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# The Etiquette of Equality

## I. INTRODUCTION

Imagine a classroom discussion of *Lawrence v. Texas*, the U.S. Supreme Court's landmark decision holding sodomy laws unconstitutional.[1] One student argues that the Court's ruling was correct because a state may not base its criminal laws on bare moral disapproval. Another student picks up on Justice Scalia's dissenting opinion and responds that, if that principle were sound, polygamy and bestiality would also be immune from punishment.[2] A third student chimes in to observe that those comparisons are offensive, even harmful, and urges or intimates that the second should apologize. What should happen next?

One natural thought is that it depends on whether the offense that the third student took (or supposed others would take) is *justified*. That is evidently what Justice Scalia himself thought: faced with an openly gay student's similar request for an apology, Scalia rebuked the questioner for failing to grasp the *reductio* argument that he had actually made.[3] Insofar as Scalia had "compared" same-sex intercourse and bestiality, after all, he claimed only that bans on these practices are alike by the lights of the principle that the Court invoked to invalidate sodomy laws. As Scalia correctly observed, that claim really has nothing to do with whether same-sex intercourse is *morally tantamount to* bestiality at all.

Yet I suspect many will share my instinct that this point of logic is not all that matters, from a moral point of view, in the kind of encounter that I

1. *Lawrence v. Texas*, 539 U.S. 558 (2003).
2. See *Lawrence*, 539 U.S. at 590 (Scalia, J., dissenting).
3. Amy Davidson Sorkin, "The Animus of Antonin Scalia," *New Yorker*, December 12, 2012, https://www.newyorker.com/news/daily-comment/the-animus-of-antonin-scalia.

have described. For if many people confronted with Scalia's analogical argument will foreseeably *take* its expression as implying a moral equivalence between same-sex intercourse and bestiality—or, more simply, as an anti-gay insult—that fact alone seems to bear on whether, or at least how, one should voice the argument. And insofar as Scalia or the second student in our imagined dialogue predictably caused gay audience members to *think* they were being insulted (even, in a sense, mistakenly), and did so without good reason, taking offense at *that* behavior—under that revised description—could well be warranted after all. In a sense, the listener's interpretation, which starts off foreseeable but mistaken, seems to bounce off of the speaker and return to the listener vindicated in the end.[4]

This line of thought might suggest that the second student did act wrongly and should indeed apologize. But that is not a comfortable result either. Treating the student's mere invocation of the analogical argument as an insult will tend to ratify the misunderstanding of what they actually said, to discourage the expression of other ideas that could also be misunderstood, and to raise the overall "symbolic temperature" within the community.[5] Indeed, a general practice of validating reactions such as the third student's here could well result in gay students facing more, rather than fewer, comments that they rightly take as offensive—at least in a belief- or evidence-relative sense of rightness—and thus leave them only worse off. So, again, what should the characters in this story do? I am tempted to say that, if you think the answer is obvious, one of us is missing something important.

Of course, my real topic is not this vignette, but the formidable genre of moral and political disputes of which it is a characteristic if stylized example.[6] Roughly speaking, that genre involves claims (1) in the normative register of respect and offense that are (2) linked to membership in a

4. On the "strange power" of this sort of reflexive reasoning in facilitating communication generally, see Stephen C. Levinson, "Three Levels of Meaning," in *Grammar and Meaning*, ed. F. R. Palmer (Cambridge: Cambridge University Press, 1995), 101.

5. I borrow this metaphor from Leslie Green, "Two Worries About Respect for Persons," *Ethics* 120, no. 2 (2010): 231.

6. For an interesting variation on the same theme, consider the constitutional-law professor who recently opined that, since "Scalia compared homosexual conduct to murder and bestiality," it is "hard to imagine how the Antonin Scalia Professor of Law at Harvard. . .teach[es] their. . .LGBTQ students about these cases." "How do we expect students to react to these insults," he asked, "when the professor standing in the room. . .carries the name of the man who made them?" Eric Segall, "The Justice Scalia Mythology that Still Haunts Our Politics and Our Law," *Dorf on Law*, August 16, 2021, https://perma.cc/Y6RD-FGS3.

presently or historically subordinated social group and (3) occasioned by symbolic or expressive items or acts (flags, monuments, mascots, pronouns, analogies, tweets, "tropes," and the like). Any descriptive account of our public discourse respecting matters of social equality today would have to give these claims a prominent place. In part because they are now so politicized, however, they can be exceptionally difficult to parse and evaluate on their own terms. In fact, it can be difficult to say anything at all about them without seeming to enlist on one or another side of a sharp conflict whose battle lines are already set.[7] And yet I do not see how we could make sense of this important domain, or navigate conscientiously within it, without engaging both sympathetically *and* critically with efforts to recognize and redress claims of identity-related offense or dignitary harm.

The premise of this essay is that we might find it easier to do that if we reframe the problems of identity-related offense in a somewhat broader perspective. Viewed abstractly, these cases pose a more general set of issues relating to the *formulation, operation, and enforcement of conventions for communicating attitudes of respect and disrespect for other people.* As several philosophers have recognized, such conventions form the substance of codes of etiquette, manners, or politeness; in social life writ large, we negotiate them constantly and rely upon them to meet a variety of essentially communicative obligations to one another. What is at work in encounters such as the classroom discussion that I just sketched, I will suggest here, is a communicative apparatus of the same fundamental kind—an "etiquette of equality" that specifies what the public expression of certain broadly egalitarian attitudes, in particular, shall be taken to require and forbid. Understanding the problem in those terms clarifies the valuable functions that the norms at issue may serve and makes it easy to see why, even though these norms may be quite arbitrary in content, they have real moral weight.[8] At the same time,

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7. Agnes Callard captures this predicament well: "In a highly charged political climate, more and more speech becomes magnetically attracted into messaging; one can hardly say anything without arousing suspicion that one is making a move in the game, one that might call for a countermove." What is lost, as a result, is "the freedom to speak literally." Callard, "Should We Cancel Aristotle?," *New York Times*, July 21, 2020, https://perma.cc/HYP8-7UAZ.

8. In appealing to the notion of etiquette, therefore, I do not mean to liken an identity-related insult to using the wrong fork. Etiquette norms offer an illuminating model here when and because they govern the expression of mutual regard and other morally important attitudes. While that is a central feature of paradigmatic etiquette norms (as I will discuss below), I do not dispute that some etiquette norms lack it, and I do not intend to analogize the "etiquette of equality" to those latter norms.

this account casts in sharp relief the costs to which the same normative system can give rise, including by the lights of what seem its worthiest aims. By demanding ever-greater investments in the *communicative* dimensions of respect, the etiquette of equality threatens to divert us from, or even impede, the ambition of constructing a social order in which all are actually treated as equals.

With these ends in view, I begin in Sections II and III by sketching the moral functions of conventions of etiquette or politeness in general and of the etiquette of equality in particular. In Sections IV through VI, I then proceed to unpack three problematic, interconnected features of this distinctive etiquette regime: (1) the costly and potentially self-defeating *over-determination* of relevant signals; (2) a recursive tendency toward *inflation* in respect's demands; and (3) a related set of incentives for *testing*, and then affirming, a group's status through the assertion and remediation of offense. Taken together, I suggest, these add up to a powerful indictment of the etiquette of equality as practiced today—but one fully consistent with recognizing the value of its aspirations and even the genuine normative force of its demands.

I then conclude in Section VII by reflecting on the dilemma with which this indictment leaves us. In short, there may often be a powerful moral case for each of us as individuals to act in ways that our community's operative respect norms demand, even if we believe *both* that the norms themselves are in need of reform *and* that our collective observance of them harmfully fuels and entrenches them. The reason is that, for the most part, our individual choices simply have too little effect on what the norms will be in the future to outweigh the immediate effects that those same choices have in light of what the norms already are. I doubt that this predicament has any fully satisfactory solution. But I think it counsels an ambivalence about the etiquette of equality that neither its enthusiasts nor its critics have tended to cultivate or express, and I think there is some reason to hope that expressing and thereby normalizing such ambivalence might itself go some way toward reconciling our conflicting obligations in this domain.

## II.  ETIQUETTE AND RECOGNITION

Let me start with a claim that I hope will be uncontroversial: people have an important interest in others' recognition of their status as equal

members of the communities that structure their lives. The full satisfaction of this interest, moreover, requires not only that others in fact hold certain attitudes, but that a person be made aware of others' regard as well.[9] That second, public or communicative dimension of the interest in recognition will prove especially important here, so we should pause at the outset to take stock of its grounds and weight.

Two principal bases for the value of knowing of others' respect suggest themselves. First, the epistemic pillars of a person's *self*-respect could well erode without reason to believe that others consider them respect-worthy as well.[10] Second, and in any event, the assurance of others' respect is often essential if a person is to enjoy genuine opportunities to share in the benefits of social cooperation. The litany of indignities and anxieties recounted in Martin Luther King, Jr.'s "Letter from a Birmingham Jail" makes both of these points vivid. Black people in the Jim Crow South, King explained, were "forever fighting a degenerating sense of 'nobodiness'" engendered by others' withholding of the usual signs of respect.[11] Meanwhile, the same lack of assurance about their standing in the eyes of others consigned them to "living constantly at tiptoe stance, never quite knowing what to expect next," be it a denial of a needed service, a public humiliation, or outright violence.[12] The conditions that King described were extreme, of course, but the underlying concerns here apply more generally. If a community is to support its members' self-respect and warrant them in incurring the vulnerabilities inherent in social intercourse, it will have to make mutual respect a salient element of the publicly recognized common ground.[13]

9. Although I do not mean to rest a moral claim on semantics, the polysemy of "recognition" itself highlights this duality: the word can refer either to a mental state (e.g., "everyone recognized that she was a great artist") or to a public expression thereof (e.g., "the award was a wonderful recognition").

10. For an instructive account of this connection, see Seana Valentine Shiffrin, *Democratic Law* (Oxford: Oxford University Press, 2021), 30–31.

11. Martin Luther King, Jr., "Letter from a Birmingham Jail," 174, reprinted in Jonathan Rieder, *Gospel of Freedom: Martin Luther King, Jr.'s Letter from Birmingham Jail and the Struggle that Changed a Nation* (New York: Bloomsbury Press, 2013).

12. Ibid.

13. This is a highly compressed statement of a fundamental idea with a host of potential applications and corresponding nuances. For three illuminating discussions, see Jeremy Waldron's sympathetic account of hate-speech regulation (*The Harm in Hate Speech* (Cambridge, MA: Harvard University Press, 2012), 93–98), Adam Omar Hosein's case against racial profiling ("Racial Profiling and a Reasonable Sense of Inferior Political Status," *The Journal of Political Philosophy* 26, no. 3 (2018): e1–e20), and Seana Shiffrin's argument for the communicative significance of democratic law (*Democratic Law*, 26–33, 38–47).

But how can that collective, communicative obligation be discharged? Ideally, we would want some coordinated social practice that makes the signaling of mutual regard routine, manageable, and predictable. Such a practice should afford ample occasions for communicating the relevant assurances about our own attitudes—so that, in Jeremy Waldron's phrase, each of us is "visibly impressed by signs of one another's commitment" to respecting our dignity.[14] But at the same time, a suitable practice should allow us to express these attitudes *en passant*, without constantly derailing the purposive activities that bring us into contact with one another in the first place. What we would want, in other words, is a "recognized social currency that symbolically operates as thoughtfulness but simultaneously alleviates its strains."[15]

As several philosophers have observed, "etiquette," in the sense of conventional rules of politeness or courtesy, is the social practice that best answers to this description.[16] I hasten to add that not everything that goes by that name is squarely relevant here.[17] But many etiquette norms (and by many estimations, the most important ones) are concerned precisely with the routinized expression of attitudes toward other people. We have norms about the appropriate manner and occasions for expressing gratitude and deference, about what to say in case of an interruption or collision, about how to issue commands and make requests, about greetings, even about where we direct our gaze—and, of course, about much more besides.[18] As Sarah Buss observes, the combined effect of all of these

14. Waldron, *The Harm in Hate Speech*, 83.

15. Amy Olberding, "Etiquette: A Confucian Contribution to Moral Philosophy," *Ethics* 126, no. 2 (2016): 440.

16. See, e.g., ibid.; Sarah Buss, "Appearing Respectful: The Moral Significance of Manners," *Ethics* 109, no. 4 (1999): 795–826; Cheshire Calhoun, "The Virtue of Civility," *Philosophy & Public Affairs* 29, no. 3 (Summer 2000): 255, 259–64; Karen Stohr, *On Manners* (New York: Routledge, 2012).

17. "Table etiquette," for example, does not serve mainly to facilitate the communication of respect; if it has a point, it is probably to allow people to display their "refinement," and to gauge others' in turn, so as to support a class identity and exclude those deemed uncouth. See, e.g., Calhoun, "The Virtue of Civility," 251; see also note 8 above. Still, even here the distinction is not sharp. Expressing a lack of regard for whether someone else will take one to be "refined," or exempting one's interactions with them from the conventions that presumptively govern in the presence of those who are, can itself be a way of expressing disrespect for them. Conversely, norms that are cast as conventions for signaling mutual respect can also operate to sort people by social class, much as traditional aristocratic etiquette does. I return to concerns along those lines below at p. __ and note 71.

18. For philosophical treatments of various actual etiquette norms, see, e.g., Stohr, *On Manners*, 27–38; Buss, "Appearing Respectful," 802; Olberding, "Etiquette," 429–30.

norms is to ensure that there are "many occasions on which there is something rather particular people must be sure to do in order to be polite to one another."[19] And in placing these demands on us, the norms thus give us many opportunities for, "in effect, saying 'I respect you,' 'I acknowledge your dignity,'"[20] through the simple act of complying. As long as certain behaviors are generally understood as appropriate when it comes to persons owed respect, after all, we can express respect for someone simply by visibly including them within the class of beings to whom we evidently take those standard-issue obligations to run. We are thus relieved of the practical burdens and game-theoretic conjectures that successfully communicating appropriate attitudes to a host of other people, each perhaps with their own beliefs about how respectful people tend to behave, could otherwise demand of us. At the same time, threading these practices through our interactions can serve to inculcate the very attitudes that we are being enjoined to express, as well as the more general sensitivity to the perceptions and interests of others that underwrites the injunction to publicly express them.[21]

The price of enjoying these opportunities for signaling respect through politeness, of course, is that we will also signal something when we fail to use them. In particular, omitting some standard respect-communicating performance, and especially seeming to do so purposely, will naturally bear the opposite meaning—not because the forgone behavior is beneficial in itself, but because of the valued message that is being withheld, and thereby inverted. This is why refusing to address Black people with standard honorifics, such as "the respected title 'Mrs.,'" was one of the routinized forms of insult that King described.[22] Or for a more pedestrian example, consider someone who wears bright, colorful clothes to a typical American funeral.[23] Why is that disrespectful of the bereaved family? The core of the answer is simply that a prevailing convention makes wearing dark clothes at a funeral a means of expressing sadness or showing respect for those mourning the

19. Buss, "Appearing Respectful," 808.
20. Ibid., 802.
21. This point is developed especially powerfully in Olberding, "Etiquette."
22. King, "Letter from a Birmingham Jail," 174. For further discussion of this practice, see, e.g., Randall Kennedy, *Say it Loud!: On Race, Law, History, and Culture* (New York: Pantheon Books, 2021), 196; Stohr, *On Manners*, 31–32.
23. For similar examples, see Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977), 57; Stohr, *On Manners*, 24–30; and Joseph Raz, *Value, Respect, and Attachment* (Cambridge: Cambridge University Press, 2001), 172–77.

death. That convention allows people to express fitting attitudes, and in so doing, it inevitably creates opportunities (if one can call them that) for communicating opposite signals, through nonconformity, as well.[24]

### III.  SLURS, METADATA, AND THE ETIQUETTE OF EQUALITY

We can now turn squarely to the thesis that ordinary etiquette, understood along the lines that I have just sketched, offers a valuable paradigm for understanding the problems of identity-related offense with which I began. The gist of that comparison will now be clear: in both contexts, we are concerned with the attitudes toward others that a person's behavior shows by the lights of some set of semiotic conventions, and with the moral implications that those meanings then have in light of (among other things) the interest in one another's recognition that I highlighted a moment ago. But in order to build out a more nuanced account of how the conventions of interest here function, it will help to start by considering the paradigm case of slur words specifically. If there is a distinctive etiquette of equality, after all, using a slur for a subordinated group would seem the quintessential violation of it—much as employing certain vulgarities would represent a paradigmatic violation of etiquette generally. And because I find Geoff Nunberg's recent account of the pragmatics of slurs particularly illuminating, I will use it to cast light on a wider class of identity-related affronts that appear to work in a similar way.[25]

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24. Of course, the reference to a *typical American* funeral in framing this example is important; respect conventions are taken up by particular communities existing at particular times, and even within their nominal "jurisdiction," there are context-specific opportunities for defying or flouting them without disrespect. Conversely, I do not mean to suggest that *only* breaches of respect conventions can manifest disrespect or give cause for offense. For further discussion of the different ways in which disrespect can relate to social conventions, see Benjamin Eidelson, "Respect, Individualism, and Colorblindness," *Yale Law Journal* 129, no. 6 (2020): 1616–23, 1654–57.

25. Geoff Nunberg, "The Social Life of Slurs," in *New Work on Speech Acts*, eds. Daniel Fogal, Daniel W. Harris, and Matt Moss (Oxford: Oxford University Press, 2018), 237–91. Although I build on Nunberg's account here and operate within his theoretical vocabulary, I do not mean to suggest either that that my claims depend on the soundness of Nunberg's entire picture or that none of the lessons I take from his account could be translated into the frameworks favored by others. Other analyses with a similar thrust—such as Renée Jorgensen Bolinger, "The Pragmatics of Slurs," *Noûs* 51, no. 3 (2017): 439–62—offer many of the same resources. Moreover, as Kent Bach notes, even some who reject these theorists' distinctive semantic theses may nonetheless "welcome [their] insightful observations about the pragmatics of slurs," which are ultimately my main focus. Bach, "Loaded Words: On the Semantics and Pragmatics of Slurs," in *Bad Words: Philosophical Perspectives on Slurs*, ed. David Sosa (Oxford: Oxford University Press, 2018), 71–73 & n. 19. In any case, I leave the question of whether alternative analyses of slurs might motivate additional or contrasting insights into the etiquette of equality for future work.

Nunberg's view, in short, is that there is no difference in semantic content between slur words and their neutral counterparts (e.g., between "redskin" and "Indian")—just as there is no such difference between "ain't" and "isn't," or between "pulchritude" and "beauty."[26] Rather, the important differences within each of these pairs lie in the sorts of features that a dictionary would mark with labels *alongside* a definition: tags such as *offensive*, *formal*, *slang*, *archaic*, and the like. These bits of "lexical metadata" capture sociolinguistic facts—facts about *who* uses the words at issue, or the discourses to which they belong, not about what the words themselves mean.[27] The special effect of any given person's using a slur is then achieved through a kind of "'affiliatory' speech act": the speaker signals or declares, through their use of one term rather than another, membership in or solidarity with the community whose word of choice it already is.[28] Thus, as Nunberg sums up his view, "racists don't use slurs because they're derogative; slurs are derogative *because they're the words that racists use*."[29]

This analysis directly and convincingly explains the mechanism of offense in one familiar class of cases. Suppose, for instance, that I describe *Obergefell v. Hodges* to students as the case in which the Supreme Court recognized a right to "homosexual marriage." Many of them would be troubled by that characterization today, even though their predecessors would have taken the same phrase as essentially a neutral descriptor not long ago. Why is that? Well, the words "gay" and "homosexual" may be effectively synonymous, but "homosexual" was the default word within a particular time-bound linguistic community, and my pointed choice to deviate from the default word in *my* linguistic community ("gay") in favor of that alternative would signal a desire to evoke or associate myself with the prevailing attitudes of that past community, rather than those of my own, toward the subject at issue.[30] In other words, my word choice would

26. This proposal contrasts with "semanticist" accounts, such as Christopher Hom, "The Semantics of Racial Epithets," *Journal of Philosophy* 105, no 8 (2008): 416–40. See also note 25 above.

27. Nunberg, "Social Life of Slurs," 272–73 *&* n. 45. See also Geoffrey K. Pullum, "Slurs and Obscenities: Lexicography, Semantics, and Philosophy," in *Bad Words: Philosophical Perspectives on Slurs*, ed. David Sosa (Oxford: Oxford University Press, 2018), 168–92.

28. Nunberg, "Social Life of Slurs," 273. For another account that likewise emphasizes "contrastive choice," see Bolinger, "The Pragmatics of Slurs."

29. Nunberg, "Social Life of Slurs," 244 (emphasis added).

30. Cf. ibid., 272–75.

trigger what Nunberg calls a "ventriloquistic implicature."[31] Students would thus take offense at my word choice because they would take it as a statement or indication that I view gay people with the once-standard disdain.[32] And their evidence might well warrant that inference on their part, even though drawing the same inference from the same utterance at some earlier time would have been unreasonable.[33]

This is a good start, but the key to mapping the etiquette of equality is recognizing that we can generalize the same fundamental analysis well beyond matters of word choice. Much as an actual dictionary might now tag "homosexual" with *archaic* or *offensive*, I want to suggest, we all walk around with a kind of mental lexicon that attaches similar metadata tags, not only to words, but to myriad other abstract items as well. Consider again the allegedly offensive *reductio* argument for the constitutionality of sodomy laws with which I began. If "comparing" same-sex intercourse to bestiality—in the very thin sense of asserting that the two are alike by the lights of some principle—is offensive, it seems to be so in much the same way that using the word "homosexual" now is. At least in the minds of many, that is, the speech act of drawing this "comparison" is itself an item in the relevant sociolinguistic lexicon (where, in effect, it is marked as *homophobic*). If slurs are the words that racists use, we might say, then offensive comparisons are the comparisons that homophobes make. In fact, some universities and advocacy groups now distribute manuals or glossaries that make this "lexicon" metaphor quite literal, systematically mapping utterances to the insulting content they are apt to convey.[34] These documents can be understood as modern etiquette guides, differing more in focus than in nature from those once published by Judith Martin or Emily Post. They simultaneously describe and prescribe the metadata associated with particular act-types, with

31. Ibid., 266–70.

32. Or, at least, because they would take to me have run a risk of creating the *appearance* that I view gay people in this way—a choice that they might take to exhibit a defective attitude on my part even if they suspect the appearance is false. I return to this important point in Section V.

33. Some say that the word "homosexual" is offensive for a different reason—that it is overly clinical or "medicalized." But that amounts to just another form of the same point: it identifies a ventriloquistic implicature that follows from using the default term within the (past) medical community, in contrast to the default term in non-medical discourse today.

34. See, e.g., U.C. Santa Cruz, "Tool: Recognizing Microaggressions and the Messages They Send," 2014, https://perma.cc/D74C-VNLB; American Jewish Committee, "Translate Hate Glossary," https://perma.cc/MGX4-AVMR.

a view to facilitating the predictable communication of respectful attitudes and the avoidance of offense within a particular domain.

What bounds and distinguishes the etiquette *of equality*, at least as I intend the concept, is thus mainly the set of attitudes whose expression it governs (or, put differently, the particular metadata fields that it encodes).[35] Admittedly, just how to characterize or itemize the attitudes that belong under this shared umbrella is not obvious, and the bounds of the "etiquette of equality" will not be well-specified without such an account. (Even my choice to foreground "equality" as the unifying theme undoubtedly reflects a certain point of view.) Racism and anti-racism would be natural paradigms of the relevant sort of attitudes, for example, except that these notions lack agreed referents.[36] Still, the general outlines of the relevant domain are clear enough to make the concept a useful one, and I will take the following sketch as a starting point. First, there are derogative attitudes and stereotypes associated with particular subordinated social groups, and the etiquette of equality specifies how to avoid expressing or affirming those attitudes or ideas.[37] Second, much as acting politely not only can avert offense but also can convey affirmative acknowledgment, the etiquette of equality specifies how to affirmatively signal one's disavowal of the same disrespectful contents (and, perhaps, of the unjust conditions with which they are linked).[38]

35. In an interesting new paper, Ronni Gura Sadovsky develops an alternative but closely related notion that she terms "political etiquette." Because Sadovsky's paper was made available online after the substantively final version of this article was delivered to the publisher, I leave any close engagement with its arguments for future work. In broad strokes, though, I take our accounts to be kindred in spirit and largely compatible with one another, at least as far as the argument of this section is concerned. See Ronni Gura Sadovsky, "Political Etiquette," *Philosophical Studies* (forthcoming).

36. For an entry point to the debate over the alleged "conceptual inflation" of racism, see Shen-Yi Liao and Nat Hansen, "'Extremely Racist' and 'Incredibly Sexist': An Empirical Response to the Charge of Conceptual Inflation," *Journal of the American Philosophical Association* (2022): 2–6.

37. Cf. Deborah Hellman, *When Is Discrimination Wrong?* (Cambridge, MA: Harvard University Press, 2008), 35–58, offering an account of "demeaning" action that is rooted in conventions for expressing judgments of inferior worth, especially with respect to subordinated groups.

38. Like many distinctions between the affirmative and negative, this one can only be drawn relative to some non-obvious conception of the baseline (or "default"). In practice, that reference point is certain to vary across different social contexts, in part because the meaning of particular acts and omissions inevitably depends on what other people do. I will consider a closely related point, concerning "respect inflation," in Section V.

It makes sense that we would have a distinct set of conventions geared to these purposes. Most importantly, against a backdrop of stigma and pejorative stereotyping, it would be unrealistic to rely on the universal baseline etiquette of "please" and "thank you" alone to meet the communicative obligations sketched in Section II. When people have particular cause for concern about their status, more targeted evidence of respect will presumably be needed to provide the same quantum of assurance.[39] So, for example, etiquette-like norms that designate particular terms as respectful create valuable occasions for demonstrating respect for members of the named groups (and, fittingly, for doing so when their group membership is conversationally salient). When some type of expression is already often linked to an objectionable attitude, moreover, etiquette-like norms that effectively codify this connection can discourage the relevant behavior and relieve members of subordinated groups of some of the fraught ambiguity that they otherwise face when it occurs. And while both of these explanations posit a function (congruent with the functions of etiquette writ large) served by identity-tailored etiquette norms, such norms are also apt to develop as byproducts of efforts to improve our thought and talk in other respects. The basic reason for favoring "enslaved person" over "slave" might be that simple nouns predispose us to essentialist thinking, for instance, but one effect of efforts to revise our practices accordingly has been to render the use of "slave" problematic on account of its changed sociolinguistic metadata, too.[40]

This portrait of the etiquette of equality casts it, like etiquette generally, in a broadly favorable light. A dedicated system for conspicuously registering one's respect for members of socially subordinated groups, and

39. Consider in this connection Rima Basu's suggestion, drawing on earlier work by Desirée Melton and W.E.B. Du Bois, that there is "more that is epistemically owed when it comes to our attitudes and beliefs toward members of non-dominantly situated groups," because members of these groups "are *dispositionally vulnerable* with respect to their self-descriptions" in ways that others are not. Basu, "What We Epistemically Owe to Each Other," *Philosophical Studies* 176, no. 4 (2019): 924.

40. For relevant discussion of the cognitive tendencies associated with nouns and adjectives, see Katherine Ritchie, "Essentializing Language and the Prospects for Ameliorative Projects," *Ethics* 131, no. 3 (2021): 460–88. Much the same point applies to other efforts at "conceptual engineering" that take their impetus from other perceived defects of our existing vocabularies; all such efforts may have downstream effects on the etiquette of equality via their bearing on patterns in usage. For a survey of other kinds of "lexical effects" that might motivate these efforts, see Herman Cappelen, *Fixing Language: An Essay on Conceptual Engineering* (Oxford: Oxford University Press, 2018), 122–34.

avoiding signaling otherwise, seems a natural adaptation to a social context in which such respect cannot be taken for granted. And once we frame the issue that way, it seems clear that those who chafe at so-called "woke" norms on the ground that they are capricious or unjustified—who object, say, that there is nothing intrinsically disrespectful about referring to "the blacks," or asking where a person of apparent Asian ancestry is from, and so forth—are often just missing the point. There is nothing intrinsically objectionable about wearing bright colors to a funeral either, but you still shouldn't do it. If an etiquette geared specifically to communicating respect for members of subordinated groups represents a logical extension of etiquette in general, it cannot be criticized simply for functioning as other codes of etiquette do. Even if one doubts the value of having these norms, moreover, that is no more a moral license for flouting them, without regard for harmful and eminently predictable consequences of doing so, in this context than in any other.[41]

And yet it seems clear that the ongoing elaboration of this etiquette and the mounting attention paid to it are also shaping our practices for communicating respect, and the broader communicative climate we inhabit, in ways that can be problematic—or, at least, that carry significant costs alongside their benefits. Those costs are likely to be exacerbated if those of us implicated in different ways in these processes lack a clear sense of what is happening. Given the complexity of the phenomena and the staggering variety of cases, I disavow any pretension to comprehensiveness here. But over the next three sections, I will turn to tracing three such processes that seem particularly important and to drawing out some of the challenges characteristic of each.

IV.  SOCIAL PROVENANCE, OVERDETERMINATION, AND THE LOSS OF NEUTRAL GROUND

Many of our ordinary etiquette conventions—such as the rituals of saying "please" and "thank you"—are notable for their simplicity and very broad uptake. Because these conventions are so widely embraced (even if inconsistently observed), they effectively lack what Nunberg calls a *provenance*: a social group whose members, recognizing a common stake in having a shared linguistic device for some purpose, coin or converge on a

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41. Cf. Julia Driver, "Caesar's Wife: On the Moral Significance of Appearing Good," *The Journal of Philosophy* 89, no. 7 (1992): 343.

convention that they are then taken to "own."[42] That is part of the reason that the observance of these norms generally cannot communicate anything beyond the bare acknowledgment ("I respect you") that Buss persuasively depicts as the special province of politeness.[43] To act as our most familiar politeness conventions prescribe is usually to brand oneself as, at most, one of "the polite."

The etiquette of equality is plainly different in this regard. To state the obvious, the people most invested in lacing their expression with special acknowledgment of the standing of members of subordinated groups are not an otherwise-random collection of speakers. And the usages and norms on which they converge are thus inevitably colored by that recognizable cultural and political provenance. Indeed, this seems central to how those practices serve their communicative functions. Just as racial slurs derogate by pointedly invoking the linguistic conventions of racists, many of the newly favored linguistic practices seem to show respect in a parallel (but opposite) way: by pointedly invoking the conventions prevailing among progressive *anti*-racists who have invested these usages with their own attitudes toward the subjects at issue.[44] If "the import of [slurs] is always mediated by the interests and self-conception of the specific communities that coin and own them," as Nunberg forcefully argues,[45] then we should expect the same to be true of what we might call "anti-slurs"—words or word forms, such as the capitalized "Black," that serve largely to give those with egalitarian views their own distinctive vocabulary for speaking about the same subjects.

Unlike classic gestures of politeness, therefore, making use of these new etiquette conventions communicates a meaningful social affiliation with—perhaps membership in, perhaps deference to—a distinct discursive community. But in light of the fuzziness and flux of the social phenomena

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42. Nunberg, "Social Life of Slurs," 270–72.

43. See p. __ above.

44. Thanks largely to the same dynamics that I am describing here, there is no anodyne term for describing this particular speech community. In the context of race, "anti-racist" probably best tracks the self-description of the relevant speakers, or at least of the most self-conscious among them. See, e.g., Ibram X. Kendi, *How to Be an Antiracist* (New York: One World, 2019). If we widen the lens beyond race, many would describe the relevant community or discourse as "woke"—but this term is now used almost exclusively by critics of the attitudes it names, so it is difficult to use the word without channeling the critics' skeptical tone.

45. Nunberg, "Social Life of Slurs," 279.

that characterize this domain, it seems inevitable that different people will often have different understandings of just who "owns" the convention, of what attitudes those people characteristically have, or of which of their attitudes are sufficiently germane to any given one of "their" symbols as to contribute to the meaning of a person's choice to deploy it. As a result, different people will necessarily also have different understandings of the meaning with which the relevant affiliatory speech act (the "anti-slur") invests a speaker's own expression. Indeed, even one person, recognizing that all of the considerations just mentioned involve matters of degree, will reasonably take such an act of ventriloquism to impart multiple resonances of variable strengths. The consequence of all this is that the meaning of the relevant act-type, in the sense of the attitudes a person is reasonably taken to express by performing it, will often be *overdetermined*.[46]

By way of analogy, consider wearing a flag pin in the United States—a symbolic act whose meaning is overdetermined, I think, in much the same way.[47] At one level, wearing the pin is naturally taken simply to express one's identification with, pride in, or commitment to the United States. That is the strand of meaning that most closely resembles the semantic content of a word—the "official" meaning of the behavior by the operative convention's own lights. Yet it is a plain social fact that those who use that particular device to express that content today tend *also* to hold a particular, politically conservative conception of what patriotism demands. For me to wear the pin could thus furnish evidence about my views on any number of issues—that I favor the mandatory pledge of allegiance in schools, that I disapprove of the athletes who have taken to kneeling during the pledge, and so on. An observer who thinks that I know this, moreover, may take my choice not only as evidence of these other views but as an effort on my part to signal them. So, if I do not want to evoke or endorse these additional resonances, that gives me a substantial reason for eschewing the flag pin—even if I feel a great deal of patriotism and would prefer, all else equal, to express it in this customary way. Moreover,

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46. "Overdetermined" not in the sense of having multiple sufficient causes, but in the sense of exhibiting a "multiplicity of meaning" owing to a multiplicity of relevant juxtapositions or contexts. See I. A. Richards, *The Philosophy of Rhetoric* (Oxford: Oxford University Press, 1936), 38–39; Terry Eagleton, *Literary Theory: An Introduction*, 2nd ed. (Minneapolis: University of Minnesota Press, 1996), 89.

47. I am grateful to Seana Shiffrin for suggesting an example along these lines.

that reason against wearing the pin has force even if patriotism, rightly conceived, does not actually entail any of these conservative ideological commitments, even if my audience does not think that it does, and even if many who wear flag pins sincerely intend by that action to express patriotism as such and nothing more. Perhaps most importantly, this metadata-based reason for eschewing the pin retains its force even if my doing so might itself read to some—in light of their own understandings of the relevant metadata—as evincing a *lack* of patriotism on my part. In that unhappy event, I will find myself in an expressive double-bind, and I will simply have to weigh the relative costs, in the context at hand, of the different ways of being misunderstood.

Many of the practices prescribed by the etiquette of equality are overdetermined, thanks to their salient but messy provenances, in the same sense. Although they may reasonably be viewed and held out by some as thin and undemanding signals of respect—as ways of acknowledging the equal standing of members of subordinated groups, of avoiding the "erasure" of particular populations, and the like—they are fairly taken by others to signal a good deal more than that, simply by dint of what many reasonably understand the convention's owners or paradigmatic users to take these broad and uncontroversial commitments to concretely entail.[48] At the same time, the very emergence of these respect norms invests *failures* to observe them, at least by people who travel in the right circles to be presumed aware of them, with a significance that the same behaviors did not previously have. For example, if those most concerned to show respect for Black people start capitalizing "Black"—and especially if they do so on the avowed ground that failing to capitalize the word is demeaning or reflects a benighted conception of race—the lower-case "black" becomes marked in a way that it previously was not. The word's meaning has not changed, but its metadata has. The upshot is that, much as with patriotism in the prior example, the etiquette of equality may require, on pain of showing disrespect, expressive conduct that some will be reluctant to perform for reasons independent of any reluctance to show respect.

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48. As Nunberg explains in the context of slurs, a conspicuously chosen term will "be colored by the attitudes. . . that are *stereotypically* held to prevail in the term's native provenance," even if those attitudes are actually "folkloric or fictive." Nunberg, "Social Life of Slurs," 276. The same is true here: what matters most are the attitudes stereotypically held to prevail among the "woke," not the ones that actually do.

We can make this point more concrete by inventorying the reasons—other than a desire to insult Black people or to reject the social-constructionist conception of race—why a person might purposely eschew the capital *B*. For one, a writer might simply want not to signal support for a broadly progressive social-policy agenda or cultural outlook (just as I might abjure a flag pin for fear of signaling a general political conservatism). Likewise, a writer might want not to affiliate themself with what they consider an excessively censorious attitude toward those who do *not* observe this emerging convention—or, for that matter, with what they consider an excessive dogmatism about either race or language use in general. (By way of comparison, one reason that I might not hang an American flag at my house is a concern that the very act of doing so would seem, in our social context, to express a judgment that my similarly situated neighbors are falling short of their patriotic duties by failing to do the same.) In much this spirit, Randall Kennedy explains that he "use[s] a wide range of terms to refer to 'blacks,' 'Negroes,' 'colored folk,' and 'African Americans,'" and does so in part for an "ideological" reason: "to signal a commitment to a politics of expression that rejects the tyranny of unreflective fashion," rather than "defer [ring] to arbiters of opinion who, armed with superficial knowledge, rigidly insist that this or that term is correct or incorrect."[49] Finally, that complaint about "superficial" and "unreflective" judgments also points toward yet another reason a person might not observe a new expressive norm. They might find implausible the prescriptive arguments adduced in support of the shift by norm entrepreneurs—the leading accounts of *why* the new formulation is, in itself, more respectful or enlightened—and they might thus resist the practice precisely because others have marked it as reflecting an embrace of those arguments (even though the reluctant language-users might be content to make the same change if it would "read," perhaps more accurately, as an essentially arbitrary gesture of respect).

All of this suggests that, despite the sympathetic account of the etiquette of equality that I sketched above, its own social meaning will often compromise its capacity to achieve its aims. It is important to note that, when the injunctions are essentially negative in character—so that compliance is invisible—this problem does not arise. One can usually avoid the questions and comments now commonly branded as micro-aggressions, for instance, without thereby signaling anything at all. But when the

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49. Kennedy, *Say It Loud!,* 194.

norms work precisely by making one's intentional observance of them apparent, looking to that behavior as a barometer of respect may be unreasonable or even counterproductive. Since many will be averse to behaving as the norms prescribe regardless of their actual attitudes toward members of a subordinated group (much as I might be averse to wearing the flag pin despite my patriotic sentiments), the intended beneficiaries will not consistently receive the assurances of respect that those norms are supposed to facilitate. If the would-be beneficiaries take the norms at face value, in fact, they could be led to perceive *less* regard for them than actually exists. Meanwhile, the same uncertainty about the real meaning of any given person's norm-violating behavior will cast doubt on the reasonableness of taking offense at these violations. And while this problematic ambiguity will dissipate once (or if) a given norm comes to enjoy such broad uptake that its original provenance ceases to color the significance of the prescribed behavior, at that point the relevant practice will be well on its way to becoming a new default (like "gay") whose use does little to signal respect for anyone anyway.[50] To a large extent, then, the etiquette of equality seems doomed to operate less as a system for communicating respect for members of subordinated groups than as a spur to affiliative identification or tribal sorting along broadly ideological lines.[51]

From one point of view, to be sure, this might be a feature, not a bug. If what genuine respect for members of marginalized groups requires *is* subscribing to a particular set of thick commitments relating to public policy, norms of expression, and other matters, then there would be a natural appeal to putting people to a choice: either get with the program, as it were, or be taken—accurately, from this point of view—as lacking true respect for the affected communities.[52] But if that is the choice that the

50. For an instructive discussion of this sort of "rolling semantic renewal," see John McWhorter, "Euphemize This," *Aeon*, July 27, 2016, https://perma.cc/PLF3-ARTY.

51. A similar critique is sometimes put in terms of "virtue signaling." Cf. David Foster Wallace, "Tense Present: Democracy, English, and the Wars over Usage," *Harper's Magazine*, April 2001, 55: "['Politically Correct English'] functions primarily to signal and congratulate certain virtues in the speaker—scrupulous egalitarianism, concern for the dignity of all people, sophistication about the political implications of language—and so serves the selfish interests of the PC far more than it serves any of the persons or groups renamed." But, as my formulation in the text reflects, self-congratulation is not a necessary aspect of the phenomenon or its motivations.

52. This line of thought would be in the spirit of Ibram X. Kendi's suggestion, in his influential book *How to Be an Antiracist*, that "there is no such thing as a not-racist idea, only racist ideas and antiracist ideas." Kendi, *How to Be an Antiracist*, 20.

emerging norms put on the table, it is important to see it for what it is and to interpret people's responses accordingly. Certainly we have moved far beyond the usual province of politeness or civility—notions that seem to rely precisely on a distinction between the baseline recognition that facilitates mutual engagement, on the one hand, and the full-blown views that we each have about myriad, complex moral and political issues, on the other.[53] And so, if the etiquette of equality is actually serving to mark people on the basis of those more comprehensive views, it would seem no more appropriate to take offense at departures from its demands than to take offense at, say, the simple fact of a person's considered skepticism of affirmative action, reparations, or some other policy that one takes to be required by justice.[54]

At the same time as the etiquette of equality may be limited in its capacity to serve the interest in recognition, moreover, it also threatens to take a considerable toll on our ability to engage one another on terms of respect while bracketing important disagreements. In effect, norms that demand particular usages in the name of respect—but which require us, in complying, to signal other views and affiliations—deny all of us the opportunity to address a given subject without assuming responsibility for *any* set of tacit associations respecting matters that we do not intend to put at issue at all. In conducting a class discussion about abortion, for example, a teacher might prefer to refer to the class of people whose autonomy is most directly at stake—pregnant people and, more broadly, people capable of pregnancy—under some description the very use of which will not be taken to bear any further significance. They might want not to be taken as "erasing" the people who can become pregnant but do not identify as women, as some will take the use of "women" to do, but also want not to be taken as insisting on the centrality of those genuinely rare circumstances to an already-compressed discussion of abortion

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53. Cf. Calhoun, "The Virtue of Civility," 269.

54. Although I have left the notion of *offense* largely unanalyzed here, I have in mind a conception roughly along the lines recently elaborated by Emily McTernan. According to that view, when A takes offense at B's doing φ: (1) "A believes, judges, or perceives that φ is an affront to her social standing as she perceives it"; (2) A therefore "feels estranged from B as a result of B's doing φ, even if only for a moment"; and (3) this feeling produces in A "a tendency toward acts that express withdrawal from B." Emily McTernan, "Taking Offense: An Emotion Reconsidered," *Philosophy & Public Affairs* 49, no. 2 (Spring 2021): 205. The bare fact that someone holds the views mentioned in the text, I am supposing, is not (or ought not be) an affront to anyone else's social standing. For related discussion, see pp. __–__ below.

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rights—nor to be taken as pointedly affiliating with the progressive sub-discourse in which terms such as "people capable of pregnancy" are favored, and indeed treated as a moral imperative, in nearly all circumstances. Speaking in the distinctive voice of that community might seem especially ill-advised at the very moment that the teacher is trying to convince students with diverse views that they *are* engaged in a common discursive project and that even unpopular ideas will be met with respect rather than derision. Yet the emergence of etiquette-like norms that make the choice of language here a significant test of the speaker's attitudes toward transgender people—while also overdetermining the meaning of the prescribed choice—seems to eliminate any such symbolic middle ground.

Courtrooms are much like classrooms in this regard: they represent another discursive space that sometimes seems to call for bracketing background attitudes and affinities in ways that the etiquette of equality, insofar as it demands overdetermined performances, can't help but disrupt. Consider, for instance, the recent shift by many immigration attorneys (including the Office of the Solicitor General under President Biden) from speaking of "aliens" to speaking of "noncitizens," notwithstanding Congress's use of the former term in the governing statutes. When lawyers answer Justices' questions about "aliens" by talking about "noncitizens," they inevitably make a point of the ideological and cultural chasm that divides them from the people whom they are trying to persuade. If only on tactical grounds, then, many of the lawyers who advocate for immigrants before a conservative judiciary would presumably prefer a genuinely neutral term, one with no recognizable valence or provenance at all. Now that the old default in legal discourse has been challenged as insulting (even in technical contexts), however, there is simply no such term to be found.

To highlight these predicaments is of course not to say that a teacher should opt for "women," that a lawyer should opt for "alien," or the like. As I hope to have made clear, there are genuine moral reasons not to show disrespect by the lights of extant norms—reasons that have special force with respect to people whose status is already unjustly insecure. When all of the relevant reasons are weighed together, therefore, the balance often tips in favor of avoiding apparent disrespect.[55] Indeed, I am

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55. Quite apart from the value of observing the etiquette of equality, moreover, there are sometimes other reasons for speaking in the same ways that it prescribes: the newly favored terms might simply be more precise, for example, or they might come with features that genuinely conduce to sounder or less harmful patterns of inference. These reasons have to be weighed in the balance as well.

not even arguing that, in the final analysis, the elimination of a formerly "neutral" option is always a net loss. The very insistence of etiquette-like norms—their intrusive capacity to force expressive choices that one would have preferred not to make at all—may make them a valuable tool for disrupting an unjust status quo, not unlike other forms of disruptive activism (and perhaps subject to analogous criteria of justification). What I take myself to have shown in this section is thus only that the proliferation of additional norms that require particular behaviors in the name of respect for particular groups—norms that seem inevitably to invest those behaviors with complex affiliative significance, too—is likely to be of limited use in constructing the kind of culture at which these norms aim, and that the same developments do meanwhile make the communicative climate, in one important respect, worse.

If I am right about the central role of a convention's provenance in setting these limits and imposing these costs, however, that might also point toward a strategy for mitigating them. As I have noted in passing already, part of the problem is that taking up the relevant practices can seem to exhibit not only one's special concern to show respect, but also a judgment that others' failure to observe the same norm is cause for offense or, at least, a mark of some kind of ignorance or backwardness on their part. This implication is part of what makes ventriloquizing the conventions' perceived owners fraught and therefore risks reducing the relevant practices to mere ideological markers. And it is threading this same implicit message about the high stakes of how we communicate *into how we communicate* that seems most apt to interfere with the reciprocal processes of thought and expression on which we rely for essential individual and social ends, especially in certain critical discursive spaces.[56] Given the complex picture of the etiquette of equality that is emerging, moreover, it is often doubtful that a violation is fairly taken to bear the significance that its proponents are at least popularly imagined as assigning to it.[57] One

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56. Consider, for instance, Seana Shiffrin's argument that "sincere and free expression plays a special, though not exclusive, role in the development of the mind and personality of each agent *qua* thinker" and that "the opportunity to engage in free-ranging, sincere communication is an essential condition for the revelation of the information necessary to fully execute our duties to one another." Seana Shiffrin, *Speech Matters: On Lying, Morality, and the Law* (Princeton: Princeton University Press, 2014), 80.

57. I will return to the significance fairly imputed to a person's breach of the etiquette of equality below.

possible mechanism for mitigating the challenges that I have described, then, would be to modulate the significance that even the advocates of some of these practices are thought to assign to others' failure to observe them. But I acknowledge that whether effecting that kind of shift is feasible—especially in a political context where powerful interests will be motivated to portray "woke" progressives as elitist scolds regardless—is far from clear.

## V.  AMBIGUITY, SENSITIVITY, AND INFLATION

A second central challenge that arises in connection with the etiquette of equality returns us to the communicative dynamic that I highlighted at the outset of this essay—to the way that the attitudes *actually* expressed by an action may depend on the agent's *apparent* concern for the action's *apparent* meaning. For a characteristic example, consider the act of asking a nonwhite person, especially a person of Asian ancestry, where they are from. That action is now often classified as offensive; according to one guide distributed by some universities, asking this question sends the "message" that "[y]ou are not a true American."[58] But if we bracket for a moment the feedback effect of marking the question as bearing that meaning, it would seem more accurate to say that, in any given instance, the question *may* manifest that attitude on the part of the speaker. After all, a professor might ask students where they are from just by way of small talk, and an Asian-American student would presumably have no reason to find the question troubling if they knew that the professor asks white students the same thing. To be sure, students usually *aren't* in a position to know how their professors chat with other students in office hours or the like. So my point is not that the question is necessarily or even presumptively benign; the point is that the question's import will often be, relative to the addressee's evidence, ambiguous.

Now, if the professor in this example is conscientious, they will shape their conduct in light of what they understand to be the student's epistemic position, rather than their own. For it ought to matter to the professor that the student not *think* that the professor harbors a disrespectful attitude toward them, even if the professor is confident that any such thought

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58. U.C. Santa Cruz, "Tool: Recognizing Microaggressions and the Messages They Send," 2014, https://perma.cc/D74C-VNLB.

would be wrong. (Recall the important interest that people have in know-ing that others respect them, separate and apart from whether they actu-ally do.) The professor thus has reasons—call them *mimetic* reasons—to eschew an action that could be misunderstood as disrespectful.[59] In fact, the professor has like reasons to avoid even *sowing doubts* on this score; those doubts themselves might impair the relationship and, in any event, resolving them would impose a cognitive burden that many members of subordinated groups face frequently and that takes a formidable toll.[60] These mimetic reasons are a subset of a larger class that we might call rea-sons of *sensitivity*: reasons grounded in the effects that one's actions may have on others by dint of their own mindsets and dispositions (which one might or might not share). For example, there are reasons of sensitivity for a teacher not to voice the n-word in quoting from a historical document—in light of the intense and unwelcome affective response this might induce in some students—even if nobody would otherwise have any reason, under the circumstances, to take that action to show disrespect.

The key point for our purposes is that mimetic reasons (and other rea-sons of sensitivity) have a kind of dual significance: they are often forceful in their own right, but how seriously one takes them is also—for precisely that reason—important evidence of one's *actual* attitudes toward the peo-ple in whose interests they are rooted. Thus, returning to my same exam-ple, a student of Asian ancestry who is asked where they are from might *not* take the question actually to convey that they are "not a true American," but might still take it to demonstrate a problematically cavalier attitude toward the risk of being taken as expressing that message—especially if the question is asked against the backdrop of what they take to be a prevailing convention stamping this question with that implication. And while that judgment might be perfectly reasonable on their part, it points toward a significant problem: if this genuine relationship between apparent and real disrespect is taken fully to heart, it seems to commit us

59. I adapt this term from Julia Driver's discussion of "mimetic immoralities," which she defines as "[a]ctions immoral due to their resemblance to independently immoral actions." See Driver, "Caesar's Wife," 335. For another instructive discussion of mimetic wrongs, including in the context of a teacher–student relationship, see Deborah Hellman, "Judging by Appearances: Professional Ethics, Expressive Government, and the Moral Significance of How Things Seem," *Maryland Law Review* 60, no. 3 (2001): 656–60.

60. For a leading discussion, see Derald Wing Sue, *Microaggressions in Everyday Life: Race, Gender, and Sexual Orientation* (Hoboken: Wiley, 2010), 54–61.

to a costly kind of "respect inflation."[61] The logic of the cycle is straightforward: Not only shouldn't you show actual disrespect; you shouldn't even appear to be showing disrespect. But since that is itself a form of disrespect, you also shouldn't even appear to be doing *that*: that is, you shouldn't even appear to be even appearing to show disrespect—and so on, all on pain of showing disrespect simpliciter. In practice, of course, the distinct "layers" of recursion here cannot be separately identified or articulated, at least not beyond the first few. But the net effect is to ramp up substantially what is required as a matter of respect and concomitantly to provide far more occasions for people to experience warranted offense. In our example, even what might first have seemed a small chance that the import of the professor's question could be misunderstood can suffice to make it a genuine affront.[62]

Like the others that we have considered, the operation of this dynamic in any particular case is mediated by larger norms or regularities of which the parties are (and understand each other to be) aware. The more careful that people are to avoid the harms of even appearing to run risks of signaling identity-related disrespect—the more scrupulously they adhere to the etiquette of equality—the stronger the signal that will be sent by any particular person's appearing to depart from *that* norm, and thus the stronger the grounds for taking offense at their doing so. This effect will be especially pronounced if the apparent infliction of identity-related disrespect is intensely stigmatized—if it is widely understood as a ground for severe condemnation, embarrassment, and the like. Then the person who does it anyway reveals themselves as unusually willing to bear those consequences, a cue that strengthens the attitudinal signal of the behavior itself.[63] Even a *relative* lack of solicitude for the harms of apparent disrespect can therefore signal disrespect and ground warranted offense.

For an example of this dynamic at work, we need look no further than my choice to refer to "the n-word"—rather than spelling out that word—a few paragraphs ago.[64] All things considered, I doubt that there are good "first-order" reasons of respect for eschewing the word itself here:

61. Leslie Green uses this term in "Two Worries about Respect for Persons," 227, 231, although I am not sure that he has precisely the same process in mind.

62. Julia Driver makes an analogous point about the tendency to "play it safe" and its dynamic effect on standards of appropriateness, using the example of norms of "frivolousness" in Amish societies. See Driver, "Caesar's Wife," 337–38.

63. See Glenn C. Loury, "Self-Censorship in Public Discourse: A Theory of 'Political Correctness' and Related Phenomena," *Rationality and Society* 6, no. 4 (1994): 437.

64. See p. __ above.

bracketing what I am about to say, that is, I do not think anybody would be likely to infer any problematic attitude toward Black people on my part if, in this particular setting, I spelled it out. I doubt, too, that I would inflict a painful or unwelcome affective response on anyone in doing so under the particular circumstances here. Nonetheless, because the word is (rightly, I think) avoided in many contexts, and because none of us is sure of each other's sense of the bounds of those contexts, my spelling it out could read at least as my willfully *running a risk* of showing racial disrespect (or of appearing to do so—which, as we've just seen, can come to the same thing). And for the sake of what, exactly?[65] So the mimetic reasons and ensuing reasons of respect for me *not* to spell out the word here are decisive. And yet my making that choice—really, lots of people doing that, for the same kinds of reasons—helps to constitute the meaning of that decision. It further cements the sociolinguistic fact that what *people like me* do, when it comes to this issue, is eschew the word—thereby fostering the sense that anyone who *does* write it out is doing something deviant and, indeed, disrespectful. The nature of the situation is such that my effort to avoid disrespect-through-the-appearance-of-disrespect raises the ante for what others must do to avoid it as well.[66]

Another, similar example may help to crystallize the challenge here. In the past few years, I have learned of a handful of instances in which students were disturbed or distressed by a professor's quoting aloud passages in which old court opinions referred to Black Americans as "Negroes." One reaction (and, I admit, the first that came to mind for me) is that the students were simply confused or mistaken: they must have thought that "Negro" was a slur—and thus that their professor had done something akin to voicing the n-word—when, in fact, that was simply false.[67] After all, "Negro" was the word of choice not only of Roger Taney, but also of Thurgood Marshall; it was used not only in *Dred Scott*, but also in *Brown v. Board of Education*. But focusing on that question about the semiotic

65. Maybe to give the essay a slightly transgressive air? Or, along the lines we considered in the previous section, to distance myself from the attitudes that those who *do* redact the word are presumed to have? In context, these do not seem weighty reasons.

66. Dan Moller makes a similar point about the "curious problem that arises when one is concerned to promulgate norms so as to avoid insult or offense, but those very norms play a role in shaping the nature of the insult or offense." Moller, "Dilemmas of Political Correctness," *The Journal of Practical Ethics* 4, no. 1 (2016): 102.

67. For an account of the word's history and of the evolving attitudes toward it, see Kennedy, *Say It Loud!*, 179–89.

"merits," I now think, misconceives what was probably happening in these encounters. I take it the aggrieved students thought that, at least today, vocalizing "Negro" in a classroom setting is not something that people who are concerned not to show disrespect for Black students generally do. And, by the same token, they presumably thought that their professor knew or should have known that, which (if true) could *alone* have made the professor's doing it an affront. Under these circumstances, to be sure, a simple explanation that the professor hadn't understood the word's "metadata" as the students did should probably suffice to repair any damage. But for the professor instead to plead that the act-type *shouldn't* be offensive, I now think, just misses the point; it is offensive, if it is, in virtue of a going practice (among those who want to show respect) of avoiding it, and neither the professor nor any of the students can will such a practice into or out of existence.

Yet while it would thus be a mistake to dismiss the students' offense as groundless, their reaction gives rise to much the same predicament that I just noted in connection with the use of "n-word." Since learning of the reactions I have described, I have stopped quoting the word "Negro" aloud in reading passages from old opinions: I see no pedagogical upside to voicing it (after all, I thought it was benign precisely because it was the most generic term of its time), and I think it would be wrong (as well as foolish) for me to risk offending students gratuitously. And yet I suspect that the treatment of "Negro" as taboo even in quoted contexts is (unlike the similar treatment of the n-word) still inchoate. If so, it matters that my audibly replacing "Negro" with "Black" effectively tells the students that this is what racial sensitivity requires—or, at least, signals that it is what people with the attitudes that they impute to me do—when they might not otherwise have given the word a second thought. That sets up somebody else to cause warranted offense, and the students to experience it, on account of an utterance that could just as well have been innocuous. Moreover, precisely because I suspect that my substitution will take many students by surprise—and will strike them, as it first struck me, as unnecessary—it is apt to send a broader signal about the very high degree of sensitivity that our current etiquette of equality demands (or, again, that *people like me*, however they understand that class, afford). That creates the conditions for them to take offense—and to do so reasonably, given their evolving sense of the prevailing norms—even more often. At the same time, it presumably spurs some collective reallocation of cognitive

resources toward anticipating and avoiding possible grounds for offense whenever the students speak about subjects that they recognize as within the possible ambit of the etiquette of equality.

Here, too, let me make clear what I am and am not arguing. First, I am not saying that teachers should willfully offend students in order to keep respect inflation in check. As I have just suggested, reasons of sensitivity, stemming from the interest in recognition, are real and forceful. Nor do I think the problem here is helpfully thought of in terms of anyone's being (or being made) unduly fragile or thin-skinned. Those metaphors focus us on a person's tolerance for a given magnitude of insult or injury. But respect inflation is probably better seen as describing a change in *what is being done* to a person, not in their own constitution: if more and more behaviors come to be reasonably taken as evidencing a speaker's lack of respect for you, that amounts to the barbs getting sharper or more numerous, not your skin getting thinner. What *is* true, though, is that respect inflation presents a genuine dilemma from the perspective of the interest in recognition—because, to reiterate, efforts to further that interest also threaten to set it back. And the same processes do meanwhile take a toll on other salient goods relating to candid and relatively uninhibited expression—goods that are important not only to robust public or academic discourse, but, on a more basic human level, to the formation of authentic relationships as well.[68]

Although I do not think there is any straightforward solution here, three possible levers for curbing respect inflation warrant consideration. The first concerns the sheer importance that we collectively assign to avoiding risks of perceived, identity-related disrespect. As we have seen, there are real reasons to play it safe when it comes to such risks, and the lapses of sensitivity often reflected in running them are meaningful. Still, one sure way to escalate the demands of respect within a community is to marginalize the distinction between the inadvertent infliction of reasonably felt slights—which often involves culpable negligence—and the purposeful expression of the same disrespectful attitudes. If all breaches of the etiquette of equality with respect to race are liable to be experienced and

68. This point also has a familiar analogue in the domain of ordinary etiquette. It is often harder to get to know another person when your interactions with them are governed by a more elaborate code of norms—especially if you think that they regard your scrupulous compliance as an index of your respect for them, they think that you think this (and that you are treading carefully as a result), and so forth.

denounced as "racist," for example, then the genuine reasons to take offense when people do run afoul of these norms are greatly amplified, and the critical mass who must take up any given norm before it is morally decisive is greatly reduced. By insisting on the normative relevance of a person's reasons for her conduct and not merely of its "impact"—or, perhaps better, by making more salient the ways in which that impact itself ought to rest on defeasible inferences *about* a person's demonstrated responsiveness to different reasons—we might better keep inflation in check.[69]

In fact, this point highlights the appeal of reframing the norms surrounding identity-related offense in terms of etiquette, as I have urged here. Etiquette is morally important, but almost everyone appreciates that its moral importance is derivative and contingent. When a breach of etiquette matters morally, that is because of what it says about the agent's attitudes. In any given case, the appropriate inference might be that a person is ungrateful, or that they hold us in contempt, or that they do not care what we think, or just that they are rushed or distracted. And in some cases, the best inference will simply be that a person has not internalized the same conventions for expressing the relevant attitudes as we have—a fact that might in turn reveal a kind of negligence on their part, but that might also reflect the cultural diversity of the space we inhabit or the sometimes-confounding flux in its prevailing norms.[70] The etiquette of equality often has higher stakes than ordinary etiquette, but it is not fundamentally different in these respects. Yet it often seems that the meaning of an apparent breach of the etiquette of equality is not considered open to interpretation (or clarification) in the same ways—and a collective awareness of that fact about the practice itself surely contributes to the sort of respect inflation that I have described. A collective turn toward seeing the etiquette of equality for what it is could thus be part of the solution.[71]

69. On the relationship between an agent's reasons for acting and the significance that others have reason to assign to the action, see T. M. Scanlon, *Moral Dimensions: Permissibility, Meaning, Blame* (Cambridge, MA: Harvard University Press, 2008), 52–56, 128–38.

70. For an instructive discussion of geographic diversity and change over time, see Stohr, *On Manners*, 30–42.

71. Highlighting the etiquette-like quality of the relevant norms also draws attention to the risk that, just like traditional etiquette, they can operate to exclude. One function of aristocratic etiquette, after all, is to sort people based on social status or "refinement," and thereby to relegate the uninitiated or non-elite to a position of weakness—at constant risk of embarrassment, and expected to embrace as superior customs that, in fact, have no intrinsic advantage over their own. The etiquette of equality that prevails in elite spaces is certainly also capable of operating in this way. And that risk is heightened if we lose sight of the contingency and cultural specificity that I have just tried to underscore.

Second (and related), it is possible that, by better articulating our distinctly sensitivity-based reasons for making and objecting to particular expressive choices, we might cancel at least part of the escalatory implication of those choices and objections. For example, my paragraph above about *why* I am not spelling out the n-word here—mainly to avert the risk of being mistaken as failing to properly weigh the risks of insult or injury, not because I think those latter risks are actually substantial here—might stop that same choice from contributing to anyone's sense that more basic moral norms require as much (or that anyone with any reasonable degree of sensitivity would perforce do the same). I have previously urged the same basic approach when courts confront claims of injury grounded in asserted social meanings that are themselves contingent and deleterious—such as the notion that, whenever the government makes decisions based on race, it thereby expresses disrespect for people "as individuals."[72] As I will explain in the conclusion, though, there are also reasons for pessimism about our capacity to manage the problem through greater articulateness in practice.

Third, and finally, we might seek to draw a line against respect inflation at some salient point, such as the boundary between the content of ideas and the manner of their expression. I have no illusion that this line is clear or marked by consensus.[73] Still, one could imagine a kind of joint stipulation to the following effect: Mimetic reasons for forbearing from some expression should be discounted when they would otherwise threaten to make morally inexpressible ideas that are not, as of yet, almost universally recognized as incompatible with a commitment to the equal worth of persons.[74] From one point of view, this is what it would mean to have a "free speech culture" and to reconcile it, to some extent at least, with the etiquette of equality. Suppose, for example, that it is nearly impossible to assert the view that U.S. policy toward Israel is unduly beholden to the influence of wealthy campaign donors *without* risking the appearance that

72. See Benjamin Eidelson, "Respect, Individualism, and Colorblindness," *Yale Law Journal* 129, no. 6 (2020): 1659–66.

73. Cf. *Cohen v. California*, 403 U.S. 15, 26 (1971): "[W]e cannot indulge the facile assumption that one can forbid particular words without also running a substantial risk of suppressing ideas in the process." In addition, there may well be some ideas that are themselves beyond the pale and undeserving of any special protection against the effects of observing our ordinary norms regarding the communication of respect.

74. For an instructive discussion of how to set "the bounds of civility," and the special role that social consensus might properly play, see Calhoun, "The Virtue of Civility," 265–72.

one is giving voice to an anti-Semitic attitude.[75] In that case, the higher-level norm that I am hypothesizing would require us to forbear from reading into a speaker's willingness to transgress the etiquette of equality in that way (in order to voice that opinion) as we otherwise might. Indeed, if this norm of special solicitude for ideas endangered by the etiquette of equality were firmly in place, a speaker's asserting that fraught view about the Israel lobby would in fact *become* less suggestive of anti-Semitic attitudes, because not only those who are willing to risk being taken as demonstrating anti-Semitism would be willing to voice it.

Let me now tie together the various threads here—and try to demonstrate the utility of the account we have been developing—by examining more closely a real-world example that interweaves several of the dynamics I have described. To my mind, the case is analytically challenging but fairly representative in the nature of the challenges that it poses. While there are a number of different forces at work in this episode, it is perhaps most instructive for the illustration it offers of how respect inflation takes place and of the perils, for different parties, of failing to understand and account for it.

At the center of the story is a series of messages that Ilya Shapiro, a conservative lawyer and commentator, published on Twitter in January 2022. Justice Breyer had just announced his impending retirement from the Supreme Court, and President Biden was widely expected to deliver on his pledge to nominate a Black woman at the first opportunity. Shapiro took to Twitter to opine that President Biden's "[o]bjectively best pick" to replace Breyer would actually be Sri Srinivasan, a prominent appellate judge. Shapiro observed that Srinivasan is "solid[ly] prog[ressive] & v[ery] smart" and added that he "[e]ven has [the] identity politics benefit of being [the] first Asian (Indian) American." "But alas," Shapiro continued, "[Srinivasan] doesn't fit into the latest intersectionality hierarchy[,] so we'll get [a] lesser black woman." Because Biden's nominee would be chosen only from among the class of Black women, Shapiro remarked, her nomination would "always have an asterisk attached." He concluded by deeming it "[f]itting" that "the Court [would] take[] up affirmative action" in its next term.[76]

75. For a relevant example, see Aaron Blake, "For Rep. Ilhan Omar, 2 apologies in 3 weeks for 'anti-Semitic tropes,'" *Washington Post*, February 11, 2019, https://perma.cc/CEG5-Y534.

76. For the full text of the messages, see Foundation for Individual Rights in Education, "Ilya Shapiro Tweets about Biden Supreme Court Nominee," https://perma.cc/GY3E-SJG9.

Shapiro's statement was widely condemned as racist. William Treanor, the dean of Georgetown University Law Center—which had recently hired Shapiro to direct a research institute—denounced Shapiro's "suggestion that the best Supreme Court nominee could not be a Black woman" as "appalling" and "damaging to the culture of equity and inclusion that Georgetown Law is building every day."[77] Georgetown's Black Law Students Association likewise excoriated Shapiro for his "suggestion that *any* Black woman, regardless of their qualifications, would be a 'lesser' choice for the Court."[78] His "racist rhetoric and continued association with the University," the association explained, "sends the visceral message that even if Black women attend the best law schools, hold the highest clerkships, and serve on the most prestigious courts, they *still* are not good enough." Georgetown ultimately suspended Shapiro pending an investigation of whether he had violated its policies "on professional conduct, non-discrimination, and anti-harassment."[79]

What makes this episode perplexing is that—at least at first blush (and much as with Justice Scalia's *reductio*)—the main objection to Shapiro's statement seems to rest on a misreading of what he said. After all, Shapiro did not "suggest[]" that "the best Supreme Court nominee *could not* be a Black woman"—at least not in any usual sense of those words. Rather, he opined that a particular person would be, all things considered, the best nominee (given what he supposed to be President Biden's jurisprudential objectives). And since that person *is* not a Black woman, it necessarily follows that if Biden picked a "[B]lack woman"—as he had pledged to do— he would be picking someone "lesser." That inference does not trade on any premise about the relative abilities or suitability of Black women; it is just a logical entailment of thinking Srinivasan was the best nominee. And surely one could think that about Srinivasan (who had long been viewed in legal circles as a leading candidate for elevation) without holding any negative attitudes toward Black women or, for that matter, toward any

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77. "Dean William M. Treanor's Statement on Recent Ilya Shapiro Tweets," January 27, 2022, https://perma.cc/6HEZ-3JRA.

78. Georgetown BLSA (@GeorgetownBLSA), Letter from Georgetown BLSA, Twitter, January 28, 2022, https://perma.cc/9XSP-BWVG.

79. "Dean William M. Treanor Statement: Update on Ilya Shapiro," January 31, 2022, https://perma.cc/C4EK-6ALW. Several months later, Georgetown determined that Shapiro was not subject to discipline because he was not employed by the university at the time of the tweets. Shapiro then resigned anyway on the asserted ground that he could not speak freely in the context created by the dean's statements and the ensuing investigation.

other group of which Srinivasan is not a member. To make this point concrete, consider that President Obama ranked Srinivasan more highly than any Black women, too: he put Srinivasan, but no Black women, on his final "short list" for a Supreme Court vacancy in 2016. Taken at face value, then, Shapiro's statement committed him to the proposition that the best nominee "*could not* be a Black woman" only in the rather contrived sense in which one could say that Obama's choice of finalists did the same.

Yet the fact is that many did regard Shapiro's statement as "offensive," "racist," "deplorable," and "insensitive,"[80] and it is important to understand why. One possibility, to be sure, is that these reactions were not really triggered by the negative view of Black women that Shapiro's critics imputed to him at all, but rather by the distinct content that Shapiro unambiguously *did* intend to convey. After all, Shapiro was voicing a familiar criticism of affirmative action: that giving weight (here, lexical priority) to considerations of race or gender will sometimes lead to selecting candidates who are not in other respects (or, accordingly, all things considered) the "best." Even if Shapiro's view about Srinivasan's superiority as a nominee was sincere, he was clearly seizing on the opportunity that this judgment, together with Biden's pledge, afforded for scoring a rhetorical point against affirmative action (and, in the minds of many, a shallow and obtuse one at that). So it is possible that many were really taking offense at that criticism itself, or at Shapiro's decision to voice it—not at any perceived suggestion that Black women are presumptively inferior as nominees—and that they just conflated the two in their own denunciations of Shapiro.

But we should not rush to conclude that the students (and others) who were aggrieved by Shapiro's statement so misunderstood or miscast their own complaint—and indeed, there are other salient reasons for taking offense at Shapiro's statement that *do* relate to the additional content that the critics emphasized. This is where attending to the dynamics of respect inflation is key. Roughly speaking, Shapiro's statement bore enough *resemblance* to a statement that Black women are categorically less capable that (the thought might go) someone who was duly concerned about the risk of *appearing* to express that view would not have spoken as he did.[81] And why might someone in Shapiro's position not have been as

80. Georgetown BLSA (@GeorgetownBLSA), Letter from Georgetown BLSA.
81. The notion of a *trope*, as employed in elaborating or enforcing the etiquette of equality, seems often to capture this notion of problematic resemblance; it might best be understood as the basic unit to which the relevant sort of metadata attaches.

concerned as they should have been (or as others now are) about the risk of being understood in that way—that is, of being taken as endorsing certain unstated (but, in a sense, "nearby") disrespectful content? Well, first, maybe the speaker *does* endorse that content, even though the statement did not otherwise commit them to it: in fact, maybe the speech is calculated precisely to induce others to entertain that content while leaving the speaker's intention in this regard ambiguous. Second, maybe the speaker at least regards the unstated content as an acceptable view to hold (even if it is not theirs), such that they would not be embarrassed by being mistaken as endorsing it. And third, maybe they care little about the injury to others' interest in recognition that could follow from their being taken, even wrongly, as endorsing it. All of these explanations for Shapiro's expressive choices might seem more plausible to his interpreters, moreover, precisely because he was criticizing affirmative action on "meritocratic" grounds—and presumably it is commonly thought that those who voice such criticisms are more likely than others to have an unfavorable opinion of the abilities of members of subordinated groups, whether they have voiced that opinion in so many words or not. The upshot will now be familiar: Insofar as Shapiro can be charged with appreciating some or all of this, but then proceeded to describe Biden's future nominee as a "lesser black woman" anyway, there is a real sense in which that expression *did* show disrespect for Black women after all.

How then might an awareness of respect inflation shape one's *response* to this complex communicative situation? Ideally, one might want to acknowledge the affront that I have just described, and reassure offended students of their standing, *without* reinforcing the interpretive background conditions that made Shapiro's statement so problematic in the first place—conditions that left students vulnerable to the injury that now needs repairing and, at the same time, threaten the very possibility of respectful engagement on controversial topics of obvious importance. As I have said, that needle is difficult, perhaps impossible, to thread. Insofar as that can be done, however, Shapiro's own initial response to the incident may have pointed in the right general direction. When his message was taken as denigrating Black women, Shapiro quickly removed it and posted: "I apologize. I meant no offense, but it was an inartful tweet."[82] Now this

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82. Lauren Lumpkin, "Incoming Georgetown Law administrator apologizes after tweets dean called 'appalling,'" *Washington Post*, January 27, 2022, https://perma.cc/T3KB-CL7K.

message, too, is susceptible of more and less charitable readings—and I have no particular interest in defending Shapiro as such.[83] Still, I think Shapiro's response at least illustrates a salutary impulse: He seemed to be trying to avoid conceding that his intended critique of affirmative action furnished valid grounds for offense—or that the critique itself should be unsayable for fear of seeming to say something else—while apologizing for expressing that proposition *in a way that*, at least given our present norms, risked conveying legitimately offensive content as well. Whether I am right about Shapiro's intention or not, these do seem like the right distinctions to draw. And just as Shapiro was thus right to apologize for his conduct (under this description), I think Georgetown's dean could reasonably have made a careful statement faulting Shapiro for that same lapse—including by highlighting the damage that Shapiro's speech had done to the institutional interest in maintaining a public culture of mutual recognition.

The problem is that, as I noted above, the dean went much further than that: he ratified the reading of Shapiro's statement as a comment on the abilities of Black women as such and denounced it as "appalling" on that basis. The preceding discussion of respect inflation highlights reasons to think that decision misguided and regrettable—not so much because of its possible unfairness to Shapiro (though there is that), but, more importantly, because it tells anyone listening that even a statement as far from actually asserting the inferiority of Black women as Shapiro's was should nonetheless be taken *as if* it did just that. As I have been stressing, such a statement on the dean's part helps to make itself true. Indeed, it gives all of us reasons (of prudence, yes, but also of *respect*) to avoid saying something that could be taken as resembling Shapiro's statement, which in turn was only to be avoided because of its resemblance to yet another. As the negative charge spreads through this network of resemblances, it is unlikely to respect the distinction between, say, the foreseeable sense of insult triggered by referring to someone as a "lesser black woman" and the like reactions that might be triggered by the very fact of criticizing affirmative action on broadly "meritocratic" grounds. And because the new or augmented reasons against engaging in particular speech will not always outweigh the reasons in its

83. Part of the problem with the apology has to do with the word "inartful," which, especially in this context, can imply that the speaker *too bluntly* conveyed the content that actually was both intended and received. See William Safire, "Inartful," *New York Times Magazine*, July 20, 2008, https://perma.cc/JW3G-TG6Q.

favor (and will not always be heeded even when they do), raising the communicative stakes in this way may not even advance Black women students' important interest in living free of comments that they and others could justifiably take as affronts to their standing or worth.

VI.  ETIQUETTE, TESTING, AND POWER

Finally, we cannot capture the full extent of the dilemma posed by the etiquette of equality without accounting for one more dynamic to that is interwoven with the last two. As I have noted throughout, the normative significance of A's taking B's expression as denigrating makes B's reaction *to that reaction* meaningful as a window into B's attitudes, even if A's taking the initial expression as such a window was a mistake on A's part. Once we see that, it is a small step to recognizing an opportunity of sorts that this dynamic creates: one individual or group can force a reckoning over others' attitudes toward them *by* denouncing some symbol or utterance as offensive—construing it as an expression of disrespect—and then seeing how others respond.

Consider the Georgetown example again. Whatever "message" Shapiro's "continued association with the University" might or might not reasonably have been taken to "send[]" in the first instance, Georgetown's decision to *suspend* that association *in light of* the meaning that Black students in fact ascribed to it sends a distinct message of its own. It makes manifest the institution's concern for the same interest in recognition—in the students' words, for their sense of "legitimacy at this institution"—that Shapiro's statement (as construed by them and others) had undercut.[84] Given the students' lack of assurance about their status, that is a demonstration that the students have legitimate reasons to want, and that the institution has genuine moral reasons to provide—especially if the alternative, at least relative to the prevailing interpretive norms, is for the institution to convey that it condones the students' felt marginalization. Meanwhile, the students' very ability to procure this demonstration has the potential to demonstrate a kind of power that the students wield over the institution as well. And that agency, too, is something that they may well have valid reasons to want and to want to make seen.[85]

84. Georgetown BLSA (@Georgetown BLSA), Letter from Georgetown BLSA.

85.  See, for example, Tommie Shelby's discussion of how "[w]e can increase our moral pride by successfully protecting ourselves against threats to our self-respect." Shelby, *Dark Ghettos: Injustice, Dissent, and Reform* (Cambridge, MA: Harvard University Press, 2016), 115.

What this suggests, though, is that as long as there are grounds for doubt about the status of a social group within a society or institution—as there will be in a context of entrenched inequality—there will be a natural pressure toward elevating ambiguous or arguable expressions of disrespect into "test cases," rather than dismissing or de-escalating them (as, with other merely possible affronts, many are wont to do). And at that point, powerful reasons of sensitivity kick in and will press in favor of removing the source of the felt disrespect. In other words, because these contests serve a function beyond simply seeing to the removal of pre-existing affronts, we should expect them to outstrip the actual incidence of expressive acts that the operative respect norms would classify as a transgression (even one grounded in insensitivity). That tendency will aggravate the same dynamics traced above: it will press in favor of especially zealous enforcement of the etiquette of equality, thereby recursively escalating its demands, and often amplifying the collateral costs that it imposes. And, ironically, one such cost may be to channel reform energies into a symbolic register where their bearing on the conditions that ground the original insecurity of status will often be attenuated and uncertain at best.

The recent conflict over Harvard Law School's shield offers another useful illustration of this predicament—like Georgetown's dilemma in some respects, but unlike it in others.[86] Adopted by the university in 1937 and featuring three sheaves of wheat, that emblem was adapted from the family crest of Isaac Royall, Jr., whose 1781 bequest had been used to endow the first law-teaching position at Harvard. As the report recommending retiring the shield explained, "Royall derived his wealth from the labor of enslaved persons on a plantation he owned on the island of Antigua and on farms he owned in Massachusetts."[87] The law school reportedly became aware of the shield's connection (via Royall) to slavery about 20 years ago, thanks to then-emerging historical research. It became salient within the student body only in the 2010s, when then-Dean Martha Minow "began telling incoming students of the association as a reminder that lawyers must do more than merely know and follow the law and must strive to ensure that the law itself is just."[88]

Consider, then, an individual Black student who learned of the shield's history in this way. Would it make sense for them to take the school's

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86. Although I am now a member of the Harvard faculty, I had no role in the events and decisions that are discussed here (all of which took place before I arrived).

87. "Recommendation to the President and Fellows of Harvard College on the Shield Approved for the Law School," March 3, 2016, 1, https://perma.cc/H987-HJAE.

88. Ibid., 7.

continued use of the symbol as a sign of disrespect for them? The question is not simple, but I doubt that it would. We can assume that it would show disrespect for current Black students (not to mention past enslaved persons) to embrace, as the symbol of the institution, an image that is apt to be understood by its audience as somehow celebrating slavery. But, at least absent the historical context that surfaced in the 2000s, the image was not apt to be so understood.[89] So, presumably, when that historical context became known, it did not reveal the school's use of the shield in the immediately preceding years to have expressed disrespect. The remaining question, then, is what moral consequence flows from adding a certain historical fact to the school leadership's body of knowledge, and to the knowledge of some students and interested observers: namely, the fact that Royall's wealth derived from the labor of enslaved people. What can a student infer from the school's willingness to leave the shield in place *with full knowledge of that connection*?

Initially, I think the answer is still "not much." After all, the source of Royall's wealth does not require that the symbol's continued use be taken as revealing any particular attitude toward slavery on the institution's part. That choice might simply reflect a decision to leave be a longstanding and intrinsically generic icon that, like so much of the present world, has some historical relationship to American slavery.[90] One indication to this effect is that, even *after* the student mobilization in favor of retiring the shield, there remained "significant disagreement" (which did not "line up along standard divisions of age, race, or political identification") about what should be done with it.[91] Indeed, a statement by historian Annette Gordon-Reed, dissenting from the recommendation to retire the shield, highlights the symbol's indeterminacy: She noted both that "a number of the inhabitants of Antigua (the site of the Royall Plantation) are

89. According to the same report, sheaves of wheat "have long been a common element of heraldic devices—signifying such agricultural virtues as abundance, fertility, and a good harvest—and are by no means unique to the Royalls." Ibid., 6.

90. In a similar vein, Randall Kennedy reports that, as a Princeton student and alumnus, he "never felt burdened by any memorialization of [Woodrow] Wilson." Kennedy, *Say It Loud!*, 121. As he puts it, "I simply chose to avoid interpreting the name of the Woodrow Wilson School as a racial affront." See also pp. 121–22: "My choice was by no means singular. . . insofar as a distinguished cadre of antiracist scholars [associated with Princeton]. . . also appear to have felt no need to protest."

91. "Recommendation to the President and Fellows of Harvard College on the Shield Approved for the Law School," 8.

enthusiastic about the association with the Harvard Law School," and that retaining the symbol could be understood as affirming "our debt to the enslaved and our commitment, in their memory, to the cause of justice" (much as Minow was evidently suggesting in drawing students' attention to the association in the first place).[92] All of that is to say that, just before the controversy broke out—when the school's (and university's) modern leadership first learned of the connection to slavery and yet responded as they initially did—it would not necessarily have been reasonable for anyone to take the failure to retire the shield as evincing a disrespectful attitude toward them (or anyone else).

Nonetheless, retaining the shield surely *became* an index of the institution's attitude toward Black community members once—for whatever mix of reasons—a critical mass of students *did* take it as precisely that.[93] As the committee's report recounted, "[w]e have heard that the shield offends many persons of color—current students in particular—and reminds them of past oppressions and present discriminations."[94] Some said that it "leads them to question whether they are accepted as equal members of the Law School community, particularly in the face of what they experience as other slights." And "many—although by no means all—people of all races and ethnicities see it as a symbol of exclusion." Ultimately, the report concluded, "there are better ways to engage the past and its legacy in the present than by retaining a symbol that so many members of the community reject."

That seems right: faced with this testimony, it would be wrong to retain the symbol unless doing so delivered some large and otherwise-unattainable benefit. Given the way it was being construed, retiring it was a small way of answering the question "whether [Black students] are accepted as equal members of the Law School community." And, perhaps more importantly, *retaining* the shield would have communicated an answer to that question too. It would have said that the school cares more about preserving its otherwise-unremarkable logo than it does about the

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92. "A Different View," 2016, 2, https://perma.cc/N9WZ-EWPY.

93. And ahead of time, too, insofar this is foreseeable. (If the reaction at issue *was* foreseeable here, I take it that would itself be due to prior iterations, in recent years, of the same dynamics under discussion.)

94. "Recommendation to the President and Fellows of Harvard College on the Shield Approved for the Law School," 7–9.

attitude that many of its Black students take it to have toward them, which would itself have said a great deal about what that attitude was.

The key point, though, is that these forceful reasons for retiring the shield all lie downstream of the construction or experience of the symbol in a way that *made* it offensive in the first place. And it is entirely possible that, at least for many Black students, the shield would not have come to have the meaning that it did but for the way it was being challenged, and thereby made a focal point of conflict over their status, in the first place.[95] Viewed in this light, the students were not necessarily seeking relief from a pre-existing source of offense or injury, but rather were using the shield to call the question of the institution's concern for their sense of inclusion and, importantly, displaying their own agency within and power over the institution as well.

What follows? First, as I noted above, the bona fide reasons for calling such referenda, and for ensuring that (once called) they are resolved in favor of conveying a commitment to inclusion, will accelerate respect inflation and aggravate its collateral costs. But, second, the Harvard case highlights certain reasons to worry that little is being gained in the process. If replacing the old shield with a new one has left the students better off than they were at the outset—before the maintenance of the old shield came to be experienced by them as an affront—the reason is that this reaction itself bespeaks some blend of concern for the students' sense of inclusion and submission to their political power. Notice, though, that the two elements in that blend are actually more competitive than complementary. The more that the institution's reaction is taken to reflect the students' power—say, their ability to extract concessions by threatening reputational harm—the *less* it can be taken by them as evidence of the institution's genuine concern for their sense of inclusion. And either way, if all that is really exhibited is the institution's willingness to make symbolic concessions or the students' ability to extract them, the signal of regard and the sense of efficacy that result are surely of limited significance as well.

95. Cf. T. M. Scanlon, *The Difficulty of Tolerance: Essays in Political Philosophy* (Cambridge: Cambridge University Press, 2000), 199–200, suggesting that "[c]hallenging the accepted rules of tolerance" is "an effective way of mobilizing support *within* the affected groups," in part because "once [some] protection has been demanded by those speaking for the group—once it has been made a litmus test of respect—it is very difficult for individual members of the group not to support that demand" (emphasis added).

In order for the students *really* to test the institution's regard for them or demonstrate their power, in other words, they would need to force the institution to make changes that do not come so cheap. But that means that they need either to de-emphasize the symbolic register themselves—perhaps by centering other demands (such as curricular reforms) and downplaying or eschewing the etiquette of equality—or else craft their symbolic demands in ways that do real damage to other institutional values (such as academic freedom in the Shapiro case), so that the institution's capitulation has real meaning. As with the choice to eschew the word "Negro" or the other examples we have considered, then, there are both forceful moral reasons to make the changes once they are demanded, and also real reasons to suspect that the institution is thereby fueling a social practice that, viewed in broader perspective, may well have extended beyond the point where it begins to do more harm than good—or, at least, that features no internal constraints making it sensitive to where that point lies.

VII. CONCLUSION

The overall portrait of the "etiquette of equality" that I have painted here counsels ambivalence, even pessimism, about its mounting significance. On the one hand, there is a natural logic and genuine appeal to the elaboration of new norms geared to communicating respect for members of subordinated groups. But, on the other hand, this practice is characterized by inherent limits, important costs, and a natural tendency to spiral in ways that aggravate both. When I introduced the moral function of conventions of politeness above, I quoted Amy Olberding's felicitous description of etiquette as a "recognized social currency that symbolically operates as thoughtfulness but simultaneously alleviates its strains."[96] When it comes to efforts to reckon with social inequality, however, that also sounds like a dangerous thing to have in circulation—a token of egalitarianism that can substitute for the real thing—and certainly like something we should be unsettled to find at the center of our moral and political lives.

And yet, from a first-order moral point of view, perhaps the hardest problem is that none of these concerns about the etiquette of equality

actually saps it of its semiotic, and hence normative, significance. This is the dilemma to which I alluded in the introduction. When it comes to any particular decision, there will often be decisive moral reasons to behave as an operative respect norm prescribes. Yet, in the aggregate, these same choices entrench and extend the relevant norms and expectations themselves, all but ensuring that they will continue to enjoy an outsized and potentially counterproductive significance. "[I]n a morally imperfect world," as Cheshire Calhoun has argued, "what a socially critical moral framework recommends may well be at odds with what we feel called upon to do in order to communicate our moral attitudes toward those we live with."[97] Supposing that the etiquette of equality does present us with a form of this predicament, I will conclude by briefly touching on three ways we might proceed in light of it.

First, we ought to resist the assumption that one approach to the etiquette of equality is most justified for all of us, or even for any one of us across the various social roles that we occupy. To the contrary, practically all of the relevant considerations are context-sensitive matters of degree. The importance of observing some prevailing or emerging norm varies both with the attitudes that others will take us to be showing if we breach that norm—which depends on many other aspects of what they think about us—and with the security or vulnerability of those whose interest in recognition we risk setting back. On the other side of the ledger, our potential contributions to respect inflation, and to chilling candid discussion, differ with the various forms of social power we wield. For these and other reasons, there may well be cases in which the more responsible course is to run a risk of being taken as showing disrespect—or, even better, to trade on one's credibility so as to avoid that result *without* falling back on the crutch of etiquette to do so. But the same course will often be indefensible in other settings, or for other people (who know that they are liable to be interpreted in different ways) when they act in the same one. We ought to bear these dimensions of variation in mind both in making our own choices and in assessing others'.

Second, as I suggested in passing above, it might well help if we spoke in more nuanced terms about our own reasons for communicating as we do. This is difficult because etiquette is inarticulate by nature, suited to the sending of fast, frequent, but unelaborated signals. Indeed, the very

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97. Calhoun, "The Virtue of Civility," 265.

pervasiveness of etiquette means that it is usually triggered incidentally: it often prescribes *how* we are to say or do what, for reasons unrelated to the communication of respect, we were going to anyway. Constant discursions into meta-commentaries on our communicative practices are unrealistic. And because it is impossible to step outside our shared semiotics, such disquisitions can carry their own complex and delicate signals (a feature of this essay that is certainly not lost on me). Still, when and where it is possible, pausing to reflect on and articulate the reasons why we are doing what we are doing—*why* we are or are not using particular terms, *why* we take these choices to be grounds for offense or reproach in a given case, and the like—could sap some of the ambiguity that drives many of the problematic dynamics that I have traced here. Ironically, it is universities and their classrooms—the settings where, at least in the popular imagination, the etiquette of equality is most rigidly enforced—that might offer the best openings for this sort of reflective approach. So, to return to my opening classroom vignette, I think the best direction in which to take such a conversation may sometimes be "up"—from a discussion of sodomy laws to a discussion of the concerns underlying the students' comments, of how the "metadata" associated with those comments shapes their significance, and of the resulting dynamics that may leave us no costless options for navigating encounters such as this one. At the same time, more spelled-out expression in this domain and more explicit (rather than submerged) attention to it might foster a greater awareness of the very real limits on what the etiquette of equality can accomplish—thereby inviting reconsideration of the investment we ought collectively to make in it.

But, finally, we should bear in mind the close connection between the salience and normative force of the etiquette of equality, on the one hand, and underlying conditions of social inequality, on the other. As I suggested early on, in a social context characterized by plainly visible, yawning gaps in both opportunity and recognition, it makes perfect sense that members of subordinated groups and avowed allies would be drawn to, and then keenly sensitive to, the use of our respect-communicating practices to situate oneself relative to those glaring inequalities. Likewise, increased awareness of the slights and insults that were all along implicit in certain kinds of comments and behaviors undoubtedly protects important interests and might well be impossible without the informal codification of corresponding, etiquette-like norms. So, insofar as the escalation of the

etiquette of equality may be regrettable, the lion's share of the blame lies with the systemic injustices that make that escalation a logical and possibly inevitable response. Here, too, the analogy to ordinary etiquette is apt. "It is only for the man who does not possess true politeness," Rousseau suggested, "that one is forced to make an art of its outward forms."[98] Likewise, it is only in a society that does not organically and unreflectively treat its members as equals that we are collectively required to make an art of the public expression of egalitarian commitments, with all of the real costs and complexities this entails.

98. Jean-Jacques Rousseau, *Emile, or On Education*, trans. Allan Bloom (New York: Basic Books, 1979), 338. For an instructive discussion of Rousseau's view of etiquette, see Sarah Buss, "In Defense of Appearances: a Reply to Marcia Baron's The Moral Significance of How Things Seem," *Maryland Law Review* 60, no. 3 (2001): 651.