons, and the benefits that accrue from such use, are allowed as long as public reasons are *also* provided (Rawls 1997). But I am more concerned here with the first caveat he adds to his account in support of an “inclusive view” of public reason, the caveat being that citizens can invoke nonpublic reasons “provided they do this in ways that strengthen the ideal of public reason itself” (1993, 247). For example, given certain historical conditions, use of nonpublic reasons may be necessary to create an open, free environment for public deliberation and be therefore justified. The abolitionist case is a good illustration of this scenario, as the abolitionists lived in a divided society that was far from well-ordered⁶ and whose leaders were, on the whole, primarily responsive only to reasons that would appeal to their religious commitments (at least regarding questions of justice). Rawls’ inclusive view, then, justifies the use of nonpublic reasons on something like the following condition:

⁵ Rawls bases these objections, in part, on correspondence with Lawrence Solum, who develops these points further in Solum (1993).

⁶ A well-ordered society being one of the guiding ideals of a constitutional democracy in *Political Liberalism* (see pp. 35–40).

If there is a deep division in a non-well-ordered society and nonpublic reasons “were required to give sufficient strength to the political conception [that leads towards a well-ordered society]” (1993, 251).⁷

In short, if society is not well-ordered, our obligations with respect to deliberative civility can be found defeasible, given that incivility can be an effective tool for making progress towards well-orderedness.

Of particular interest is that the facet of being well-ordered that Rawls highlights as being most relevant is the ideal of public reason—the striving towards a publicly recognized political conception of justice which is characterized by the open exchange of public reasons. To put it another way, civil deliberation is only a virtue of public political culture if there is a somewhat stable foundation of mutual trust, political respect, inclusiveness, and relative equality to support the prospect of constructive collective reasoning. And sometimes the only way to get to work on building that foundation is to embrace incivility: to adopt the gadfly’s strategy of engendering “productive tension” and/or to adopt whatever partisan or parochial strategies might mitigate deep divisiveness and develop a functional public sphere. In uncivil times, it seems, incivility can be (morally) allowed insofar as it is pressed into the service of future civility.

Now, this is reasonable as far as it goes. But notice that Rawls’s reasoning so far is non-ideal in one sense, but still ideal-theoretic in another. It is non-ideal in the sense that he is applying his normative theory to non-ideal conditions—in this case, to a non-well-ordered society—and is making accommodations to our deliberative obligations accordingly. It is still

⁷ Rawls also suggests that this condition should only hold in a society where the idea of a duty of civility is not known throughout the public culture (see p. 251, n. 41).

ideal theory, though, in the sense that he is assuming that his exemplars buy into the normative model. That is, he assumes that the abolitionists and Martin Luther King already accept the aim of strengthening the ideal of public reason and the corresponding duty of civility, but can then recognize—as a second inferential step—that their particular circumstances require that they adapt the sorts of action they should take in pursuit of that ideal, in the spirit of the duty.

I think it is worth examining the inference the other way around, to see whether one's contingent circumstances might justifiably undermine one's adoption of the ideal. To this end, let us leave the abolitionists aside and think exclusively about Martin Luther King. Rawls's assumption seems accurate, as matter of fact, about King as a historical figure; to the best of my knowledge, it safe to say he would have accepted the normative premise. It seems to me, though, that he need not have, given the circumstances.

My suggestion, then, is that accepting an obligation to pursue the ideal of public reason requires a reasonable hope in the transformative potential of one's public political culture, and, further, that Martin Luther King might not have had sufficient evidence to support such a hope. To accept a duty of civility, in other words, one must buy into the ideal of political deliberation as a force that bends the moral arc towards justice *and* buy into the presumption that one can exert influence on one's particular deliberative system to shape it towards that ideal. I'm not sure we can expect this sort of buy-in to the deliberative system from those who have been historically ill-served by it.

Why think that expecting such a buy-in is unreasonable? For starters, we should acknowledge that King was a member of a group oppressed by the political system—a group that was indeed literally disenfranchised for most of the existence of that system.⁸ In that light, it seems strange to ask him to accept a responsibility, at no small personal risk, to make that system stronger. Further, since the dominant public political culture is in this case designed to discourage and reject his participation, pessimism with respect to his abilities to overhaul it for the better seems like a reasonable stance. This is especially the case when the relevant obligations involve norms that are already an accepted, if imperfectly instantiated, part of the oppressive system; maybe we should refer the questioner to someone who will talk about civility as the master's tools and the public sphere as the master's house. But, in any case, there is evidence in favor of reasonable rejection here.

At the least, we can present an unwillingness to buy into the system in way that is instructive for our analysis. One could read King's hypothetical rejection of Rawls's duty as a claim that extant processes of public reasoning do not measure up to Rawls's model of how these processes are supposed to work—that he as an African-American has little reason to trust the public political culture which has historically acted as a source of injustice and force for oppression against people of his race, and that not enough progress has been made in terms of reversing these trends, especially with respect to eliminating inequities of access inherent

⁸ “A law is unjust if it is inflicted on a minority that, as a result of being denied the right to vote, had no part in enacting or devising the law. Who can say that the legislature of Alabama which set up that state's segregation laws was democratically elected? Throughout Alabama all sorts of devious methods are used to prevent Negroes from becoming registered voters, and there are some counties in which, even though Negroes constitute a majority of the population, not a single Negro is registered. Can any law enacted under such circumstances be considered democratically structured?” (King 1963, 840–81)

in the political process. In short, he could be interpreted as asserting that the processes of public reasoning are not functioning legitimately, and thus that he can reasonably reject the view that he is in any way implicated in the government's use of power.

This is not to say that we cannot laud King's contributions to public political culture, or that we cannot acknowledge how much progress he made towards civility using civil methods. This just means that we have grounds to say that he was not obligated to do all the good he did the way he did it. There is plenty of room to say that Martin Luther King's civility was supererogatory, indeed extraordinarily so; he strove towards a hopeful ideal in the face of evidence against the possibility of its full realization.

My aim, rather, is simply to call for an investigation into the empirical preconditions for the existence of obligations of political civility.⁹ And I am suggesting that Rawls's justification for the duty of civility must depend on the systems of public deliberation being effective—and demonstrably so—at ushering the political inputs of citizens towards official consideration. Appropriate respect for the system, and trust that one's views will be given appropriate consideration, might well have to be earned before Rawls's duty can be applicable in (certain) real-world cases. The obvious next question to ask is: assuming that obligations of civility are conditionally applicable in this way, which cases deserve exemption?

⁹ Lest one balk at the idea that Rawls would not approve of such a search for empirical preconditions, I claim that the whole theoretical framework of *Political Liberalism* requires a suite of such preconditions, and refer the reader to the exchange between Rawls and Habermas on this issue (Habermas 1995; Rawls 1995).

2. MALCOLM X AND JERRY FALWELL

Investigating Mediating Structures

If you stick a knife in my back nine inches and pull it out six inches, there is no progress. If you pull it all the way out, that is not progress. Progress is healing the wound that the blow made, and they haven't even begun to pull the knife out, much less heal the wound. They wouldn't even admit the knife was there.

– Malcolm X¹⁰

To begin investigating the sort of circumstances in which duties of civility can be found to be defeasible, we should acknowledge that there is a potential paradox lurking in what I have put forward thus far. I have intimated that one's deliberative obligations can be overridden if the deliberative system in which one finds oneself is illegitimate. However, one might reasonably argue that the legitimacy of a public deliberative process is contingent on citizens' fulfillment of their deliberative duties. Therefore, one could contend that I am faced with a vicious circularity: by exempting citizens from obligations to be civil, I thereby undercut the possibility of creating a fully legitimate deliberative process, thereby removing any basis for deliberative obligations, and so on *ad infinitum*.

The way out of this apparent paradox is to emphasize that I do not mean to give analytical priority to legitimacy as an abstract measure of the health of public deliberative systems. Rather, I want to leave room for the empirical fact that particular public political cultures are biased in favor of and/or against particular individuals or groups. There are social dynamics and institutional influences in play that can impact individuals' potential for deliberative uptake—factors such as formal institutions, cognitive biases, and cultural norms that can intervene between pre-deliberative inputs and post-deliberative political outputs. If

¹⁰ Transcribed from a recorded interview, found at <http://www.youtube.com/watch?v=SzuOOshpddM> (accessed 4.28.10).

we refer to such intervening factors as *mediating structures*,¹¹ what I am asking is that we pay attention when applying deliberative obligations to how mediating structures can unevenly obstruct access to effective deliberation.

In this light, let us compare Malcolm X and Jerry Falwell in terms of their obligations to be civil in the public square. It is safe to say that both of these historical figures would have rejected Rawls's duty of civility; both of them would have considered the use of fundamentally religious reasons and concepts as necessary to their political contributions, and defended their right to base their political positions on such grounds.¹² Yet, I argue, we should not treat these cases the same. Given their respective political contexts, X did not have an obligation to be civil, but Falwell did. To see why evaluation of these cases ought to diverge, consider two different types of mediating structures: pervasive racism and religious bias.

I take it that we need not dwell much on the point that 1950s America was a place of systemic prejudice against African-Americans, in a way that had a profound impact on the uptake their political claims received. Here, the imbalances of power, hostility, and oppressive forces operative in civic life, and thus the bases for reasonable rejection of deliberative obligations, are the same for Malcolm X as those we discussed above for Martin Luther King. At the very least, we can say African-Americans faced a widespread, substantial credibility deficit (Fricker 2007) that undermined the usefulness of political deliberation as a

¹¹ Thanks to Loren King and James Wong for this way of characterizing the issue.

¹² To wit, Falwell stated the following in 1976: "This idea of 'religion and politics don't mix' was invented by the devil to keep Christians from running their own country"
(http://usatoday30.usatoday.com/news/religion/2007-05-15-falwell-obeit_N.htm, accessed 3/05/13).

medium they could rely on for social change. Falwell could claim no such racial prejudice as grounds for opting out of the pursuit of political change via civil deliberation.

One might argue that such issues of large-scale social injustice are a separate matter, to be dealt with by areas of theory outside the scope of public reason and civility. But, for theories dedicated to maintaining arenas of public deliberation as predominant sites of political change, this line of objection puts the cart before the horse. If governmental policy is drawn in significant ways from the voices of the people, it is of prime importance for victims of injustice to be able to adduce their perspectives into public discourse. Hence the strong correlation I am trying to establish between social injustice and the preconditions of applicability for deliberative norms.

What about religious bias? I argue that there is a disanalogy between X and Falwell with respect to this mediating structure as well; indeed, this is a factor that also differentiates X and King. The distinction here stems from the fact that American public political culture is biased towards the Christian worldview; the history of the United States is deeply intertwined with the Judeo-Christian tradition, and representatives of the Christian faith will find a more welcoming environment for their political contributions than will non-Christians.¹³ As a consequence, a devout Muslim like Malcolm X ought to have had less confidence that his political views would get a proper hearing in late 1950s/early 1960s America than a prominent Christian like Falwell.

¹³ As I've argued elsewhere, one feature of this bias is that public deliberation will more readily recognize and acknowledge the potential for public reasons to be found in Christian religious contributions than in non-Christian religious contributions (see Morgan-Olsen 2013, sec. 3).

To sum up, I am arguing that an individual's obligations with respect to being civil in political discourse are not dependent on the legitimacy of the deliberative system *simpliciter*, but on a reasonable expectation that the system will serve that individual. For a duty of civility to apply to me, I must reasonably believe that the mediating structures in place offer political deliberation to me as a genuine avenue for political change. And I have argued that Malcom X had a number of good reasons to reject this belief that Jerry Falwell could not claim, given his political circumstances. Baldly put, Malcolm X did not have an obligation to be civil, because he was an African-American Muslim, whereas Jerry Falwell did because he was a white Christian.

This line of thought clearly raises further questions. For example, there is an open question as to how effective and inclusive public deliberative processes would have to be before citizens like King and X would have to accept an obligation to be civil. Furthermore, it would be worthwhile to address familiar concerns about whether, as is often claimed, liberal theories of public reason like Rawls's are inherently biased against religious citizens, especially fundamentalist citizens. If this were the case, it might seem that my line of argument gives Jerry Falwell a pass as well. However, rather than begin in on such questions, I will use what space remains to reflect on the value political civility can have in spite of the fact that it is sometimes defeasible in the non-ideal world.

3. CONCLUDING REMARKS AND CHESHIRE CALHOUN

Communicating Respect

In morally imperfect social worlds where civility norms fail to protect the disesteemed from treatment that is genuinely disrespectful, inconsiderate, and intolerant (even though not socially understood to be so), it is tempting to reject the value of civility altogether. This, I think, is a mistake.

– Calhoun 2000, 275

Given the preceding discussion, it is reasonable to ask what political civility is for. On Rawls's account, citizens who fail to pursue public reasons are, in essence, expressing their will that others be coerced without justification; they are accepting that nonpublic reasons can ground official policy and they are asserting this acceptance to those at hand. A rejection of the duty of civility is thus a failure to recognize the importance of maintaining a respectful deliberative process on the whole. Rawls believes this demonstrates a disdain for the proper functioning of legitimate democracy, and a dismissal of the potential for democratic discursive processes to have oppressive results.

Rawls's model of a legitimate democracy—a model whose fundamental assumptions are shared by those who call themselves political liberals and deliberative democrats alike—secures the roots of political power in citizens' hands, to be exercised collectively through public political deliberation that eventually and inexorably shapes the political structure of the state. On such a model, broadly construed, citizens have to concern themselves with proper engagement in public justification, so as to refrain from oppressing others through politically-backed insistence on their own deeply held religious or ethical views. In other words, Rawls is concerned to avoid the dissolution of disagreement into oppressive antagonism.

This, as promised earlier, is the way in which Rawls's view is both profound and idiosyncratically narrow. It is profound in its emphasis on the necessity of mutual respect and trust for moving forward productively amidst deep disagreement. It is also profound in its realization that nonpublic reasons can serve as an oppressive force that undermines political trust and respect. It is idiosyncratic, perhaps, in its over-emphasis of this feature of nonpublic reasons, which seems to suggest that this is the *primary* way that political respect is undermined—as if a restriction to public reasons will all but ensure that deliberations across deep disagreement are respectful. In this light, it is worth stepping back to take a somewhat wider view of the value of civility, which Cheshire Calhoun can help provide.

Calhoun conceives of civility as involving “conformity to socially established rules of respect, tolerance, and considerateness” (2000, 255). And she suggests that civility is of independent moral importance; that is, she does not believe that political civility is just the same as political respect, tolerance, and/or considerateness, but is a moral virtue all on its own.¹⁴ Its virtue, she argues, lies in its ability *to communicate* respect, etc. across deep moral divides. When we disagree deeply about moral issues, and are involved in contestatory deliberations in which we believe these issues are at stake, established rules of discourse provide a common platform for the expression of our willingness to continue to work through the rough patches, of our willingness to engage respectfully and in good faith. Calhoun's insight is that civility serves a significant moral purpose: it provides a way—perhaps

¹⁴ Calhoun investigates civility in general, discussing both “political civility” and “polite civility”. We will restrict our discussion here to the former.

the only reliable way—to display moral consideration in dialogue to those whose fundamental commitments differ substantially from our own (2000, sec. III).

This is a compelling view, and it is not incompatible with Rawls's talk of civility. He too is so concerned with the importance of respect, and though it might be strange to think of a rule against invoking nonpublic reasons as an established rule of discourse, it is certainly not altogether radical as a candidate for such in the right circumstances. But, in stressing the importance of the display of respect, Calhoun offers us a general account of civility that holds weight even if we reject Rawls's particular rule as being wholly (or partly) constitutive of our deliberative norms.

So, if civility is of such general importance to political deliberation, as a tool for improving our moral conditions, how can I advocate the removal of obligations to be civil from many citizens of the real, morally damaged world? I feel justified in doing so because the relevant individuals have already had their trust and respect in the deliberative system undermined, for reasons that go beyond the existence of reasonable disagreement. To require the expression of a willingness to continue negotiations in good faith from those who probably should not be so willing—to those, for example, who have been the victims of systematic political exclusion—strikes me as ill-fated.

But to those others, those enfranchised by and substantially included within the deliberative system, civility still remains a powerful tool to show consideration to those who have been harmed and/or excluded by societal mediating structures. It allows for demonstration that an attempt is being made to improve social conditions and make the

deliberative system a worthy place for the political will-formation of all citizens. It provides a medium to display hope for a better future and a willingness to work towards a civic discursive project that those historically ill-served can buy into. And thus, while I do not think that obligations of civility ought to be borne by all citizens in uncivil times, I stick by them as being a significant part of the struggle towards the deliberative ideal.

REFERENCES

- Calhoun, C. 2000. "The Virtue of Civility." *Philosophy & Public Affairs* 29 (3): 251–275.
- Fricker, Miranda. 2007. *Epistemic Injustice: Power and the Ethics of Knowing*. Oxford; New York: Oxford University Press.
- Habermas, Jürgen. 1995. "Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Political Liberalism." *The Journal of Philosophy* 92 (3) (March): 109–131.
- King, Martin Luther Jr. 1963. "Letter from Birmingham Jail." *U.C. Davis Law Review* 26: 835–851.
- Morgan-Olsen, Brandon. 2013. "A Duty to Listen: Epistemic Obligations and Public Deliberation." *Social Theory and Practice* 39 (2): 185–212.
- Rawls, John. 1993. *Political Liberalism*. New York: Columbia University Press.
- . 1995. "Political Liberalism: Reply to Habermas." *The Journal of Philosophy* 92 (3) (March): 132–180.
- . 1997. "Idea of Public Reason Revisited, The." *University of Chicago Law Review* 64: 765.
- Solum, Lawrence B. 1993. "Constructing an Ideal of Public Reason." *San Diego Law Review* 30: 729.