

Steve Russell - Cherokee

Ethics, Alterity, Incommensurability, Honor

I could not tell if I was dreaming.

You know how it is. You wake up but something about reality doesn't seem quite right and you think you might still be asleep but you can't really tell?

I stumbled out of bed and started the coffee machine burbling and collected the newspaper from the front yard.

The sports page told me that the New Jersey Niggers had beaten the Boston Micks.

Some player on the Houston Hebes had accused the San Antonio Spics of dropping their last game to get a higher draft pick.

The league was expanding to Toronto, and since they had already honored African-Americans, Irish-Americans, Jewish-Americans and Hispanic-Americans, they wanted to name a team to honor Native Americans.

They sent out notices to all the tribal leaders, and they told us we could have whatever we wanted: Prairie Niggers, if the New Jersey team did not object, Redskins, Savages, Warriors, Heathens, Braves, Bucks—and of course the cheerleaders would be the Squaws, unless we wanted to modernize the language and just call them the Cunts.

But the tribal leaders voted for a write-in candidate, the Treaties.

"Toronto Treaties." It has a nice ring to it.

But the league was puzzled. What kind of a name is that?

"If the United States and Canada want to honor the First Nations," said the tribal leaders, "honor our treaties."

And there was a sidebar story. It seems that the President of the United States and the Prime Minister of Canada had heard this and called a joint press conference.

"We had no idea," they said, "that our countries have violated so many agreements with Native Americans. We have formed a joint commission to recommend how to make it up to the survivors, and we have each proposed legislation tendering a formal apology."

And it was at that moment I knew I was dreaming.

Ethics

It is not my purpose here to argue whether Indian mascots are an intentional infliction of emotional distress (Goldstein 2000), a denial of equal use of public accommodations within the meaning of Title II of the Civil Rights Act of 1964 (Note 1999), a hostile environment within the meaning of Title VI of the Civil Rights Act of 1964 (Trainor 1995), state sponsored discrimination (Guggenheim 1998), or otherwise actionable at law. I am even less interested in trying to pussyfoot around in the gray area between what is proper and what is moral (Shaffer & Meister 1997). Legality and propriety are less interesting than right and wrong.

This might be seen as a clear case of Golden Rule ethics, except that in order to "do unto others" there must be a morally cognizable "other." Indians have not historically achieved that status. Bartolomé de las Casas (1550/1974; Hanke 1974) argued vigorously in defense of the proposition that Indians are human beings, but over 300 years later we get Gen. Philip Sheridan's alleged remark that the only good Indians he ever saw were dead, a remark that is controversial not because of its content but because so many historical figures in addition to Sheridan could claim documented "credit" (Mieder 1995). The 1990 passage of the Native American Graves Protection and Repatriation Act, among other good things, raised the status of dead Indians from "archeological resources" to deceased human beings (Trope & Echo-Hawk 1992), but to this day most research universities contain more dead Indians as scientific data than live Indians as students. Universities can, however, come up with some fake Indian to whoop and dance at athletic contests. While this could explain why Indians might be guilty of "hypersensitivity" (Rhode 1994) it also demonstrates that with our human status so clearly an issue still in play, reliance on the Golden Rule is misplaced, whether we speak of the Biblical version (wherein we fail for lack of humanity) or the modern iteration, "he who has the gold makes the rules" (wherein we fail for lack of gold).

In ethical discussions among peers, I have always found John Rawls' (1971) system of lexical priority to be useful. Lexical priority refers to ranking his three principles of justice: greatest equal liberty, equal opportunity, and difference. Disregard for the feelings of substantial numbers of people for no compelling reason would, of course, fail under Rawls' first principle of greatest equal liberty

consistent with others having the same right. Rawlsian notions of what is just apply only to relationships within society. Indians were not within American society from the founding (Wunder 1994, pp.18-23) and many of us do not particularly want to be.

Utilitarian principles are also difficult to apply. How do you weigh the enjoyment white people get in the fruits of their conquest against the pain of a handful of survivors? Does it become clearer if you can argue that the people most likely to feel the pain, while they are physically closer to the "festivities," are not a majority of the survivors? (Price 2002).

Sports Illustrated claims to have done a scientifically valid poll that shows Indian opposition to Indian mascots to be concentrated on campuses and in cities. Furthermore, the claim is that those Indians taking offense are in the minority even among those close to the action. The scientific validity of this poll remains to be shown. A poll by *Indian Country Today* one year earlier with no similar claim to scientific *bona fides* (American Indian Opinion Leaders 2001) found that 81% of responders thought Indian mascots to be offensive. The challenges to polling such a small yet widely dispersed population are formidable (Pavel & Curtin 1997, p. 2). Who is Indian, and how can you tell? Even if the sample is correct, did *Sports Illustrated* account for the tendency of many Indians to tell white people whatever they want to hear?

However, for the purposes of this argument, let the *Sports Illustrated* poll be correct. I will only register one quibble. *Of course* reservation Indians appear less offended. Leaving aside the difficulty of polling them, you are polling a population who might buy into the idea that Indians are somehow being honored. That is, people who have never seen Chief Illiniwek or Chief Wahoo.

The Cleveland Indians are probably the least offensively named professional team, until you meet Chief Wahoo. It is like naming a team the "African-American Freedom Fighters" and then making Sambo the mascot. It is like naming a team "La Raza" and then resurrecting the Frito Bandito for mascot duty. No one can make the honor claim with a straight face, unless they seriously think Chief Wahoo is a straight face.

Sports Illustrated's claim that nobody, or at least nobody important, is offended is (pardon the expression) colorable only because of the politically marginalized status of American Indians.

Resistance to Indian mascots is centered on campuses, but so was the mainstream civil rights movement. That is because students use the college years to test practical applications of their new political freedom, and because people of student age are better able to make the sacrifices activism entails. But Indian students are not alone. The U.S. Commission on Civil Rights (2001), the Inter-Tribal Council of the Five Civilized Tribes (2002), and the National Congress of American Indians (1993) have all come out against the use of Indian mascots. This article joins my voice to that of other Indian educators (Churchill 1994, Cortassel 1999, Pewewardy 1999, 2001) as well as non-Indian allies (Davis & Rau 2001, Rosenstein 2001, Spindel 2000, Sigelman 1998). It is plainly not true that nobody is offended. The question is whether anybody important is offended, or whether it is ethical behavior to dump on people who are not important because you can.

I hope that my claim of peoplehood for American Indians is not too radical. We do appear to meet the four criteria set out by Holm, Pearson and Chavis (2003) in their attempt to define "peoplehood" as a paradigm for American Indian Studies. Most surviving American Indians share a sacred history, a well-defined territory and environment, a distinct language, and a characteristic ceremonial cycle.

It is of course true that our histories, languages, and ceremonial cycles have been forcibly suppressed (Adams 1995). It is also true that most of us have been removed from our well-defined territory and environment at gunpoint (Debo 1940, 1974), a process described by the neologism "ethnic cleansing" (Russell 1995). Most of these government attempts to destroy Indian peoplehood are horrors we have in common (ironically, in light of current events) with both Jews and Palestinians, in addition to tribal peoples of Rwanda and various ethnic groups in the former Yugoslavia.

Neither public discourse generally nor academic discourse in particular casts human beings away from the peoplehood fire as punishment for lack of power successfully to resist ethnic cleansing. In fact, we have witnessed since World War II the growth of an international civil society that has taken legal actions against ethnic cleansing of Jews by Germany, Chinese by Japan, and the modern atrocities in Rwanda and the former Yugoslavia (Gilbert & Russell 2002). The international community has even, over the objections of

the United States, created a permanent forum to try crimes of the sort that American Indians have endured (Politi & Nesi 2001).

If none of the evil American Indians have endured diminishes our humanity, we must retain some claim to at least the status of digits in an ethical calculus, even if the digits representing Indians are customarily smaller than the digits representing the beneficiaries of ethnic cleansing. Indians do bleed. Indians do feel. Indians also think, and I must observe this at the risk of importing a Cartesian spin I do not intend, but there is no way around it.

To be human ... is among other things to think: the only question is not whether, but how well or badly. Much of our thinking is devoted to "making up my mind," or "taking a stand" as regards something; hence, our thinking is commonly a matter of choosing what to do or believe in. To think, in these terms, is to take a position with respect to that "something," and this is unavoidably to appeal to standards, reasons, goals, without reference to which the position-taking is unintelligible, much less possible. To decide to do X is to decide to do it *rather than* Y, and hence is to appeal to reasons for X rather than for Y. Thereby, our thinking is inextricably opened to *critical questions*... Since choosing not to choose is still a choice, moreover, it is also subject to the same conditions. (Zaner 1970, p. 111)

Every human being alive in the United States at this time is taking a stand on the mascot issue. For the most part, that stand is endorsement by silence. It would be more honest explicitly to consider who Indians are, who the settlers are, and what relationships between the two the mascots represent.

Alterity

A woman is walking, stumbling in a line of other people. It is cold. The path she walks is icy mud and there is snow drifted around the tree trunks. There is no sound even though there are

lots of people, and when she looks down at her feet wrapped in rags the mud looks like a pudding beginning to set: there should be a crunching sound.

The woman falls and she thinks a snow drift beside the path looks like a soft downy pillow. She is sleepy. There is no sensation of cold. She closes her eyes.

She wakes with a sharp pain in her side. A man is standing over her, a soldier. He has poked her in the side with the barrel of a rifle. He shouts something and menaces her with the rifle, but there is still no sound. She climbs laboriously to her knees and then to her feet and stumbles back into the line.

Sometimes I watch this scene from above, sometimes from up or down the trail. Sometimes I am the woman and sometimes the soldier. The other people are many but faceless.

When I am the soldier, I feel no hatred. I move with a dispassionate efficiency, but with no more feeling than my grandmother had toward the chicken when she wrung its neck for Sunday dinner.

It was many years later and after many visions of this scene that I learned how my family got to Indian Territory, now called Oklahoma. They could have been Old Settlers, who moved to Arkansas to escape colonial expansion, clashed with the Osage, and wound up in Oklahoma. They could have been survivors of Duwali's band, massacred in Texas and chased north (the ones who ran for Mexico having been slaughtered) (Everett 1990).

No, my great-great-great grandmother walked what the perpetrators have come to call the Trail of Tears, a loose translation from the Cherokee. It was even after learning that, and after getting a law degree, that I learned how the Trail of Tears came in defiance of the United States Supreme Court ruling that the removal of the Cherokee people to Indian Territory was without legal authority. "John Marshall has made his decision," President Andrew Jackson is rumored to have said of the Chief Justice, "now let him enforce it!"

So it was that a people who were wealthier and better educated than their white neighbors were rounded up at gunpoint and force marched through a winter for which they had not been allowed to prepare. So it was the wife of Chief John Ross died in Arkansas after, the story goes, giving up her blanket to another. So it was that a third of our Nation perished and that I was born in Oklahoma.

If I am linked with that history, what does it matter to how I walk in the world? Are the Cherokee people something more than their grievances? If so, does that mean their grievances are without significance?

In the fifth iteration of Star Trek on the big screen, Spock uttered the immortal phrase "Hunting a species to extinction is not logical!" This led me to wonder whether there are American Indians on the planet Vulcan and, if so, whether the logic-driven Vulcans discovered a way to take everything Indians had without hunting them to extinction?

Whether Indians are a separate species or simply an inferior grade of *H. sapiens*, we have been nearly hunted to extinction (de las Casas 1542/1992; Churchill 1998a). Our numbers have diminished from one hundred percent of the population on this continent to one half of one percent, a number that has only improved by widespread exogamous marriages among Indians and the recent decision by the Census Bureau to allow persons of mixed descent to pick more than one racial category.

This hunting to extinction historically has involved the purposeful use of "guns, germs, and steel" (Diamond 1997), but since the last remaining non-citizen Indians were absorbed by Congressional fiat in 1924 (Wunder 1994, pp. 44-51), the hunting has involved taking identity rather than directly taking life.

Still, there is a memory among most people who still call themselves Indian, a memory that defines each tribal collision with the white hunters.

For the Cherokee, the Trail of Tears, a forced march in violation of American law (Norgren 1996) about which the controversy is not legality but rather whether it was one fourth or one third of the people dead.

For the Navajo, the Long Walk, the concentration camp at Bosque Redondo, and once more historical quibbles only over the exact body count (Bailey 1970).

For the Apache and the California Indians, the bounty on their sub-human scalps.

For the Cheyenne, the massacres at Sand Creek and the Washita.

It is, more than blood, this memory of horror that defines an Indian today (Russell 2002). We are like children of Jews who by

some fluke survived the death camps while Germany won the war, now living among the unapologetic perpetrators in Germany. The country may make us citizens on paper, but the murder and the theft and purposeful ignorance of your own history create a difference between us, the hunters and the hunted.

Incommensurability

Two Indians watch a flying saucer land and some little green men get out. One Indian says to the other: "Here we go again!"

There is a bit of contemporary folklore born of the historical fact that American astronauts trained at the great meteor crater outside of Flagstaff, Arizona, where the terrain was expected to be similar to that of the moon because of the visual evidence we had of numerous meteor strikes on the lunar surface.

After watching men in space suits testing various vehicles in the crater, an elderly Navajo shepherd sent his English-speaking grandson to ask what was going on. The astronauts told the boy they were practicing to go to the moon. The boy came back and asked if the old Navajo could make a message for them to take to the moon. The astronauts agreed and produced a cassette recorder into which the old man spoke. However, the boy refused to translate the message.

Back at a local Air Force Base, and after a sum of money changed hands with a Navajo employee, the astronauts finally got the tape translated: "Look out! These guys are coming to take your land!"

David Fitzsimmons drew a cartoon for the *Arizona Daily Star* showing two Plains warriors on horseback having the following conversation:

"The white man is coming...the bad news is he'll lie to us, steal our land, kill our buffalo, rape us, enslave us, slaughter us, infect us, attempt to obliterate our cultures and shove us onto barren reservations."

"The good news is they'll name baseball teams after us."

There are wounds that cannot be repaired by the instruction of some tomahawk-chopping sports fan to "get over it," and it is perhaps unrealistic to instruct the colonized to get over it when the colonists haven't. There is no way to admit the history of American

Indians and still maintain the face that the United States wishes to present to the world (Russell, Zamora & Boeck 2001). Even having admitted that history, little could be done to redress the wrongs simply because of the magnitude of those wrongs. The hunted and the hunters, the colonized and the colonizers are separated by values so different that the drive to dehumanize Indians is understandable if not excusable. Alterity breeds incommensurability (Smith 1997, Schutte 1998).

President Mirabeau Buonaparte Lamar of the Republic of Texas declared in his 1838 inaugural address: "The white man and the red man cannot dwell in harmony together. Nature forbids it ... knowing these things, I experience no difficulty in deciding on the proper policy to be pursued towards them. It is to push a rigorous war against them; pursuing them to their hiding places without mitigation or compassion, until they shall be made to feel that flight from our borders without hope of return, is preferable to the scourges of war" (Fehrenbach 1968, p. 453). Lamar did not, to my knowledge, anticipate a game between the Texas Rangers and the Cleveland Indians or the fierce (but not *that* fierce) rivalry between the Dallas Cowboys and the Washington Redskins.

After Texas became part of the United States, the same attitude was expressed in almost the same words hundreds of miles to the north. L. Frank Baum, some ten years before he wrote a charming tale about a scarecrow without a brain and a tin man without a heart (Baum 1900) penned the following editorial for the *Aberdeen Saturday Pioneer* (Baum 1891): "The *Pioneer* has before declared that our only safety depends upon the total extermination [*sic*] of the Indians. Having wronged them for centuries we had better, in order to protect our civilization, follow it up by one more wrong and wipe these untamed and untamable creatures from the face of the earth. In this lies future safety for our settlers and the soldiers who are under incompetent commands. Otherwise, we may expect future years to be full of trouble with the redskins..." While he certainly established his authority to write without brains or heart, Baum was not, to my knowledge, speaking of the *Washington Redskins*.

In the playing fields of the law, the simplest description of two incommensurable values is that they lack a common metric for comparison (Adler 1998). Even on this level, there is incommensu-

rability between the claims of some Indians and some sports fans. What measure compares amusement with insult? What measure compares a romantic representation of the dead with the dire circumstances of the living? Even the dollar cost of reprinting everything from sweatshirts to toilet paper is difficult to compare with the dollar cost of fear (Steele 1997) and how it may relate to the dismal academic performance of American Indians. That performance is not subject to serious dispute, from breathtaking dropout rates (Backes 1993, Ledlow 1992, Reyhner 1992) to our status as "the least successful ethnic group in higher education" (Benjamin, Chambers & Reiterman 1993, p. 24). If it is "(o)bvius...the academic pipeline for the American Indian people is leaking badly" (Dingman, Mroczka & Bardy 1995, p. 10), it is less obvious whether Indians have carried a plainly heavy burden of proof to show that a daily ration of insult affects academic performance and if so that the diminished performance outweighs the pleasure to white people of dishing out insults with the impunity that has been denied to sports fans by African-Americans and other former targets.

Katz (1998) reminds us that just because some choices seem incommensurable, that appearance does not alone make the case. The appearance might be based on ignorance. In the particular case of Indian mascots, moral comparisons of the competing values are complicated by the shifting rationales employed by proponents of mascots, and by the ignorance Americans harbor of their own history, a purposeful amnesia in which their colonial status ended when they threw off British rule. At that point, Americans were no longer colonists and therefore American Indians were no longer colonized (Jennings 1975).

If Indians are not colonized peoples but just another special pleading ethnic minority, then giving in to their demands means surrendering a significant front in the American *kulturkampf*, a submission to "political correctness," an unseemly elevation of appearances over things that really matter. Marcia Baron (2001, pp. 639-40) wrote of appearances in the context of incommensurability:

I am reluctant to hold that we ought to—that is, are wrong not to—attend to the appearances, except in the following circumstances, in which cases it seems clear that we should attend to them: (1) sit-

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uations in which our conduct is likely to give rise to a fear (reasonable or not) of some serious harm to the observer—for example, a fear that I am about to stab the observer; (2) situations where the likelihood of dire consequences is high enough that even if the observers' mistake is due to their prejudice or eagerness to find fault, we should, particularly if the harm will befall someone other than ourselves, consider altering our conduct so as not to give rise to the appearance of wrongdoing; (3) situations where I have a special responsibility as a moral exemplar, as I do to my child (but I would not include under this the responsibility of professionals, except in very limited domains—judges need to appear, as well as be, impartial, but they need not, it seems to me, be or appear to be model citizens); and (4) instances where a misperception of our behavior will contribute significantly to undermining a convention, where it is crucial that the convention survive. One other situation deserves mention: (5) if there is, or recently was, a climate of mistrust (especially, but not only, if we are partly responsible for that climate of mistrust), the importance of (re)establishing trust may call for special attention to how our actions may appear.

Each one of Baron's exceptions to the moral irrelevance of appearances has some application in the case of Indian mascots. Indians fear serious harm in our continuing dehumanization. We perceive that serious harm is befalling our children by continuing to see their cultures subjected to public ridicule. As important, white parents do not act as moral exemplars to *their own* children when they endorse this conduct. The continual placing of Indians on a different footing than African-Americans, Hispanic-Americans, Asian-Americans, or any other kind of Americans undermines the convention *e pluribus unum*, and the survival of that convention is bound to the survival of the United States. Finally, the climate of mistrust between the colonized and the colonizers, so recently the hunted and the hunters, could scarcely be exaggerated.

Having demonstrated that the colonizers have done evil according to their own values, and that evil continues, it becomes Indians' burden to suggest a remedy that, once more, shows more regard for Americanism as we have been taught it than as we have seen it practiced.

Honor

During Cherokee elections, the Cherokee storyteller Gayle Ross once observed, "no pig is safe in the Cherokee Nation." She referred to the tradition of electioneering at a "hog fry." I will spare gentle readers the details except to observe that no part of the pig goes to waste and you can raise your cholesterol simply by taking a deep breath. The owner of the late hog killed it to honor the candidate, and the voters honor the candidate by their presence. What result, we might ask, if a Cherokee farmer wished to honor a Jew or a Muslim by organizing a hog fry?

The eagle feathers mocked by many Indian mascots are no less sacred to Indians than the commands that Muslims and Jews have received from their Deity instructing them not to eat pork. The ignorant Cherokee farmer might be excused for lack of familiarity with dietary customs of other people, even while we ask why the farmer would want to honor someone about whom he knows so little.

The honoree, of course, could decline the offer of pork.

What if "honor" is presented as something that cannot be declined? This would be an odd notion of friendship. Odd because counterintuitive or odd in the sense of never having been considered.

Aristotle (350 B.C.E./2000) considered three kinds of friendship. The first two might apply to this matter of involuntary "honor:" friendship based on sensual pleasure and friendship based on utility.

We see public justifications for Indian mascots based upon these ideas. Mascots give pleasure to sports fans. Mascots serve purposes in competitions. It would be terribly inconvenient to change mascots, and the sports fans would be denied pleasure by the change. There is no doubt that the dominant culture derives pleasure from pretending some connection to American Indians that does not involve theft or homicide (Deloria 1998, Huhndorf 2001).

Aristotle viewed friendships based upon pleasure or utility as ephemeral, likely to last only as long as pleasurable or convenient. His idea of a perfect friendship was *teleia philia*, a friendship grounded in virtue. In this sort of friendship, you desire what is best for your friend for your friend's sake. This relationship serves the interests of the other rather than your own interests.

Teleia philia is possible only between those who are equal in the sense that each is willing to grant to the other the appreciation that is due. So if we take the offer of public ridicule as a gesture of friendship, we might still stumble over the troublesome issue of equality. However, Aristotle did not use the term as we understand it today. For his purposes in discussing a virtuous friendship, common humanity would suffice.

Given equality in the Aristotelian sense, common humanity, the idea of *teleia philia* should entitle Indians' opinions to some respect. Thomas (1998) suggests that "moral deference" is due the assertions of people who are relegated to what he calls a "diminished social category" (1998, p. 363), at least assertions related to social status. People whose lives and property have been forfeited whenever the forfeiture is convenient (Russell 2001) must define "diminished social category" if the definition has any content and therefore American Indians must be entitled, if anyone is, to moral deference.

This moral deference has a utilitarian purpose in addition to abstract virtue in the association of violence with a lack of democracy (Pepinsky 1991) and with endemic hopelessness (Fanon 1968). There is no question that the status of Indians in popular culture is entwined with the status of Indians in society (Churchill 1998b). Popular portrayals of Indians by ridiculous symbols are weapons in the continuing conquest of Indian identity.

Symbols are weapons (Rettig 1990) and, *a fortiori*, words are weapons. Does it credit the Founders too much to suggest that free speech and a free press came in the First Amendment before the right to keep and bear arms in the Second Amendment because it is easier to topple a government on a battlefield of ideas?

A word, like any other weapon, has no political persuasion. It is a tool to be used by individuals to advance individual political agendas. Without a political agenda, the notion of political correctness is incomprehensible. With a political agenda, the First

Amendment intervenes—or should intervene—to keep a sanitary distance between political correctness as an aspiration and political correctness as a governmental policy.

Political correctness asks us to check some of our word-weapons at the door when we enter the saloon of public debate. Doing so renders some ideas—or, at least, the most effective expression of them—outside the bounds of political (or artistic) discourse. Accepting these boundaries, we enter a brave new world with no niggers, unless we count a few DWEMs (Dead White European Males) who are, after all, dead. Indians are not dead, and that is a troublesome aspect of the mascot issue. We are asked not to offend *living people* even while arguing for policies that disadvantage them, presumably so as not to add insult to injury.

Political correctness calls me a Native American, but I would submit to being called whatever pleases you and let the Atlanta Braves fans chop without complaint if what is left of my people could regain what is unpoisoned of our land. Yesterday's theft is today's quiet title, and even though that is probably as it must be, I will not be happier about it or less likely to oppose contemporary injustices if a new veneer of politeness is imposed.

Whether political correctness can be imposed as a matter of law consistent with the First Amendment is unworthy of serious discussion, and virtually every court that has been invited to strike down purported rules of public discourse has done so. Precisely because our government is powerless to regulate private speech—even to make it "freer"—we continue to debate the terms of discourse almost as much as we debate the debate: nigger becomes nigra becomes colored becomes Negro becomes black becomes Afro-American becomes African-American and equality is still elusive. And political correctness, as a weapon, has changed hands.

The semiotic evolution is interesting and perhaps instructive. I first heard the term "politically correct" in the late 1960s, while working on the staff of an underground newspaper. It signified an aspiration not to obstruct the efforts of various disadvantaged groups to redefine terms of discourse in their favor. We tried to follow a sort of journalists' Hippocratic Oath: "First, do no harm."

It was well meant but it didn't work, this quest for a Movement Style Manual. Was an allegation that some governmental policy "sucks" an insult to the gay rights movement? Was a fruit stand

advertisement that pictured a woman eating a banana symbolic of fellatio and therefore using sex to sell? Did a concert flyer touting Jerry Lee Lewis as "The Killer" encourage sexism and/or militarism?

To this day these debates sound more interesting than the splitting of some poor infinitive, but putting out a newspaper became quite a struggle—a seminar on how linguistic conventions shape the universe of possibilities. (Is a statement that is anti-war but not anti-imperialist politically correct?) We learned, for example, to seek gender neutrality in less clumsy ways, and now the *New York Times* uses "Ms."

But what began as valuable lessons in the function of language deteriorated into veritable herds of specially interested oxen waiting to be gored and ended in the most fundamental lesson of persuasive communication: perfectly inoffensive writing is as boring to read as it is difficult to write. And what you intend to say does not matter if nobody is listening.

While the New Left was discovering these old truths, political correctness invaded the campuses as a command rather than an exhortation. Conduct codes became speech codes. University newspapers accepted "guidelines" that would make a civil libertarian blush. Faculties engaged in what we might call, in memory of Joe McCarthy, reverse witch hunts.

It's no accident that political correctness as censorship scored its only significant judicial victory in the McCarthy-influenced year of 1952, at least ten years before the phrase itself entered our political lexicon, but during an historical high water mark for institutionalized intolerance. In *Beauharnais v. Illinois* (343 U.S. 250), the Supreme Court upheld a conviction under a so-called "group libel" law. *Beauharnais* had circulated a petition to local government asking for segregation laws and saying politically incorrect things about blacks. It is difficult to conceive of an argument for *de jure* segregation that would *not* insult blacks or whites, but that is the point of political correctness underneath the more or less earnest desire not to hurt feelings: ban the words; ban the thought, and another thought, and another....

Justice Douglas, dissenting, understood the underlying issue:

Today a white man stands convicted for protesting in unseemly language against our decisions inval-

idating restrictive covenants. Tomorrow a Negro will be hailed before a court for denouncing lynch law in heated terms. Farm laborers in the West who compete with field hands drifting up from Mexico; whites who feel the pressure of orientals; a minority which finds employment going to members of the dominant religious group—all of these are caught in the mesh of today's decision... The Framers of the Constitution knew human nature as well as we do. They too had lived in dangerous days; they too knew the suffocating influence of orthodoxy and standardized thought. They weighed the compulsions for restrained speech and thought against the abuses of liberty. They chose liberty. (343 U.S. at 286-7)

"Political correctness," since the criminal conviction that drew Justice Douglas' dissent, has come to an ironic pass. From an aspiration to frictionless discourse it became, in some academic circles, a bona fide occupational qualification. Then the reaction set in. Now "political correctness" has become a floating signifier used to marginalize an argument, to ridicule a political position, to re-define permissible terms of discourse: "PC" for short, usually accompanied by a sneer.

Is this the full circle? Can it be that we don't need to argue any more about the effect of the term "gypped" on Gypsies or "jewed" on Jews or whether "differently abled" is a term that gives breathing space to the legitimate aspirations of a person in a wheelchair? These debates are all about political correctness, and there can be no political correctness, no limitation on discourse, no enforceable conventional wisdom in a free society. Have I stated the politically correct position? Yes and no.

If political correctness means a government-approved public debate of bromides and euphemisms, then the robust disputation envisioned in our most compelling First Amendment cases becomes a figment of the Supreme Court's imagination. ("Let's see," says the politically correct historian, "the Gettysburg Address can stay but the Cross of Gold speech has got to go.") But if the alternative to political correctness is the moral lassitude that gave us relatively silent acquiescence to the Jim Crow laws and the Trail

of Tears, or the blind obedience that mistakes imperialism for patriotism, then why not pick up the weapon of political correctness, among others, and slash away?

Here's why.

Down at the lick-log, "political correctness" is simply another term in an ongoing social debate, a term that has changed meanings significantly at least three times in thirty or so years, and stands to change again as often as the ebb and flow of our vernacular requires. The debate is what we are about as a polyglot nation, the debate itself rather than the results of the debate.

There can be no winners and losers in a permanent sense. That way lies a "final solution" as Hitler understood the term. All political discourse in this country takes place, or should take place, within the same strictures as business litigation between corporations that intend to be doing business with each other after the particular lawsuit has ended. For lawyers in that kind of case, certain tactics and indeed certain language are off limits *even though those tactics and that language are completely permissible within the applicable rules.*

Our cardinal rule of political and artistic discourse—the First Amendment—sets no limits on stupidity or meanness and few limits on abusiveness, trusting the free market of ideas to regulate itself. It does so imperfectly, and persons of my ethnicity—among many others—have been severely harmed by the failures of the invisible hand that theoretically keeps civilized people from dehumanizing others. It is a triumph of the First Amendment that Chief Illiniwek dances on our graves at every ball game; it is a failure of the free market of ideas that the people of Illinois allow it.

The remedy is not governmental coercion even if the First Amendment would permit it, at least not if we cherish the values the First Amendment is meant to protect or even see the utility in the kind of society the First Amendment tends to create. If we choose to define free speech in terms of political correctness instead of defining political correctness in terms of free speech, we will create a different, intellectually stagnant, society. Justice Douglas, dissenting in *Beauharnais*, described it this way:

The free trade in ideas which the Framers of the Constitution visualized disappears. In its place

there is substituted a new orthodoxy—an orthodoxy that changes with the whims of the age or the day, an orthodoxy which the majority by solemn judgment proclaims to be essential to the safety, welfare, security, morality, or health of society. Free speech in the constitutional sense disappears. Limits are drawn—limits dictated by expediency, political opinion, prejudices or some other desideratum of legislative action. (343 U.S. at 285)

He might have added that what Martha Minow (1990) has called "the door to the land of change" is closed, because the law takes away the words with which to imagine change.

There will always be an orthodoxy, a politically correct universe of public discourse. The purpose of self-imposed political correctness is to change that orthodoxy. As Minow (1990, p. 1686) wrote: "Talking differently, by itself, will not make things different. But unless we talk differently, we may never make things different."

One of the greater ironies in the PC debate is that many who support the government's power to coerce correct speech see themselves as advocates of change. In the service of progressive goals, they would diminish the greatest engine of change known to politics and, in the end, bring progress to a dead halt.

Official coercion accomplishes nothing constructive in a society that struggles daily with what political correctness means and what it ought to mean. But there are legitimate means of fighting this battle that do not threaten the First Amendment. When my teenager begins to tell me about some "fine chick," I might interrupt to express surprise that he could be sexually attracted to poultry. I might refuse to sing "Hail to the Redskins!" while understanding that if I criticize those who do I will surely be labeled a PC stick-in-the-mud. Public discourse is in large part the aggregate of our private discourse, and is not subject to governmental control.

Our remedy for dehumanizing speech is to demand civilized discourse from ourselves so that we may demand it from others, to recognize the humanity of our opponents as a means of asserting our own. In other words, we should practice political correctness as it was understood before it was appropriated by rule makers, liberated from oppressive verbal customs and unconstitutional poli-

cies alike. To foreswear some word-weapons is not to abandon the battle, but to understand the terrain upon which the battle is fought: a nation of many voices, but one people.

The ethical imperative against dehumanizing Indians can be seen in both deontological and teleological terms, always assuming the premise that American Indians are living human beings. Deontologically, involuntary honoring is rude and public ridicule is mean. Teleologically, stereotyping classes of people, particularly people who exist outside mainstream culture, contributes to the constitutive discourse that keeps those people outside the mainstream (Rettig 1990).

At the outset, I have disclaimed interest in the legal theories that would bring the coercive power of the state to bear on the mascot issue. It is good that the legal front proceeds for the purpose of protecting Indian children, but for adults, and particularly intellectuals, the legal theories are barren. Lawsuits cannot heal the pain of being dehumanized. A socially constructed reality (Berger & Luckmann 1966) is still a reality, and persisting to construct a painful reality for others in disregard of their cries of pain is unethical conduct. Adult Indians will fight for our children, but for ourselves we do not want Indian mascots retired for fear of litigation. We want them retired in recognition of our humanity. We want them retired because, as human beings, we are entitled to equal regard, to respect, to ethical treatment. Given our history, many of us would even mistake those basic entitlements for honor. ❧

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