



Navigating Civility's Baggage: Some Thoughts for Ombuds Practitioners

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ABSTRACT

The idea of civility has come under increasing scrutiny in recent years, as marginalized and disempowered groups have grappled with the ways in which calls for civility have been used to suppress dissent and maintain the status quo. This article describes some of the controversies around civility in more detail, including a look at the term's connection to the history of racial oppression, challenges to academic freedom and freedom of expression, and the NLRB's concept of protected concerted activity. It then offers some questions for ombuds practitioners to consider as they work through whether and how to reference civility in their own organizations.

KEYWORDS

Ombuds, civility, freedom of expression, academic freedom, protest, power



Ombuds have long referenced civility as a cornerstone of their work. A quick Google search, in fact, recently revealed over a million hits for the combination of the terms “ombuds” and “civility.” The contexts in which ombuds offices refer to civility vary. Some have extensive discussions around the term on their websites, while others make more cursory reference to it in their description of the purpose of their office. And quite a few ombuds office websites offer practical tips for civility in different contexts.

Ombuds practitioners often refer to civility in large part because the term seems the simplest way to describe the sort of working environment for which we regularly advocate: it has been defined, for example, as “the extent to which citizens of a given culture speak and act in ways that demonstrate a caring for the welfare of others as well as the welfare of the culture they share in common” (Davetian, 2009, p. 9) and “claiming and caring for one’s identity, needs and beliefs without degrading someone else’s in the process” (Institute for Civility, 2024). Indeed, norms of civility are often seen as being necessary to help societies and organizations function smoothly.

For scholars such as those just mentioned, civility carries with it connotations of mutual respect, ethical behavior, and concern for the welfare of the community, which are foundational elements of ombuds work. Use of the term also generally implies the expression of one’s beliefs, and even disagreement or dissent, without denigrating others. Edward Langerak (2014) describes the “essentials of civil conversation” as follows: “personal convictions plus a willingness to talk about and listen to differences” (p. 21). Skills involved in behaving in a “civil” manner, this line of thinking goes, include listening, acknowledging others’ viewpoints, and respectfully asking questions when appropriate. All of these are skills that ombuds often help members of their organization develop.

The International Ombuds Association (2023) itself recently piloted new Organizational Values and Community Norms that reflect many of the goals associated with civility mentioned above. The community norms were developed, according to the document’s introduction, “to create a positive, sustainable culture that honors the dignity of each Participant, and to provide a framework so Participants know what to expect of each other” (p. 1). Norms mentioned in the document include respect for self and others, humility, thoughtfulness, generosity, and open listening.

Many ombuds have thus thought extensively about ideas traditionally associated with civility. Our visitors, however, may come to the term from a very different place. They may view calls for civility as more problematic, particularly if they belong to one or more historically marginalized groups. As will be discussed below, when members of such groups hear their organization’s ombuds make reference to civility, they may question whether such references are being used as a way to quell dissent. The aim of this article is thus twofold: to trace some of the history of the power structures involved in the construct of civility and to help ombuds think about what this history might mean for their own practice as they interact with visitors and the members of their organization at large.

A BRIEF LOOK AT THE HISTORY AND ETYMOLOGY OF CIVILITY AND ASSOCIATED TERMS

While scholars of civility have developed fairly nuanced definitions of the concept, such as the ones mentioned above, the average member of an organization in which an ombuds works will likely view the term primarily along the lines of how Bybee (2016) describes it: “Civility is a close cousin of both politeness and courtesy” (p. 8). Given the history and etymology of those latter terms, ombuds would do well to note that they bring with them baggage that can carry over to the



idea of civility as well. To start, etymologically speaking, “courtesy” derives from the term “court,” in that “courteous” originally meant “marked by polished manners, gallantry, or ceremonial usage of a court” (Merriam-Webster, n.d., “courteous”). The same dictionary, moreover, defines “courtesy” as “behavior marked by polished manners or respect for others” (Merriam-Webster, n.d., “courtesy”). Etymologically speaking, in fact, “polite” and “polished” come from the same Latin root, again linking courtesy to the refinement associated with the upper classes. The association between civility, courtesy, and class was especially notable during the Victorian era, when a person’s knowledge of etiquette rules functioned as a marker of belonging to the upper class (Calhoun, 2000, p. 251).

The *Concise Oxford English Dictionary* definition of *courtesy* as “a polite speech or action, especially one required by convention” (Soanes & Stevenson, 2008, “courtesy”) is also significant because the idea of being required by convention gets most clearly at the root of the word in early modern court culture. The “courtesies” tied to the early modern court were largely about external appearances and maintaining certain forms of behavior based on hierarchical expectations. They were also intended to mark certain members of society as the elite and were closely associated with power and class distinction. Courtesy was something one engaged in largely to curry favor with superiors and to cement one’s place closer to the center of power in the court. As Benet Davetian (2009) puts it in his book *Civility: A Cultural History*, courtesy didn’t originate as a “philosophy of generalized kindness but a process of deference and adulation intended to legitimize the rights claimed by the new chieftans of Europe,” (p. 24) which were the feudal lords.

In a somewhat similar vein, we can’t overlook Merriam-Webster’s (n.d.) reference to *civility* as “civilized conduct” (“civility”). Of the definitions mentioned, this is obviously the phrase that has the closest etymological connection to civility, in that they both stem from *civis*—the city—connecting the idea of civility to “cities in which citizens are dependent on one another and the state for functional relations within complex social networks,” as Davetian (2009) explains it (p. 9). But of course, “civilization” and “civilized” in this sense were also always linked to structures of power. “Civility” was required to participate in feudal society, where power was only open to a select few. Norms of civility were implemented to impose restraint on potentially rebellious feudal lords, not to mention that the whole notion of civility was set up in opposition to the idea of a supposedly “barbaric,” unrefined other, which were the invading hordes to be vanquished (Davetian, 2009, p. 24).

Thus, the etymology of these terms reveals how calls for civility in Western societies and organizations can bring with them some baggage in terms of their underlying connections to historical power and class structures. Indeed, for many marginalized populations in the United States today, references to civility may elicit any number of more negative reactions. As we will see, in recent years, civility’s more negative associations have been gaining recognition. As a result, ombuds office visitors may be increasingly aware of the power dynamics at play when it comes to these sorts of questions and may even have experienced said power dynamics firsthand. Thus, for ombuds, it is important to understand these contexts more fully and to be aware of how our references to civility could potentially be perceived by different audiences. A few examples of how civility has been invoked in problematic ways in U.S. society may suffice to help ombuds consider where, whether, and how to promote the concept in their work

RACE

A classic example of how references to civility in the United States have been used to quell dissent or “other” those with less power can be found in questions of race. As Karen Grigsby Bates (2019) has written, “For many people of color in the United States, civility isn’t so much



social lubricant as it is a vehicle for containing them, preventing social mobility and preserving the status quo” (para. 3). Throughout American history, in fact, those pressing for equal rights through peaceful means have often been met with accusations of “uncivil” behavior. Alex Zamalin (2021) has shown that going back to the post-Civil War era, those in power in the U.S. have frequently used norms around civility to maintain a status quo based on White hegemony. As he writes, “From slavery to Jim Crow, to black ghettoization, to mass incarceration, to police brutality, the idea of civility has been enlisted to treat black suffering with apathy or to maintain an unjust status quo. Worse, it has been a tool for silencing dissent, repressing political participation, enforcing economic inequality, and justifying violence upon people of color” (p. 6). This was true as much for those participating in the Civil Rights movement as it is today for people like Colin Kaepernick and other peaceful Black Lives Matter protestors.

Indeed, then-President Donald Trump’s response to the Black Lives Matter movement, a movement ignited by the 2020 murder of George Floyd at the hands of a Minneapolis police officer, illustrates how accusations of “uncivil” behavior continue to be wielded against legitimate exercises in free speech and protest. Trump’s repeated references to the protestors as “thugs” were a classic illustration of a tactic used by some politicians since the days of the Civil Rights movement: to cast protestors as “uncivil” threats to society (Ali, 2020, paras. 16-18) in order to delegitimize their concerns.

It must not be forgotten, moreover, that Blacks are far from the only racial group who have experienced injustice in the name of “civility.” To cite just one other example, we can return to the connection mentioned at the outset of this article between “civility” and its unfortunate etymological and historical connections in Western society to the notion of “civilization” discussed above. We have seen the consequences of this connection play out, for example, in the removal of Indigenous children in various Western nations from their homes to re-educate them with White, Western norms. The nation that has engaged perhaps most thoroughly with this legacy in recent years has been Canada, where for decades, from the late nineteenth century through much of the twentieth, a residential school system run mainly by Christian churches led to the involuntary separation of children from their families. While these schools were touted as giving Indigenous children an opportunity for a better life, the reality was much harsher, as many of the schools engaged in truly abusive practices (Milloy, 2017). Canada’s residential school system is thus another example of why the notion of “civility” can bring with it very negative connotations for certain groups. As Bates (2019) puts it, citing another scholar, “The relationship between alleged civilizers and the people they’re ‘gifting’ with civility is ‘inherently undemocratic, unequal and racist’” (para. 11).

FREEDOM OF EXPRESSION

Calls for civility have also been seen as problematic when they have appeared to serve as attempts to quell an individual’s right to freedom of expression in the public arena. Freedom of expression and protest can take a direct hit when the powers-that-be deem protestors to have violated the often-ambiguous norms associated with civility. Similar to what we’ve seen when it comes to civility and race, this quashing of dissent can lead to an “othering” of marginalized groups that undermines their ability to challenge the status quo. Declaring dissenters uncivil can go a long way toward robbing them of their legitimacy in the eyes of others.

One example of a case where concerns with civility were found to clash with the right to freedom of expression comes from the world of local government. As was reported in the New York Times last year, the Massachusetts Judicial Supreme Court ruled in favor of a resident who had brought suit against the town of Southborough, claiming that the town’s “civility code” was unconstitutional and a violation of her rights to free expression (Russell, 2023). The resident, Louise Barron,



brought the suit after she was threatened with ejection from a 2018 Southborough Select Board meeting for calling one of the Board members “a Hitler.”

The local civility code at issue in the lawsuit required that public discourse and debate be “respectful and courteous” and be “free of rude, personal or slanderous remarks” (as cited in Russell, 2023, para. 5). In its ruling, the Massachusetts court agreed that Ms. Barron’s remarks had been rude but found her statements to be protected speech. On the civility code, the court remarked that it “appears to cross the line into viewpoint discrimination: allowing lavish praise but disallowing harsh criticism of government officials” (as cited in Russell, 2023, para. 17). Thus, in the public arena, it can be tricky to navigate the legalities of freedom of expression when promoting respectful communication and civility.

ACADEMIC FREEDOM

Academic freedom is considered a foundational principle of higher education, being defined as “the freedom of a teacher or researcher in higher education to investigate and discuss the issues in his or her academic field, and to teach or publish findings without interference from political figures, boards of trustees, donors, or other entities. Academic freedom also protects the right of a faculty member to speak freely when participating in institutional governance, as well as to speak freely as a citizen” (American Association of University Professors [AAUP], n.d., para. 1). There have been instances, however, in which colleges and universities have pushed back against faculty for supposed “incivility,” resulting in conflicts based in the tenets of academic freedom. One well-known example came out of the University of Illinois-Urbana Champaign in 2013, when the university extended an offer of employment to Professor Steven Salaita to begin teaching in the university’s American Indian Studies Program. Professor Salaita accepted the offer, resigned from his previous position, made arrangements to move, and began preparing for the courses he was slated to teach in the fall. In August, however, he was informed that his position was being rescinded, due to the “incivility” of some of his tweets regarding the Israel-Palestine conflict (Mackey, 2014). One of the most frequently cited of his tweets was the following: “At this point, if Netanyahu appeared on TV with a necklace made from the teeth of Palestinian children, would anyone be surprised? #Gaza.” Another said, “Let’s cut to the chase: If you’re defending Israel right now, you’re an awful human being” (as cited in Russell, 2014).

As explanation for the last-minute decision to rescind Salaita’s offer, the University’s chancellor, Phyllis Wise, wrote in an email to the whole campus: “As chancellor, it is my responsibility to ensure that all perspectives are welcome and that our discourse, regardless of subject matter or viewpoint, allows new concepts and differing points of view to be discussed in and outside the classroom in a scholarly, civil and productive manner” (as cited in Shibley, 2014, para. 10). She went on to mention civility at least two more times in her letter of explanation for the pre-emptive firing.

Wise and the University of Illinois were widely criticized for their actions and for the use of civility as a rationale for rescinding the offer. As President of the AAUP Rudy Fichtenbaum (2014) put it, “Whatever you think of politics in the Middle East and whether you agree with or abhor the views of Steven Salaita, trying to stifle free expression and academic freedom in the name of civility is at best misguided and at worst a cynical attempt to undermine democracy” (para. 9).

WORKPLACE AND LABOR RELATIONS

Civility policies in the U.S. workplace have also received scrutiny from the National Labor Relations Board (NLRB). As the Society for Human Resources Management (SHRM) has explained, employers subject to regulation by the National Labor Relations Act should tread



cautiously when implementing such policies (Smith, 2016). The professional organization explained that the General Counsel of the NLRB has been known to declare certain civility policies to be in violation of the law because it was found that the policies in question could potentially interfere with employees' right to engage in protected concerted activity. Examples of civility policies that were struck down by the NLRB include:

- "Be respectful to the company, other employees, customers, partners and competitors."
- "Maintain a positive work environment by communicating in a manner that is conducive to effective working relationships with internal and external customers, clients, co-workers and management."

The concern in these instances was that such civility policies might be used as a backhanded way to keep people from questioning management.

Indeed, in a recent U.S. case, the American Civil Liberties Union (ACLU) found itself facing unfair-labor-practice charges from the NLRB after it fired a Korean American employee for what it said were "racist stereotypes" she used in complaints about her supervisors, who were Black (as cited in Peters, 2024, para. 4). The NLRB found that the employee's firing came after multiple concerns she had raised about supposedly abrasive supervisors, which, it claimed, could be considered protected concerted activity. The ACLU, in turn, argued that its goal was to maintain a civil workplace (a stance that surprised many who were familiar with the organization's history of taking on cases involving the desire to protect freedom of expression).

Per the NLRB, however, the imposition of "civility" norms from above can be seen as a weapon used by those in power to maintain their position and put a damper on the questioning of authority. Thus, while SHRM does acknowledge that civility policies can be beneficial in terms of establishing collaborative workplace norms, it reminds employers to make sure that their wording doesn't potentially lend itself to quashing dissent, which is what the NLRB claimed had occurred in the ACLU case.

WHERE DOES THIS LEAVE THE OMBUDS?

The above examples illustrate the baggage that the concept of civility may come with for at least some members of the organization an ombuds serves. Indeed, all of these sorts of cases are what have led author Hua Hsu (2014) to break down the tensions surrounding the term by saying, "For those on the right, civility is political correctness by a different name, while those on the left tend to see it as a way of silencing dissent. What unites these interpretations is a shared suspicion that the rules of civility exist to preserve our hierarchies" (para. 6).

It is crucial for ombuds to keep this idea of civility as preserving hierarchies in mind, especially given the ambiguity of the ombuds role when it comes to its position within organizational hierarchies and its relationship to leadership. That is, while ombuds are generally aware of the nuances of our work and of the fact that we are not administrators or executives who hold organizational power in any traditional sense of the term, we cannot always count on visitors to think through those distinctions in the moment when they see or hear us referring to civility, especially when in many ways ombuds find themselves straddling a line between leadership and non-leadership roles.

Tim Hedeem (2016) has examined many of the tensions inherent in ombuds identity in his article "Ombuds as Nomads? The Intersections of Dispute System Design and Identity," which discusses how the ombuds must strive to be seen as a peer, or in-group member, to both fellow



employees and administrators. Being seen as a peer to both groups can enhance trust and facilitate communication in ways that allow the ombuds to be more successful in serving the organization as a whole.

Much of the tension inherent in the ombuds' work can be summed up, per Hedeem (2016), in the idea of the ombuds occupying this "oscillating space" (p. 241). When the ombuds assists visitors in areas such as conflict coaching or policy clarification, they may be perceived primarily as an ally to the visitors. When the same ombuds later reports on trends and issues in the organization to high-level officials, they may be perceived more as a member of that group. It is this lack of permanent space that leads Hedeem to title the article with the term "nomads." As the author puts it, "The IOA Standards of Practice close with Standard 4.8, 'The Ombudsman endeavors to be worthy of the trust placed in the Ombudsman Office.' That trust is grounded (at least in part) in a visitor's perception of the ombuds as a fellow in-group member, concerned with fair treatment of others with a shared scope of justice. And that trust is also enjoyed from organizational leadership, with whom the ombuds shares upward feedback in the interests of organizational learning. As the ombuds strives to maintain the trust of these sometimes-divergent interests, her identity oscillates between these groups. Like nomads anywhere, the ombuds' identity is always in motion." (p. 247).

Of course, the challenge for the ombuds comes in attaining a close connection with leadership while not actually crossing over into the realm of executive, and even more difficult, without creating a situation where visitors start to lose trust in an ombuds who is seen as too closely tied to the administration. Mary Conger (2019) has looked at the complex relationship between ombuds and leadership in depth, and the interviews with both practicing ombuds and organizational leaders about the ombuds role included in that study reveal just how complicated a dance the relationship can be. For even if an ombuds knows that they wield no true organizational decision-making power, as Conger reveals, their influence can be enhanced through the development of a clear executive presence. The downside of executive presence, however, could potentially be a link in the organization's employees' minds between the words of the ombuds and the directives coming from leadership.

This complicated dynamic brings us back to the potential pitfalls for an ombuds of explicitly promoting civility in the workplace. One might wonder, given the baggage that some people associate with the word, whether seeing or hearing the ombuds promoting the term could make anyone less likely to consult with the office. One might also wonder whether in certain contexts an ombuds call for civility could be perceived as the ombuds acting on behalf of the administration to try to cut down on dissent or control the direction in which discussions are allowed to go.

Given these potential concerns, it is important for ombuds to consider carefully how they plan to navigate such tensions in their own references to civility. One possible means of mitigating misunderstandings, of course, is to be as explicit as possible about what the ombuds is *not* doing when they promote concepts related to constructive communication. That is, in addition to highlighting the office's goals of helping people discuss differences, the ombuds can also explicitly state in their outreach materials that their aim is never to quash healthy debate. In some ways, such a declaration would be in keeping with the purpose of ombuds' opening statements when they meet with visitors, where they strive to outline clearly yet succinctly both how their office can assist and how it cannot. A possible model for brief language along these lines comes to us from the IOA's own piloted norms, which state simply that "these values and norms are not designed to inhibit dissenting views or constructive debate" (para. 5)

In addition, ombuds would do well to consider their organization's history when deciding whether and how to engage in discussions of civility. For example, have there been instances in recent institutional memory in which leadership appeared to attempt to quash dissent in some way by



criticizing the way in which that dissent was articulated? If so, what was the context? Whether the incident(s) took place under the current leader or a previous individual, how might memories of a difficult period inform the organization's members' perceptions of calls for civility going forward? Is there any possibility that you as the ombuds might be seen as being more aligned with administration than you intended?

It would also be important for the ombuds to keep clear the particular contexts in which they engage with the concept of civility. If the ombuds' assistance is requested from a visitor or group of visitors who find themselves in a position of less power in a conflict, it would be wise to ensure that the visitors' own needs and wishes remain at the forefront. For example, attempting to engage in conflict coaching when it has not been requested could potentially backfire if it is perceived as an attempt at tone policing, or focusing more on controlling the emotion with which a visitor discusses an act of oppression than on the oppression itself. Questions of privilege and personal identity could come into play here as well. Ombuds who recognize the ways in which they may have privilege will need to take care not to overlook the particular perspective and concerns of a marginalized visitor when it comes to tackling conversations around communication strategies.

Another potential approach to the concept of civility to consider, when appropriate, is to develop an array of other words and phrases that could portray the essence of what most ombuds intend when they refer to "civility" without bringing with them the unfortunate etymological connections to class, power, and the idea of civilization that the term in question here entails. Some potential substitutes include terms like mutually respectful communication, thought partnership, healthy debate or dissent, or the constructive airing of disagreement, to name but a few. Each of these gets at slightly different things, and each may be more or less appropriate than the others depending on context, but their emphasis on mutuality and/or the acceptance of at-times necessary dissent and disagreement could potentially come with a less troubling history than the term "civility" and the way it has historically been employed by those in power in the U.S.

To conclude, I will leave readers with some simple food for thought as they consider how they might continue to do the important work that ombuds do in the organizational communication space, without seeding potential mistrust from visitors who have reason to fear pushback or even silencing from those in authority. These key takeaways and questions for consideration are not intended to provide concrete answers to what are clearly thorny questions. They are merely meant to help ombuds practitioners consider more carefully how they might navigate these choppy waters in their own institutional contexts.

KEY TAKEAWAYS

- **Consider the context(s) in which you refer to "civility," if you do.**
Are you getting involved in an issue where one side with less power is dissenting about something? Is there any way you might be seen as acting on behalf of the administration or the powers that be? What exactly do you mean by civility? What do you not mean? Can you think of ways to express these ideas that will avoid problematic connections to questions of power, authority, and class?
- **Consider your audience(s) and their potential perceptions of you.**
Here you might want to think about not only your role within the organization but possibly about questions around things like privilege and personal identity as well. Who is your intended audience? Will how you discuss civility vary according to the audience? What outside social contexts might your audience be particularly likely to bring with them when hearing/seeing references to "civility" and similar terms? Who are you generally seen to be associating with in



your organization? Do you regularly attend leadership meetings at which hot-button issues are discussed? How does your personal identity connect to the conflict(s) at issue?

- **Familiarize yourself with the history of your institution and its leadership.**

Does your institution have any history of challenges regarding freedom of expression, protected concerted activity, or similar? What reputation does your current or even past leadership have in terms of its response to dissent? Even if you are not seen as acting on behalf of leadership, people who have been at your organization for a while may have some negative associations with the promotion of civility or some of its more common equivalents based on what has happened there in the past.



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