

# 'Fuck You' and Other Salutations: Incivility as a Collective Action Problem

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“For as laws are necessary that good manners may be preserved, so there is need of good manners that laws may be maintained.”

—Machiavelli, *Dei Discorsi*

## 1. Introduction

Calls for civility are the moment's keynote. Greater civility is enjoined for public discourse, both on-air or online, in shared spaces, whether physical or virtual, and in common undertakings ranging from the mundane (whether or not to recline your airline seat back) to the essential (whether or not to pay taxes). Civility is thought especially important in those areas where there is no explicit regulation, such that citizens themselves must act to coordinate their actions, or in the spaces that run between explicit regulation and its application in fact, such that citizens must negotiate the precise details of regulatory execution. The urgency of these calls rises in direct proportion to the amount of everyday conflict that is encountered in social life, from shopping malls and corridors to Facebook encounters and Twitter feeds.

As Machiavelli perceives, the ideal relationship between law and manners is symbiotic. (I take 'manners' here to mean more than, e.g., table manners, hence to at least include, if not indicate, civility as understood today; though more on that later.) Each term of this distinction reinforces the other after the fashion of the rules ('laws') of an organized sport such as football insofar as they related to the unwritten norms ('manners') of good sportsmanship in the executed iterations of the game. The trouble comes when this symbiosis generates systematically deformations by (legal) advantage-taking within the game that runs contrary to the norms but is nevertheless exempt from

punishment. Such advantage then generates incentives for further violations of the norms. This is what I will call the *regulatory capture* of civility.

Most defences of civility proceed along positive lines: that is, they argue for civility as a virtue of citizens and/or dialogic participants; or they enumerate goods and outcomes that civility can generate. These arguments, while well intentioned, tend to fall into that peculiar form of comforting uselessness known as preaching to the choir. They do not succumb to lack of validity, only lack of effectiveness. In this paper I propose to reverse the polarity of civility defences by providing a negative argument. My claim is that civility can be defended best by demonstrating that incivility generates a collective action problem (CAP) along the lines of the standard *race to the bottom*. I will further explore how incivility CAPs generate wider democratic deficits in the form of political-dialogue CAPs. I conclude with a suggestion that democracy under capitalist conditions is structurally prone to CAPs, and that the recovery of democratic deficits can only be pursued via a revitalized political economy of *the gift*, in particular the invaluable gift of *silence*.

## **2. Smith's Conundrum**

We must appreciate the somewhat unexpected presence of Machiavelli, usually considered a political realist, on this field of argument. His controversial position on virtue suggests the stakes, and the difficulties, of the debate. Another realist can be invoked on the same point, though to be sure he is here speaking in his pragmatic-liberal mode. "By Manners, I mean not here, Decency of behaviour; as how one man should salute another, or how a man should wash his mouth, or pick his teeth before company, and such other points of the Small Morals," Hobbes avers in *Leviathan*; "But those qualities of man-kind, that concern their living together in Peace, and Unity." Hobbes's and Machiavelli's *manners* mean the same thing, something very like the

social virtue of civility, in fact, and not just a set of behavioural rules and conventions without special (or much) ethical significance. Hobbes and Machiavelli likewise both want to insist that such manners *matter* in making higher-order law operative in the social order.

One might begin an account of civility as a political virtue in more than one place. My choice here is directed by the special problems generated by the relationship between such accounts and emergent capital-dominant economies. Thus, instead of Aristotle or the Latin civic republicans, we begin with Adam Smith. Smith's version of the positive civility defence is a key moment in the growing inability of such defences to be effective. Smith, following the lead of Hume and other Scottish Enlightenment apostles of 'the polite society', argued that politeness was a virtue of social interaction. It encouraged good feeling among citizens, and worked to smooth the rough edges of persons when they entered the company of others or, more to the point, shared social spaces. The special strain of 'the polite society' as a defence may be captured in the etymological note that polite comes not, as many people suppose, from the Latin *polis*—city, politics—but from the phonetically similar but semantically distant *politus*, polish. A polite society is a polished one, and while it is the case that the cycles of social life might work like a rock-polishing device, rounding off sharp points in repeated tumbles, there is no sense here of an independent moral value. The connection between politeness and Smith's most powerful moral sentiment, sympathy, is present but tenuous.

Precisely this is what allows him to defend politeness thus even as he limns the influential defence of market reliance after observing the workings of a Scottish pin factory. Smith holds an explicit brief for the inherently rational workings of the market, including its ability to tolerate marginal corruption and free-riders; which means—though this is never set out in so many words—that he must abandon any strong republican account of civic virtue. The two positions are not compatible: any enjoiner

for the latter would suggest, perhaps demand, limits on one's behaviour in the former, and that means so much the worse for the republican account. The republican citizen does not make an effective or cooperative producer-consumer—something clear, perhaps, at least since Plato's Republic distinguished producing and consuming from 'higher' functions of the soul.

The time has passed in which such ideas of the soul could be seriously maintained, and in any event they do not answer to the new economic realities of mercantile production, free trade, and cash-based consumption. Smith is among the first philosophers to recognize this particular early-capitalist reality check on moral-philosophical ambition; but, at the same time, he is unwilling to defend that which his many *post mortem* admirers have imagined he called for, namely an entirely unregulated market. He knows, in fact, that can be no such thing as an unregulated markets. All markets are regulated by some mechanism or mechanisms of exchange: that is what a market is. The important question is always how the market is regulated, and for whose benefit. Smith is sincere in his defences of sympathy; on the question of present concern, he salvages moral sentiment by, in effect, downgrading civic-republican character to cooperative social nicety. Civility as a political virtue is reformed and becomes politeness as a social one.

The difficulty, in my terms, is his failure to recognize the immediate prospect of a CAP in such an account. This is what I will call Smith's Conundrum. Smith follows Daniel Defoe, Bernard Mandeville, and David Hume in believing republican accounts of virtue to be excessively demanding and, hence, unrealistic given the basic selfishness of humans. Instead, society could in effect bank on that selfishness to produce, under certain conditions, a functional civic order. Commercial transactions, driven by personal interest, would generate public goods in the form of working markets and, crucially, fair players within those markets. The fair of play would be guaranteed by the allocations of costs and benefits through the market itself. In an important twist on

the Machiavellian nostrum relating laws and manners, Smith further argued that there need not be any deep connection between private virtue and the public good. Private vice, in the celebrated formula, could generate public virtue. Manners, insofar as they were maintained as a matter of personal cultivation, were valuable; but the market could function quite well without them.

The difficulties of this view were visible to Smith himself, and he is at pains to nuance the general claims against a general account of moral sentiments. The Conundrum lurks despite his efforts. The reduction of public virtue to transactional function, because it tolerates *some* corruption, cannot ward off *systemic* corruption. Transactional reduction follow no logic other than its own, and will be constrained only by market failure, as when a price is refused or a sharp practice taxed. There are some clear upper limits in a market game—I cannot assassinate my competitors, or destroy their wares—but below the threshold of failure lies a great terrain of vicious possibility, and only isolated and incidental patches, if any, of virtue. Think of a game which has rules but no norms of fair play or culture of sportsmanship.  In such a game, any move can be calculated entirely on a risk/reward scale of *what it will cost*. Even ‘prohibited’ moves may then be executed, providing the price of any resulting penalties can be absorbed without crippling loss.

By displacing the once-public virtue of civility to the private realm of cultivation—even though this cultivation is still publicly displayed, it has no particular political significance—Smith has in effect transformed the constraints of virtue into incidental costs. What once was an ethical *fine* now can be recast as a market *price*. The desiderata of politeness do not function as constraints because they can now be assessed according to relative expense. Thus the regulatory capture of civility, mirroring the modern-day regulatory capture of government agencies by the sector or industry they are meant to regulate, resulting in failures of the public good. Regulatory capture in effect privatizes allegedly public interests, allowing pooled moneyed interest to obviate citizen interest.

Smith's privatization of *virtue*, set against a background of general commercial freedom, cannot halt any trend toward total transactional reduction in his system.

We can see how, dancing on this uncertain terrain, Thomas de Quincey could offer one of the most famous inversions of conventional morality in English, his much-quoted worry from the essay "On Murder Considered as One of the Fine Arts," published in *Blackwood's Magazine* in 1827: "For if once a man indulges himself in murder, very soon he comes to drink little of robbing; and from robbing he comes next to drinking and Sabbath-breaking, and from that to incivility and procrastination." Usually heralded as a vanguard sally in the kind of decadent topsy-turvy wit that Oscar Wilde would bring to lapidary perfection, even as the essay itself is considered one of the enabling texts of the murder-mystery genre, a sort of theoretical *ur*-text for the aesthetics of the 'perfect crime', in fact de Quincey's formulation should be read as a devastating reverse commentary on the emptiness of surface virtues. His own reactionary political views tend to pull even farther away from the proto-Wilde interpretation, even as his celebrated opium indulgence suggests a libertine of a high order. At all events, whether decadence and right-wing politics naturally mix must remain a matter of debate—and taste. What is clear is that de Quincey is not simply fooling around; he has a serious ethical and political point to make.

Incivility and procrastination are here understood as social vices, and social vices having been disjointed from deeper ethical sensibility and elevated to the level of necessary conditions of civilized life, their violation of decorum must be condemned as worse than murder and robbing. Murder, indeed, becomes in de Quincey's inverted scale of wrong-doing the gateway drug of norm-breaking that leads by swift and frightening stages to breakdowns in polite behaviour. The reversal carries the message: in a society where mere politeness is of seeming greater value than true virtue, its moral status is no more than a smokescreen for traditional vice. To put the point clearly (and so, alas, drain it of the author's elegant irony): only a madman would consider that

incivility is worse than murder, and only a mad world would concentrate its attentions on disruptions of superficial expectations over the deathly depredations of real theft and destruction of life.

By the time of the essay's composition, the Hume-Smith philosophical formulations of civility had, as so often, hardened into mere social carapaces that commanded 'appropriate' public deportment without regard for any deeper qualities of interpersonal consideration, let alone general personal virtue. Even the minor element of ethical substance had been drained from civility and rendered it, via a surprising reverse-polarity version of the Machiavelli/Hobbes distinction, into no more than politeness, the small morals. This sort of politeness is not robust enough to perform the positive task of bolstering law, nor independent enough to exert the defensive pressure needed to curb selfish interest in the market. Politeness, however pleasant, cannot forestall a general reduction of the shared aspects of ethical life to processes of cost-benefit calculation performed according to instrumental reason. Indeed, we might begin to suspect that for Smith, as for some of his more extreme followers, there is no such thing as 'shared aspects of ethical life'. (Compare Margaret Thatcher, speaking as prime minister of Britain: "There is no such thing as society." The claim performs a twofold function: it (a) denies any state responsibility for individuals or their outcomes; and by extension (b) denies the existence of non-individual public goods.)

At this stage, we are not far from Schopenhauer's celebrated hedgehogs, who find "[t]he mean distance which . . . which enables them to endure being together [in] politeness and good manners (*feine Sitte*)"; or Emerson's tart observation that "Politeness was invented by wise men to keep fools at a distance." But in fact matters are worse than that. After all, a wise man—or indeed, any person wise or otherwise—may well feel happy to take advantage of the refuge politeness offers us from unwanted social contact. And surely there is a similar sort of advantage in evolving mechanisms of social order such that our repulsive qualities may be held (somewhat) at bay even as

we enjoy the benefits of cooperation. Every realm of social life, not just the traditional scenes of eating and dressing, might well generate its own manuals of etiquette. (A recent example: a pamphlet concerning good behaviour at art openings called *I like your work: art and etiquette*. One contributor noted that “bad manners” in this realm could be defined as “violence, passing out, vomiting, hoarding all the beer”—which somehow sounds like just one thing.)

Such etiquettes will never suffice, however. The deeper problem is a matter of systematic distortions in the very idea of advantage. In short, the full thrust of Smith’s Conundrum is that he defended politeness instead of civility; it is rather that the very defence of politeness, because in fact ultimately market-based, opens the door to progressive abuses of civility.

### 3. Fuck You

The standard argument in favour of civility as a political virtue  something like the following. At least since Aristotle it has been obvious that a thriving political order—let us call it a just society—happens only when there is a significant store of fellow-feeling between citizens. Aristotle was an ethical monist, of course: when there is just one best way to live, one singular (if multipart) manner in which to flourish as the human form of life, there can no serious argument about good citizenship, only a nuanced account of the *eunoia*, or good will towards an other, necessary to achieve it in fact. Strictly speaking, Aristotle has no need of civility insofar as it is understood as a restraint on bad behaviour. Good behaviour is, instead, an emergent property of a polity in harmony with its own ends.

Under conditions of ethical pluralism—that is, where there is more than one answer to how one should live—we quickly see that conflict, not harmony, is the basic condition of human affairs. You don’t need to be a confirmed Hobbesian to

acknowledge that it is not all sweetness and light at the polling station or debating floor. Somewhere in the seventeenth century civility emerges as  signal virtue of politics precisely because it allows diverse views to be debated with tolerance and respect—at least sometimes. The basic insights of Locke's *Letter on Toleration* and Spinoza's *Tractatus Theologico-Politicus* is obvious: we need not agree, especially on the specific routes concerning salvation, if we can agree to disagree. "Truth," Locke argued in the former text, "has no such way of prevailing, as when strong Arguments and good Reason, are joined with the softness of Civility and good Usage." Indeed, from the perspective of modernity, that rational-civil background of agreement concerning disagreement is a major achievement of human civilization. Not only does it allow a minimal cohesion, staving off the anarchy of war between all and everyone, but the conditions of rational disagreement actually indicate a significant upgrade in human intelligence. Even vehement argument, if it replaces outright violence, marks a big step forward in the march of reason and civilization.

Not that it is all about reason. Smith would, in *The Theory of the Moral Sentiments*, persuasively suggest that sympathy, the recognition of shared human vulnerability, is the real glue of social structures. Contractual theories, like the ones popularized a century earlier by Hobbes and Locke,  miss a crucial point that the hero of the free market actually discerned with typically  acuity. We would not make a contract with another, still less hold to it, unless we already recognized the other as an entity worthy of our consideration *in some sense*. There may be fear woven into the heart of all contracts, and comprehensive selfishness may be compatible with reason as Hume had memorably asserted, but not all of that fear and selfishness is personal nor is fear all that is so woven. Civility is the expression of regard for the other when discussing matters of shared political concerns. That is why it is both more and less than the mere politeness with which, as we have seen, it is often confused: more because it extends well beyond the niceties of interpersonal behaviour, but less because it is not rule-

governed or explicit. Civility is, on this account, something like the political air we must all breathe to negotiate our differences and—maybe—serve the cause of justice.

This is an optimistic picture; worse for present purposes, it is one that is justified using arguments that are themselves optimistic, namely that people will smoothly discern a personal interest in being cooperative. Hence the standard objections to a political virtue of civility, which run the gamut from the claim that civility stifles dissent or obscures power relations to the brisker claim that civil talk, in common with all talk, changes nothing. None of these objections is ever far from sight. In 2007 when the collection of intellectual anarchists known as The Invisible Committee published their manifesto, *The Coming Insurrection*, that said this to say about civility and politics: “All the incivilities of the streets should become methodical and systematic, converging in a diffuse, effective guerrilla war that restores us to our ungovernability, our primordial unruliness. . . [R]age and politics should never have been separated. Without the first, the second is lost in discourse; without the second the first exhausts itself in howls.”

That is, if nothing else, an elegant piece of dialectical reasoning. *Rudeness now!* The only trouble is that, though passion may sometimes fuel good change, rage is a distinct modality of human conduct. Rage and politics really should be separated, or there will be no such thing as discourse, just shouting. Even anarchists demonstrate this—otherwise they wouldn’t bother penning manifestos that make studied factual claims and offer rational arguments. (The calm, scholarly tone of *The Coming Insurrection*, with its reasoned demands to destroy families and even couples—“the utopia of autism-for-two”—is ironically hilarious, possibly by design.) But the argument for civility based on the presuppositions of discourse is valid only if already we accept, however tacitly, those presuppositions. And clearly many people do not. So what, if anything, can we say to them?

Consider the theoretically minimalist possibility that incivility is nothing except a species of collective action problem. A collective action problem is generated whenever

a situation's rational opportunities at the individual level generate, at the systemic level, outcomes that are bad for everybody. Take, as an all-too-familiar example, status-seeking via acquisition of name-brand consumer goods. As we compete for this positional good, we accrue mounting opportunity costs; moreover, every move to advance my position creates a new incentive for you to invest more in order to pursue the motive good, which is the status and not the shoes themselves. Because this good functions by position, there is no theoretical upper limit to the ratcheted spending of our competition. We can't win for losing. We all end up poorer—except for the shoe manufacturers.

These competitive-consumption race to the bottom and tragedy of the commons have been much analyzed for their prisoner's-dilemma-style paradoxes, investigating how and when the exercise of rational self-interest generates system-wide defeats that leave everybody worse off. It is now amply clear that individual rationality in the form of profit-seeking, amped by greed, cleverness and forms of derivatives that even their ardent traders did not fully understand, led to the collective self-defeat we know as the economic meltdown of 2008—though this says nothing about the uneven distribution of the costs of that meltdown, in which the greediest ended up losing the least. But relatively little attention has been given to discursive versions of collective action problems, perhaps because we assume that  discursive transparency—unlike competitive dilemmas  we know what the other is going to do. This assumption is false, though. Discourse, no less than consumption, has positional and hence competitive aspects. Indeed, winning the argument—or rather, being seen to win it—is the essence of many discursive exchanges.

The philosophical defence here has always been that some arguments just are better than others, and so they carry the day justifiably, not just factually.  Which may be true in some idealized sense, though there are certainly people who would doubt even the idealized claim. The trouble is that there are still lots of ways that the worse

argument can win factually, and incivility is one of these. So I have a clear incentive to resort to it, especially if my argument is weak. *You jackass.* Now, however, you have an incentive of your own. In fact, merely repeating the incivility would only return us to position one, so you actually have an incentive to raise the rudeness stakes. *Where do you get off calling me a jackass, you moron?*

Rising incivility is thus like other forms of competition over position. Rudeness is parasitic on civil talk, because only by contrast to that talk does it achieve its argumentative advantage. Now it becomes rational—it makes sense, from the perspective of maximizing expected utility—for me to adopt the same tactical advantage in pursuit of victory. But as soon as I do, I give you a reason to adopt and exceed my rudeness. Which then gives me further reason to go farther. And so on. The result is that the goal we sought, carrying the discursive day, has been obliterated. Nobody can win now, because the well is poisoned; it no longer contains the fresh justificatory water that drew us here in the first place.

So much for Locke's reason-plus-civility, not to mention what Habermas labeled "the unforced force of the better argument," that fanciful lode star of rational discourse. Even Mill's "marketplace of ideas," where good arguments are supposed to emerge as evolutionary winners, has a hard time surviving the rigours of real life. In actual discursive markets, bad money tends to drive out good, not the other way around. Birthers and Tea-partyers can effectively cloud the truth by flooding the market with misinformation, the discursive equivalent of shoddy but cheap merchandise; and corporate donations to election war-chests are effectively limitless, especially given the recent five-four United States Supreme Court decision, skewing the electoral process in favour of their interests. In *Citizens United v. Federal Election Commission*, decided in January 2010, the Court held that restrictions on independent corporate expenditures in political campaigns, as opposed to direct political contributions, are unconstitutional restrictions on the freedom of speech.

This decision at once inhibits democracy by quantifying (and then hiking) the opportunity costs of participation, even as it reduces the idea of such participation to money itself. Corporations have been granted some of the rights of citizens in American law for some decades. But this decision does more than extend such rights. By means of a spectral metaphysics of plutocracy, it effectively delivers the electoral process over to the moneyed interests whose pools of capital are now instantly transformed into pools of influence. As one critic of the decision noted: “Much of the judicial literature on the subject, including Justice Anthony Kennedy’s majority opinion in *Citizens United*, simply substitutes the words ‘speech’ and ‘speak’ for the words ‘spend’ and ‘buy’.”

Amazingly—amazing, that is, only if you have not been paying attention to the outraged sense of grievance typical of the Wall Street lobbies—the Court’s majority decision saw nothing dangerous in the transformation. Justice Kennedy had argued that “it is well understood that a substantial and legitimate reason, if not the only reason, to cast a vote for, or to make a contribution to, one candidate over another is that the candidate will respond by producing those political outcomes the supporter favors. Democracy is premised on responsiveness.” He then went further, tipping the decision into the realm of sick fantasy: “The appearance of influence or access, furthermore, will not cause the electorate to lost faith in our democracy.” Will not? It will *not*? This last is a sentence one must read several times to be sure it is not the result of an editing gaffe. (The dissenters were wry, if ineffective, in their objections: “While American democracy is imperfect,” Justice John Paul Stevens wrote in his minority decision, “few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.”)

All the while, in every jurisdiction and most vividly in that public sphere beyond all jurisdiction we know as the virtual, there is widespread deindividuation—adopting an online nickname, for example, or hiding behind a political action committee so that

uncivil moves can be made with impunity—that tends to exacerbate the general damage by snapping the bonds of personal responsibility for what people say. It is a small irony of the digital world that Rawls's 'veil of ignorance', behind which imagined anonymous citizens rationally choose fair principles of justice, has been actualized in the real world as the get-out-jail-free card of nameless flaming. Under extreme conditions, the instrumental rationality that dominates current discursive spaces issues the general imperative, familiar from less salubrious realms such as public-house violence, of *instant escalation*. That is, when there is no rational curb on the swapping of rising incivilities, it makes strategic sense to take your game to maximum on the first move. In my title's parodic terms, *Fuck you* becomes the salutation of choice, even if it eviscerates the possibilities of the discursive space at the outset.

The argument I am offering here is the oppositely-charged companion to the traditional one of moral sentiment. In short, instead of (or in addition to) saying that civility is a good thing for a pluralistic society, respecting difference and disagreement, we can say just why incivility is a bad one along the lines of thought established by realist-liberal Hobbesianism, where minimal self-interest is considered adequate to generate and legitimate a political *modus vivendi*, without appeal to metaphysical or otherwise non-political motives for cooperation. And that reason is simple: incivility is self-defeating. Ultimately, all recourse to advantage via incivility work against everyone's individual interests, including the individual who made the first non-cooperative move. Being rude might look like a good discursive tactic in the short run, but sooner or later it is revealed as a loser's move because it destroys the goods we sought to gain in the first place.

You might be thinking—and poised to email me—that surely nobody sane considers anonymous discussion boards or even wackjob attack campaigns genuine forums of democratic debate. True, but it is nevertheless instructive to watch how our fellow citizens talk to each other over the issues of the day. And consider the more

serious case of political attack ads. Though widely decried by citizens, polls demonstrate that they still are still sometimes effective. That gives all parties a strong motive to use them. Once the last resort of a dying election campaign, attack ads are now business as usual even for the party in power, launched pre-emptively in place of the former convention of ads that outline competing platforms. Remember platforms? Where parties would set out what they believed in, rather than attacking the competing guy as a doofus, a cynic, an opportunist? Those were the days.

The claims that negative ads excite political energy, and hence are good for discourse—yes, some people claim to believe this—fall down when we observe that their effect is spiralling nonsense *from the start*. An attack ad is a deliberate appeal to unreason—fear or suspicion or hatred—which can only mean that the party fashioning the ad has nothing rational to offer. If we let discursive idiocy of this order succeed, we really would be a sad lot. The fact is, attack ads do not even work reliably, which means a party resorting to them is being stupid as well as rude, because you never know when they will backfire, damaging the hand that threw the first stone. This is true even when the bearer of that hand will try (as he will) to blame the other party for starting it. And so on, of course, until the incessant name-calling blankets a miasma of disgust over the entire public sphere. If you still doubt that these incivility ratchets can also disable forums of democratic debate more important than television—well, surely your cable package includes CPAC.

#### **4. Civility as a Public Good**

Unfortunately, the CAP argument against incivility is imperfect, especially in the short term, which means that its corollary implicative argument in favour of civility is serially weakened. Game-theory research has shown that optimal results in many games can be achieved with a combination of cooperation and defection—that is, the

best strategy is neither to work together all the time nor to cheat all the time, but to mix it up so your competitors cannot predict your moves. Under competitive conditions, equilibria that involve risk of self-defeat but also generate greater rewards than cooperation will always dominate, sometimes strongly.

At this point in the general argument, the risk of self-defeat may be offset by a number of possible bolstering moves, all more or less controversial. One may, for example, extend the narrow range of rationality associated with the game-theoretic approach and appeal to forms of interest that are not constrained to personal profit. The rules/norms distinction introduced in the first section is one example of how this may be done. Yes, it is within the rules always to seek advantage, even sometimes to bend the rules to that advantage; but constant play of this sort may begin to rankle other players, threatening future rewards even below the threshold of self-defeat. Such a side-constraint of good sportsmanship is then structurally similar to familiar game-theory conclusions concerning trustworthiness or sincerity, which come into play in any multiple-iteration game. Though  these constraints too can be gamed, if one is clever enough.

Other possible bolsters include enforced bargains, which effectively act as miniature social contracts within a larger framework of competition. Traffic rules fall under this heading, at least in their more arbitrary deployments (e.g., whether to drive on the left or the right side of the road, a non-disputable decision with no cost to anyone). As we have seen, though, the difficulty with such bargains is that they can be gamed at the margins by converting fines into prices. The same limit holds for all game-generated disincentives, provided they are small or rare enough to be absorbed into one's overall cost-benefit analysis.

Naturally we must rule out, on present grounds of argument, more searching forms of bargain and disincentive, such as appeals to general goods, overall welfare, categorical imperatives, self-policing in the name of virtue, and empathy. Though all of

these may be, indeed have been, used as curbs to the lurking escalations and self-defeats of incivility, none of them is free from the controversial commitments to those wider values than self-interest and more expansive accounts of reason that we cannot, for the moment, allow ourselves to indulge.

What I want to suggest instead is that the incivility CAP reveals civility as a good of a particular economic kind. In classical economics, a good is *public* when access to it is not gated by ownership, so that its benefits—what makes it a good—are available to everyone, and one person's use of the good does not diminish another's ability to use it. In the jargon, such goods are *non-rival* and *non-excludable*. Public goods come in different forms: they may concern tangible things (grazing land, fish in the sea, the air we breathe) or intangible ones (education, cultural identity, political participation). Since they are non-rival, public goods are theoretically unlimited by definition; in the event they often become scarce as a result of use.

How is that? Well, suppose the public good is a natural resource, such as potable water, whose supply is limited even as its value to everyone is obvious. Access to such goods is supposed of common interest. Unfortunately, when unmanaged, even abundant public goods are frequently subject to what the economist Garrett Hardin called "the tragedy of the commons." It is rational for each one of us to take advantage of a public good, but to the extent that we all do, and increase our advantage as interest dictates, the ultimate effect is the destruction of the resource. Hardin's common grazing land example makes the point vivid: each one of us has an interest in feeding as many of our livestock as we can, but as more and more people do so, the common land is soon brought up to, and then as quickly past, its limit. Result: everybody loses for winning. This is the public-good version of the incivility escalation.

The typical responses to this or ~~or~~ threat are regulation or privatization. As we have seen, neither is without cost. Privatization of some goods—air, for example—is economically untenable as well as offensive to the common need. (Though note that

privately supplied water, sold in bottles for profit, is now widely accepted: a red flag.) Regulation of resources, like all law, is difficult to enforce at the margins. It also risks what we may call the ratchet effect: the more law you have, the more you will need, and you can't go back once you've begun. To be sure, depletion of the resource is also subject to ratchet effects: use begets more and greater use, to the point of failure.

Other problems afflict non-material public goods. Take education, which most people like to consider (and all politicians claim to be) a public good. In theory, there is no reason why it should not be: my enjoyment of the benefits of education should  hamper yours, after all; there is more than enough to go around. But in practice education is structured in the form of institutional influence and attendant institutional access. Not everyone can get into Harvard, and Harvard enjoys a non-material prestige effect which translates reliably into other, decidedly material goods. The competition for access therefore generates a zero-sum game—my having the good of a place at Harvard means you cannot have it, lest the prestige effect be defeated by dilution. We find education quickly sliding into the paradoxical category of a positional public good: something that in principle is universally available but which nevertheless falls prey to rivalry and exclusion.

Arguably there is also a distinct category  public positional goods, or those sometimes called goods of excellence. The good of youth, for example, is universally distributed at birth and declines at the same rate for everyone, yet it rapidly and inevitably establishes a positional hierarchy in terms of sexual desirability or earning power. An Olympic gold medal is a good theoretically available to everyone in that it is publicly contested, openly judged, and definitively awarded; but only one person or team can ultimately enjoy it. Neither of these goods can be purchased: one does not buy the medal except as a souvenir, nor youth except as a surgical fiction. Absent the taint of cheating or corruption—alas, large caveats, especially in professional sports—such goods retain both desirability and scarcity without ever being depleted. Social

status is a public positional good, in the sense that it is universally competed for but scarce by definition, hard to get yet available to everyone. It is awarded only by the esteem of others, but because status is mutable as well as intangible, it is easily confused with, or becomes tangled up with more obvious and calculable factors such as material wealth or parentage. As with youth, one cannot compete for the latter good—the genetic lottery is a closed gate in the system, immune from regulation—while the former good usually generates a race to the bottom.

In the classical ideal theory, positional public goods and public positional goods should be contradictions in terms: anything zero-sum is not public and anything public not subject to relative gain. In reality, the various hybrids of publicness and exclusive competition are unfortunately common. And such hybrids are much harder to regulate than ordinary goods. Environmental quality or beauty in a landscape are other positional public goods: in theory open to all and non-rival, in practice they are frequently gated by access and opportunity costs. The given landscape view may be obtained only from a private house, for example, just as the university place may be preferentially available to the daughter of a graduate. Theoretical general access is almost always unevenly distributed in fact. Here we have only to think of the alleged public goods known as equality before the law and the rightful pursuit of happiness. The latter in particular tends to generate the competitive equivalent of a commons tragedy, a race to the bottom. Ever struggling to establish position against their neighbours, individuals compete so hard that everyone ends up spending more than they have. Once more working in ratchet, they progressively price themselves out of their own happiness market, but on a wide social scale.

Since happiness is not itself subject to political regulation, at least in liberal states, and because the public good of status lies beyond their ambit, governments tend to manipulate the competition instead, using regulation, taxation, or reparation to express a common interest in the distribution of public goods. In an ideal world, the income

produced by regulation can end up managing the first kind of public goods, such as scarce land or fresh water, so that they survive commons tragedies, or maintaining a vigorous public interest in goods that tend toward competition, such as education, to avoid unequal use or races to the bottom. Of course, whatever economists may say, we do not live in a world of ideal theory.

I therefore suggest that civility is a public good in the following sense. Its benefits are free of charge because they cannot be gated: the good is non-excludable. It is also non-rival in that engaging in civil behaviour does not, in itself, generate a competition. It is only when incivility is viewed as conferring a competitive advantage that the public good of civility is weakened and progressively destroyed by the unstoppable incursions of runaway private interest. The solution is not to enforce civility but to show that there is an equilibrium always already generated by the public idea of civility. Not only is this equilibrium more beneficial in its overall effects, it is more efficient at the level of the individual player as long as that player thinks even two moves ahead. Casting civility as a public good removes it from private interests *in the service of those interests*.

More significantly, the public-good thesis shows that civility must be seen as an infinite rather than a finite game. A general objection to game theory is that, even over many iterations, the games it posits are always and inevitably competitive. To be sure, this is no valid objection within the stated purview of such theory, precisely competitive games. But we can note here, and without excessive commitments concerning value or rationality, the many non-competitive games which excite our interest, and serve our ends, just as comprehensively as competitive ones. Transfinite games are ones whose general ludic goal is the game's continuance, not a definitive outcome. Transfinite games resemble Carse's notion of infinite games but without the attendant religious or existential perspective. "The rules of the finite game may not change; the rules of an infinite game *must* change," Carse argues. This is so because, with its general goal of

continuance, an infinite must not cease, and so any move that seeks or even merely generates the effect of an approach to resolution must result in changes to guarantee continuance. “Finite players play within boundaries; infinite players play *with* boundaries,” Carse goes on. “Finite players are serious; infinite games are playful.” The difference in transfinite games is that they are not, as Carse’s infinite game is, identical with life itself. (“There is only one infinite game.”)

Transfinite games offer the same playful possibilities as highlighted in the Carse distinction, but they also serve definable ends. In the case of civility, the continuance of the game has the effect not only of allowing the productive disagreements of politics to proceed without degeneration into competition and, eventually, self-defeat; it also underlines the need for a general orientation to publicness as a presupposition of any pursuit of private ends. The public good of civility is (must be viewed as) this type of game—a result that we can appreciate fully by experiencing the self-cancelling negative results of multiple incivility CAPs in political life.

## 5. The Rest is Silence

Are civil citizens true friends, or just friendly competitors in various games, some of them zero-sum? In a striking passage in *The Politics of Friendship*, a book that takes apparently infinite pains to query the links (and the gaps) between politics and friendship, Derrida makes this striking claim: “Friendship does not keep silence, it is preserved by silence.” This silence preserves friendship because it leaves unarticulated the troubling truth that friendship is always and already inverted, the claim of non-sanguine kinship ever a spectre and an invitation to enmity. This is not the ‘companionable silence’ of ‘true friends’ but rather the unspeakable knowledge that social association is fraught with vulnerability and incalculable value. Also ignorance:

“We knew nothing of each other, / being friends,” notes the speaker of an Adam Zagajewski poem (“The Light of the Lamps”).

Such silence is a gift in two senses: first, it preserves and holds the fragile construction that binds two persons, a bond which cannot bear too much articulation; and second, because it demonstrates, like all gifts, a structural refusal of reduction to calculable value. There can be no regulatory capture of silence because, as a gift, it lies beyond all economies of exchange. We do not trade with our friends. Friendship’s transfinite game is played under the sign of silence.

We may compare this Derridean silence with another, even more controversial version that figures in his thought, namely the “mystical” and “rather Wittgensteinian” silence found in the violence of authority’s mystical foundation:

Discourse here meets its limit—in itself, in its very performative power. It is what I propose to call here the *mystical*. There is here a silence walled up in the violent structure of the founding act; walled up, walled in because this silence is not exterior to language. Here is the sense in which I would be tempted to interpret, beyond simple commentary, what Montaigne and Pascal call the *mystical foundation of authority*. [. . .] I would therefore take the use of the word *mystical* in a sense that I would venture to call rather Wittgensteinian.

Discourse “meets its limit” in this case because there is no further articulate gesture to be offered, no extension of the range of performative speech-acts. Nothing more can be communicated. And yet, the resulting silence is not exterior to language; it is, rather, a potentiality or violence that lies coiled within (“walled in”) language itself. Political authority’s foundation is mystical because it must be so: any other sort of foundation would fail in its foundational task. The law-givers in Plato’s *Republic* offer a myth of distant origin precisely so that the clay-footed realities of social order may be naturalized and, hence, sent beyond question.

In fact this silence is not, despite some notable affinities between Derrida and Wittgenstein, anything like the silence enjoined by those things whereof we cannot speak. *That* silence is a limit of language in the technical sense of possible extension, not of discourse in its justificatory performance—Derrida’s meaning. But the limit-concept engages our attention for the present argument. The debates generated in defending civility, in particular the looming prospect of regulatory capture in the form of transactional reduction and zero-sum finite games, show us that we have, in effect, reached the limits of discursive *constraint*, if not of discourse itself. One premise of standard political defences of civility was that such constraints were needed to order and direct the abundance of claims, desires, and interests in play in diverse polities. Now we can see that there is no such solution to that abundance which is in fact, on any competitive model, a self-defeating superabundance. No account of civility constraints, even (or especially) those found in the virtue literature, can motivate the kind of political friendship that civility indicates, and infinitely demands. We cannot regulate by rules alone, because rules tell us only how to play, not why we do or what the game is for.

Sometimes the only civil thing to say is nothing.

And so, my friends, enough.