CIVILITY AND ITS DISCONTENTS

On September 9, 2009, President Obama addressed a joint session of Congress to discuss the Affordable Care Act (ACA). At one point in his speech he stated that illegal immigrants would not be covered in that act. Immediately there came a shout, loud and clear, from Congressman Joe Wilson (R-SC): "YOU LIE!"

The interruption was shocking in several ways. For most of its history, Congress has adhered to strict protocols regarding appropriate forms of discourse. You say, "My friend across the aisle," or "My valued colleague" – not what you may really be thinking. This outburst was something quite different. I don't want to say that it was a direct cause of the situation in Washington today, but I would argue that it functioned as a precursor to it.

Wilson's comment stands as a clear example of public incivility. It is highly uncivil because its 2 words contain three major components of uncivil discourse:

a. It was exclusionary -- anti-diverse and arguably racist. By violating 2-century-old protocols mandating respect for POTUS, with America's first black president, Wilson implied that Mr. Obama was in some way not a "real" or "legitimate" president. (This idea is carried on later more explicitly by the "Birthers" and the Tea Party.) Why not? Because the President of the US must be one of "*us,"* just a little bit better, and clearly this president was not one of the normal "us" that had always exclusively constituted Joe Wilson's "us-ness." Diversity both threatens and requires civility. While Wilson's outburst did not contain any explicitly racist slurs, it reminded hearers of one major source and justification for racism, the need for **exclusion,** one aspect of incivility. To my mind, that is sufficient to establish it as racist.

b. It was an interruption, and therefore communicatively uncivil. Interruption keeps a speaker from fully expressing an idea, and also functions as a power play: "I outrank you and therefore I can cut off your free-speech rights." It also, when successful (as this was actually not) cuts off the rights of other participants: they are unable to hear what they came to hear. So interruption shows **disrespect,** another aspect of uncivil discourse.

c. It consisted of an ancient insult, what used to be called "giving the lie." In the old days, if one gentleman gave another the lie, the latter necessarily had to challenge the former to a duel, or the charge would be assumed to be true, and the presumed liar would be excluded from the society of gentlemen, catastrophic because that exclusion necessarily banished him from social interchange with his peers.

   The dread of "giving the lie" remained in the culture even a couple of centuries after dueling was no longer in vogue. In the 1930s the American movie industry was in panic: there had been several well-publicized sex

> scandals in the community, and between that and the Depression, the moguls feared that attendance would drop off. So they set up the infamous Hays Commission to develop a Code that would make sure movies would be decent. Among the requirements specified by the Hays Code was the banishment of a long list of words: the obvious very bad four-letter words; words having anything to do with sex; and then, oddly to us, "lie" and "liar." Those exclusions can only be understood if the creators of the Hays Code felt that calling someone a liar was such an unforgiveable insult that it would necessarily provoke violence – what the Supreme Court would shortly outlaw as "fighting words." These rules remained in effect until well into the 1960s.
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> Wilson might have expressed his feelings in a way that, while still disruptive, was marginally civil: "That's not true!" or "I disagree!" Giving the lie was not necessary to make his point, unless his point was precisely to be uncivil

But what do we mean by the words, "civility" and "incivility"? To answer that question, it may be useful to ask where the word, and with it the idea, of "civility" comes from. So we must make a brief excursion into etymology, the study of the relationship between word-origins and word-meanings.

"Civil" is derived from Latin *civilis,* 'of a citizen' i.e. *civis.*
Civis, in turn, comes from Proto-Indo-European **kei-* 'bed, couch, lie,' + **-wi,* 'one who.' Thus a **kei-wi* is a member of a household, an intimate or trusted person, one of *us.* A citizen, therefore, is someone who is a member of our in-group and thus someone entitled to *civil* treatment, an active participant in our group's social and political activities. (In this way a citizen in a republic is different from a subject in a totalitarian system.)

If civility involves a notion of joint membership in a group connected by relationships and interests, and based on that, the idea that all a group's members need to trust one another to speak so as to address everyone's needs, then it becomes clear that civility and free speech, rather than adversaries (as the CUCFA statement I will discuss shortly would seem to suggest), are comrades in arms.

The metaphor of the "marketplace of ideas" was created by Supreme Court Justice Oliver Wendell Holmes, about 100 years ago, to explain the importance of the first amendment's free speech guarantee. In this marketplace, buyers have to be able to freely examine and compare the ideas on sale, and the sellers need to be able to display them openly and attractively. That means that all participants in the market must have full access to free expression – even those participants who historically might not have been expected or legally permitted to have a voice: in other words, true free speech presumes full equality in diversity. So people of color, women, outsiders of all kinds must enjoy full discourse rights in this marketplace: their utterances must be treated with the same civility with which the traditional participants in the marketplace expect of one another. Civility – if the word is to be

meaningful – requires freedom of speech (there has to be something serious to be civil about), and freedom of speech requires civility.

But the ancient idea of "civility" (the **kei-wi*) bases full discourse rights on non-diversity, the homogeneous "household" of *us.* So a paradox is created: How can we give the same respect to the not-us as we give to us, if the basis of our respectfulness (civility) is homogeneity (household-membership)? That contradiction may be at the root of our current difficulties.

On September 5 Chancellor Nicholas Dirks published a brief statement enjoining members of the University community to attempt to be civil in all engagements with one another, public and private. It struck me as a classical chancellorlike statement: perfectly reasonable and well put, and seemingly not at all controversial. It might be paraphrased simply as "Be nice."

CUCFA, the Council of University of California Faculty Associations, responded quickly and strongly. What seems odd to me about CUCFA's statement is that the utterance it is responding to is not the one that the Chancellor made, semantically or pragmatically.

Semantically, CUCFA seems to have a very different notion of what "civility" means than I do or Dirks does: CUCFA takes it to mean something close to "silencing" or "censorship." And pragmatically, it appears to understand Dirks' utterance -- which I interpret as a suggestion or advice – as a demand or even a veiled threat: "Be nice or you will be punished." To misinterpret so severely is in itself uncivil: it means that the speaker is not bothering to listen to what the other has said, but is assuming the power to tell the speaker what he meant. In this the speaker is cutting off the other's utterance almost like an interruption; is hostile and insulting ("you can't make your own meaning – let me tell you what you need to say"); and is excluding the speaker from group membership in the "household" – here, the University as an institution. All three requirements for incivility that I noted above are present here.

CUCFA's statement is pragmatically odd in another way: such forms of direct incivility are much more apt to come from a superior to an underling than vice versa. Nicholas Dirks, as Chancellor, is a person of power and thus an odd target for CUCFA's incivility.

What's going on here? Why is CUCFA playing fast and loose with both semantics and pragmatics? In order to understand this interchange, we have to understand the current situation of the University – not Berkeley or UC in particular, but as an institution (like the military, or government). The University has recently been under a great deal of scrutiny, and many serious commentators have been arguing that it is in trouble: in defining its mission and how it goes about it, whether it is doing it well, and even whether the University should exist at all. The University is currently in a state of existential crisis.

When a person or institution feels itself to be in existential crisis, the normal rules break down. What makes a person human or an institution functional may be sacrificed in the attempt to save him, her, or it. In particular, because language is what humans (and their institutions) use to be human and work for humans, language tends to be the first victim of existential fear.

That fact has been noted before. The historian Thucydides wrote his History in the aftermath of the fifth century BC Peloponnesian War, in which Athens battled Sparta and Sparta finally won. Since Spartan culture was in many ways the antithesis of Athenian, a Spartan victory represented a true existential threat. Thucydides notes in a famous passage that one victim of the war was language itself:

The ordinary acceptation of words in their relation to things was changed as men thought fit. Reckless audacity came to be regarded as courageous loyalty to party, prudent hesitation as specious cowardice, moderation as naught in anything. (*History of the Peloponnesian War, 3.82.4*, tr. Charles Forster Smith)

Another later commentator is himself faced with a personal existential threat, and tries to manage language in order to control and change reality. In Lewis Carroll's *Through the Looking Glass,* Humpty Dumpty is a large egg perched precariously on a high narrow wall. He has a premonition of a fatal fall. Rather than, as Alice suggests, getting off the wall, HD tries to change his fate by controlling language:

"When *I* use a word," Humpty Dumpty said in rather a scornful tone, "it means just what I choose it to mean – neither more nor less."

"The question is," said Alice, "whether you *can* make words mean so many different things."

"The question is," said Humpty Dumpty, "which is to be master – that's all."

I would suggest that CUCFA sees itself and the University it represents, as the Athenians saw themselves and as Humpty Dumpty saw himself – as being in an existential crisis. In such circumstances, language is apt to turn extreme, uncivil, and not properly communicative because those using it are very afraid.

The problem is especially severe for the University, because as much as or more than any institution, it does its work through language. So when the University abandons rational language, it necessarily and ironically destroys itself.

So there are good traditional reasons to be civil: because it's nice, because it's egalitarian, because it's democratic, because it facilitates true freedom of speech, and because it is a refusal to give in to existential dread. But I have saved the best reason for last:

Civility is good for you.

On purely practical grounds, being civil gets speakers what they want – persuasiveness or influence. When we speak, particularly in public, our major goal is just that: to bring others to our point of view: to persuade them.

Incivility is unpersuasive. Consider one kind of example: Suppose you are at a speech in which the speaker is eloquently expressing views you find abhorrent. You don't want others to be taken in by that dazzling rhetoric. What to do?

Your first impulse may be to make an uncivil response: yell, mock, interrupt – keep the speaker from delivering a message, or make it hard for that message to be understood. That would be gratifying. But is it practical – does it work toward your goal?

Think of the audience as divided in thirds. One third are true believers: they are there to urge the speaker on, to show solidarity. You probably cannot persuade them no matter what you do. And by behaving uncivilly, you will convince them that opponents of their hero are a bunch of yahoos and strengthen their adherence. And it will not look good on the Nightly News.

The second group is your own. They are already opposed to everything the speaker says and stands for. So there's no point trying to persuade them. Disruption will make you all feel good, but will accomplish nothing else for you.

It's the third group you're reaching for – the undecideds. They have come because they genuinely don't know how they feel about the speaker's position, and they want to be informed so they can make an intelligent decision. What happens when you interfere?

They get angry – at you. First, because you have made it impossible for them to do what they came to do. You have wasted their time. But worse, you are insulting them: in effect, you are saying," You are too stupid to be trusted to make an intelligent decision on your own. We will tell you what to think, because we are smarter than you."

Getting people angry at you will never persuade them. You have lost any hope of winning them over.

What if you had been civil? Had let the speaker finish; asked questions respectfully, non-repetitively, and briefly; and had made your objections in other ways and other venues: perhaps handed out fliers at the door; arranged for a teach-in at a later time; written an op-ed. You would seem to be a reasonable person, someone whose ideas deserve respect. You might not persuade everyone, but at least you have a chance to persuade some people.

Civility works. Try it.

Chancellor Dirks' message on civility

September 5, 2014

Dear Campus Community,

This Fall marks the 50th anniversary of the Free Speech Movement, which made the right to free expression of ideas a signature issue for our campus, and indeed for universities around the world.

Free speech is the cornerstone of our nation and society – which is precisely why the founders of the country made it the First Amendment to the Constitution. For a half century now, our University has been a symbol and embodiment of that ideal

As we honor this turning point in our history, it is important that we recognize the broader social context required in order for free speech to thrive. For free speech to have meaning it must not just be tolerated, it must also be heard, listened to, engaged and debated. Yet this is easier said than done, for the boundaries between protected and unprotected speech, between free speech and political advocacy, between the campus and the classroom, between debate and demagoguery, between freedom and responsibility, have never been fully settled. As a consequence, when issues are inherently divisive, controversial and capable of arousing strong feelings, the commitment to free speech and expression can lead to division and divisiveness that undermine a community's foundation. This fall, like every fall, there will be no shortage of issues to animate and engage us all. Our capacity to maintain that delicate balance between communal interests and free expression, between openness of thought and the requirements and disciplines of academic knowledge, will be tested anew.

Specifically, we can only exercise our right to free speech insofar as we feel safe and respected in doing so, and this in turn requires that people treat each other with civility. Simply put, courteousness and respect in words and deeds are basic preconditions to any meaningful exchange of ideas. In this sense, free speech and civility are two sides of a single coin – the coin of open, democratic society.

Insofar as we wish to honor the ideal of Free Speech, therefore, we should do so by exercising it graciously. This is true not just of political speech on Sproul Plaza, but also in our everyday interactions with each other – in the classroom, in the office, and in the lab.

Sincerely,

Nicholas Dirks
Chancellor

Follow Up Message from Chancellor Dirks

By Public Affairs, UC Berkeley | September 12, 2014

BERKELEY —

UC Berkeley Chancellor Nicholas Dirks sent this message to the campus community today:

Every fall for the last many years, we have issued statements concerning the virtue of civility on campus. This principle is one of several that Berkeley staff, students, faculty and alumni themselves developed and today regard as "fundamental to our mission of teaching, research and public service." To quote further from our "principles of community": "We are committed to ensuring freedom of expression and dialogue that elicits the full spectrum of views held by our varied communities. We respect the differences as well as the commonalities that bring us together and call for civility and respect in our personal interactions." For a full list of these stated principles, please see http://berkeley.edu/about/principles.shtml.

In this year's email, I extended this notion of civility to another crucial element of Berkeley's identity, namely our unflinching commitment to free speech — a principle this campus will spend much of this fall celebrating in commemoration of the 50th anniversary of the Free Speech Movement.

My message was intended to re-affirm values that have for years been understood as foundational to this campus community. As I also noted in my message, these values can exist in tension with each other, and there are continuing and serious debates about fundamental issues related to them. In invoking my hope that commitments to civility and to freedom of speech can complement each other, I did not mean to suggest any constraint on freedom of speech, nor did I mean to compromise in any way our commitment to academic freedom, as defined both by this campus and the American Association of University Professors. (For the AAUP's Statement of Principles on Academic Freedom and Tenure, please see http://www.aaup.org/issues/academic-freedom.)

I did, however, express my conviction that in the ongoing debates on campus about these and other issues, we might collectively see the value of real engagement on divisive issues across different perspectives and opinions. By "real engagement" I mean openness to, and respect for, the different viewpoints that make up our campus community. I remain hopeful that our debates will be both productive and robust not only to further mutual understanding but also for the sake of our overriding intellectual mission.

Sincerely,

Nicholas B. Dirks
Chancellor

CUCFA Statement on “Civility” and Academic Freedom

Posted on September 11, 2014 by ucifa

On Friday Sept. 5, Chancellor Dirks of UC Berkeley circulated an open statement to his campus community that sought to define the limits of appropriate debate at Berkeley. Issued as the campus approaches the 50th anniversary of the Free Speech Movement, Chancellor Dirks’ statement, with its evocation of civility, echoes language recently used by the Chancellor of the University of Illinois, Urbana and the Board of Trustees of the University of Illinois (especially its Chair Christopher Kennedy) concerning the refused appointment of Steven Salaita. It also mirrors language in the effort by the University of Kansas Board of Regents to regulate social media speech and the Penn State administration’s new statement on civility. Although each of these administrative statements have responded to specific local events, the repetitive invocation of “civil” and “civility” to set limits to acceptable speech bespeaks a broader and deeper challenge to intellectual freedom on college and university campuses.

CUCFA Board has been gravely concerned about the rise of this discourse on civility in the past few months, but we never expected it to come from the Chancellor of UC Berkeley, the birthplace of the Free Speech Movement. To define “free speech and civility” as “two sides of the same coin,” and to distinguish between “free speech and political advocacy” as Chancellor Dirk does in his text, not only turns things upside down, but it does so in keeping with a relentless erosion of shared governance in the UC system, and the systemic downgrading of faculty’s rights and prerogatives. Chancellor Dirks errs when he conflates free speech and civility because, while civility and the exercise of free speech *may* coexist harmoniously, the *right* to free speech not only permits, but is designed to protect uncivil speech. Similarly, Chancellor Dirks is also wrong when he affirms that there exists a boundary between “free speech and political advocacy” because political advocacy is the *apotheosis* of free speech, and there is no “demagoguery” exception to the First Amendment.

Before the slippery slope of civility discourse we remark that the right to free speech is not limited to allowing the act of speaking or engaging in communicative actions to express ideas publicly, nor is it contingent on the notion that anyone else needs to listen, agree, speak back, or “feel safe.” The right to free speech is constituted through prohibitions on the infringement of speech by the state and other public institutions and officials. Moreover, while civility is an ideal—and a good one—free speech is a right. The right to free speech does not dissipate because it is exercised in un-ideal (un-civil) ways.

Second, we underline that the right to freely speak on public and institutional issues is one of the three pillars of academic freedom. Academic freedom is a specific—though not exclusive—right of professors. The three pillars of academic freedom that extend to individual members of the professorate are: (1) the freedom to conduct and disseminate scholarly research; (2) the freedom to design courses and teach students in the areas of their expertise; and (3) the right to free speech as laid out in the 1940 Statement of Principles of Tenure and Academic Freedom which

in this context prohibits the professional penalization of professors for extramural speech. Ensuing from academic freedom is the right and duty of faculty to decide, collaboratively and individually, standards and thresholds for teaching and research, without interference from administrators, alumni, or donors. Those determinations are based on standards of scholarly excellence and achievement, which manifest through hiring, academic publishing, and peer review processes in which an individual's academic record is judged by peers. Those who administer institutions of higher learning bear a responsibility for the protection of academic freedom, which includes free speech in the ways described here.

The University of California bears an especial burden to respect these rights. For the rights of academic freedom and the 1st Amendment right to free speech cohere in a way peculiar to a public university. As a public university the University of California is called upon to affirm not only the guild rights of Academic Freedom but the more expansive rights of the 1st Amendment—which after all, are possessed by students and staff as well as faculty.

On the basis of all of the above, CUCFA Board deems necessary to release the following declaration and to ask its members, and all UC faculty to press their Senates to pass it as a resolution:

Taking note of the concurrent rapid growth in non-academic administrative positions in most colleges and universities and the significant reductions in state/government funding for public universities during the last decade,

Concerned by numerous accounts across the United States of senior administrators, management, boards of trustees, regents and other non-academic bodies attempting to influence, supervise and in some cases over-rule academic hiring, tenure and promotion decisions, as well as policy and evaluatory decisions traditionally under the purview of Academic Senate and other faculty bodies,

Concerned further by the attempts of senior administrators in the UC system and at many universities across the United States to narrow the boundaries of academic freedom and permissible speech by faculty, students and other members of the university community, and, in particular by the inappropriate and misleading appeal to concepts like "civility" and "collegiality," deceptively used to limit the "right" to free speech, and as criteria for hiring, tenure, promotion and even disciplinary procedures,

We reaffirm,

That all professional evaluations related to hiring, tenure, and promotions of either present or potential faculty are the sole purview of designated committees composed of faculty members, department chairs, and deans as peers and/or academic supervisors of anyone under review and/or evaluation,

That senior campus and University/system-wide administrators, as well as Regents and other governing boards, or donors to the university and/or its foundation(s), do not have any right to interfere in these processes, and that final decisions on appointment and promotion must be

based solely on information in the candidate's file that is related to established categories of teaching, research, and service and that has been added by established procedures of peer academic review.

That we oppose any insinuation that civility, per se, be added either formally or informally as a valid category in the academic personnel process, as well as any attempt by external parties, including donors to the university, government officials, or other forces, to interfere in any personnel decisions, especially through the threat of withholding donations or investments should certain academic policies or personnel decisions be made.

(CUCFA — The Council of University of California Faculty Associations — is a coordinating and service agency for the several individual Faculty Associations — associations of UC Senate faculty — on the separate campuses of the University of California, and it represents them to all state- or university-wide agencies on issues of common concern. It gathers and disseminates information on issues before the legislative and executive branches of California's government, other relevant state units dealing with higher education, the University administration, and the Board of Regents.)