

## Heckler Ethics

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In the last couple of years, we have seen two incidents that have raised the question of comedic ethics in the larger popular discourse. Michael Richards, better known for his role as Kramer on the television series *Seinfeld*, while on stage at the Laugh Factory in Hollywood in 2006 said to two members of the audience “fuck you” – and that was the nice part.<sup>1</sup> It was the next word of the comment that caused him major trouble as the audience members were African-American and the final word began with the letter “n.” Last year, Daniel Tosh, also on stage at the Laugh Factory asked concerning a woman in the audience, “wouldn’t it be funny if she was gang raped right now?”<sup>2</sup> The line gave rise to frenzied discussions about whether a rape joke could be funny. The discussions around the Richards and Tosh cases have universally missed a very important point, neither was making a joke, rather, both Richards and Tosh made their comments in attempting to deal with a heckler.

Heckling at a comedy show violates the norms of the situation. The comedian has the mic. The audience has chairs. The comedian speaks. The audience laughs...or they don’t. A heckler usurps the role of the comedian in speaking out during a comedian’s set to command the attention that was expected to go to the comedian.

The question that should be asked, but has not yet been, is “what are the ethical bounds of dealing with a heckler?” Are the exchanges between a comedian and a heckler governed by the same ethical rules as other utterances or is the situation one in which the comedian has greater leeway in responding verbally? If so, does this wider ethical berth have constraints at all?

I will consider the Richards and Tosh cases in terms of what we might think of as the “comedian’s code,” that is, I will build up to an account that I claim is consistent with the cultural ethos one finds among comedic performers and then consider whether such an ethos which would justify these utterances conflicts with ethical considerations.

## Humor, Meaning, and Ethical Content

A central question in philosophy of humor deals with the moral boundary surrounding off-color jokes. Dead baby jokes, racist jokes, and good old-fashioned dirty jokes – are they o.k. to tell? Sometimes? Never? On what grounds ought we make this determination? Kantian? Aristotelian? Utilitarian? How relevant are the social-political ramifications of telling these jokes? But beneath these justificatory arguments sits a more basic assertion – the ethical content of a joke is determined

by the meaning of the joke. However we decide to determine the moral permissibility or impermissibility of a joking utterance, that determination has to be made based upon the joke's meaning.

But do jokes really mean anything? When we adopt a joking stance, we are signaling to our audience that they ought not take the following utterance as a conveyance of semantic content, but rather look at it as a playful behavior designed to elicit joy. A pun, for example, is semantically vacuous. The point of a pun is to put forward a single utterance with two distinct interpretations, both of which are simultaneously grasped by the listener. In this way, the pun does not express a proposition precisely because it is creatively and intentionally ambiguous – it puts forwards twin propositions connected by their relations to the identical or related signs that express them and thereby is not meant to really express either one. The same is true of most other jokes. This is precisely why, when someone takes offence, we are quick to respond, “I was only joking.” The act of joking is one where we sometimes suspend attaching belief to the utterer.

Among H. P. Grice's rules for conversational behavior is his “maxim of quality,” “do not say that which you believe to be false.”<sup>3</sup> This maxim is clearly violated in telling of some jokes. I do not believe that a single pirate ever had a steering wheel attached to the fly of his pants, nor do I think that one to whom I speak of such a situation will believe that I believe it to be true. It is a setup, a fictional situation designed to cause a mental switch at the delivery of the punchline.

As such, it seems that jokes may thereby be meaningless. But if this were true, then they would have no more ethical content than the utterances of one who spoke all of his life like an adult in the Charlie Brown television specials. But if jokes had no meaning, then we would not feel the need to distance ourselves from them once they have been told. Jokes would not have the power to cause offense or to bring people together, to tell otherwise unspoken truths about the powerful or to mock the downtrodden.

We can get at the meaningfulness of joking utterances by using a variant of Gottlob Frege's principle of compositionality wherein the meaning of a sentence is derived from the meaning of the words and the grammatical rules used to generate the well-formed formulas.<sup>4</sup> Frege's principle runs into serious difficulties for standard declarative propositions, something Russell pointed out, but jokes are sufficiently different that the principle may be used in this exceptional case.

The case is unusual because jokes require the use of archetypes. When we tell a joke, we express a clever, but unexpected interplay of linguistically related notions. That relation may or may not exist before the joke, but the joke displays cleverness in highlighting or creating the relationship. As such, the joke relies on terms evoking certain meanings that are then reinforced by the telling of the joke. The meaning of the joke is thus, at least in part, the reinforcement of the reference of the terms employed.

Among Frege's more brilliant contemporaries were the Warsaw logicians, some of the most insightful and subtle minds in human history. I admire them greatly and so when I tell the one about two Pollocks walking through the forest at Christmastime, by "Pollock" I mean stupid person, but I do not believe that Poles are less intelligent than anyone else nor do I intend to have anyone else believe that. Yet, despite the empty reference, the joke does mean something in that it reinforces the relationship between Poles and the notion of stupid person. It is the use of the word in its usual joking way that gives the joke its meaning; hence, the meaning of the word is more important to the meaning of the joke than it is for non-joking utterances.

The meaning of a joke – and I do not intend to fully flesh out what that means, something that would be part of a much larger project – contains the meaning of the comedically operative words in the joke. As such, where we may not be able to judge the moral acceptability of a declarative proclamation based on the meaning of the words alone, for jokes it is the case.

### **Meaning, Ethical Content, and Joking Contexts**

Where do these terms get their meaning? Following Grice and Wittgenstein, meaning comes from the use of a term within a linguistic community. These communities may use terms very differently, according to different rules, and thereby with unique meanings. One question frequently asked in humor ethics is why certain people can use some words without generating offense while others from a different group cannot. The answer, of course, resides in the meaning derived from use within the linguistic community.

But we can take this notion of a linguistic community and tweak it to talk about meaning as determined by linguistic occasional communities, using John Drabinski's notion of an occasional community as a non-permanent community that is created by particular occasions. When we find ourselves a part of a formally or informally ritualized event, we change our behavior, linguistic and non-linguistic, accordingly. One may sit next to the same person in house of worship and in a locker room. The meaning of one's words in these contexts will accordingly change.

Joking is a cooperative linguistic behavior requiring a public utterance, the joke, shared between the teller and the audience. As such, one might think that joking itself creates an occasional community and that we can thereby talk about the meaning of a term in this occasional linguistic community, but I claim that there are several distinct types of humorous occasional linguistic communities and that each brings with it its own meaning of terms and its own ethos. I will consider four: the unoriginal joke, the conversational quip, the unheckled comedian, and the heckled comedian.

### 1. *The Unoriginal Joke*

Most philosophical treatments of joking fall in this category by taking a joke to be script to be analyzed. The internal workings of the script will generally contain either two distinct incongruous interpretations and the telling of the joke will shift the audiences understanding from the primary interpretation as set out in the set up to the secondary, hidden interpretation as displayed in the punchline, or it will point out a congruity between two seemingly incongruous states of affairs. The script for the unoriginal joking context exists before the telling and requires the teller to have previously been the audience. The teller then intentionally shifts roles and retells the joke, forwards the e-mail to particular individuals, or posts it to his or her Facebook page.

It is this intentionality in replicating the telling of the joke by the new teller that makes this situation morally unique among joking contexts. Laughing at a joke is a psychological/physiological phenomenon. We have all laughed at jokes we are ashamed to have laughed at, but it is our body that laughed; we do not choose to laugh at what we laugh at, we just do. We may feel badly after the fact that our laughter might convey approval or signal assent to harmful negative stereotypes contained in the joke, but laughing at a well-crafted joke is the result of psychological manipulation not a cognitively free act. The laughing audience member is not morally culpable merely for laughing.

Retelling the joke, on the other hand, is a different matter. By retelling the joke as a joke in the public sphere without bracketing the joke, one is assuming moral responsibility for the social effects of the utterance. The meaning of the joke is determined by the meaning of the terms within the joke and the use of stereotypes within the joke conveys to the audience that use of the stereotype is acceptable and by the Gricean maxim of quality that one believes the stereotype to some degree is the case, whether one does in fact or not. In retelling the joke, the teller is explicitly entrenching the relation between the group and the stereotype, continuing its place in the discourse community, but further is implicitly asserting that this is an utterance that deserves to be heard and repeated throughout the discourse community.

This “ought to be repeated” would only be the case if the teller thought that the content was true or revealed shades of truth. Consider the politicians or public figures who retweets something horribly offensive. The plea “but it was only a joke” fails here because the intentional act of retweeting binds the tweeter to the moral meaning of the joke. The joke is not just a joke if you have gone out of your way to act in a way that perpetuates the joke.

But the joke can be made just a joke by bracketing, a version of the use/mention distinction. Pragmatic elements may allow the teller to distance him or herself from the content and thereby moral responsibility for the joke. If one tells the joke with a discernible air of sarcasm, one can use the joke to further social justice concerns rather than undermine them. If one uses a joke as an

example, one can tell the joke in a way that eliminates the moral connection the teller has to the joke. Similarly, there is a difference between sending out a blonde joke and putting up a webpage of all blonde jokes you have found. One binds you to the content that blondes are stupid whether you believe it or not, the other becomes an anthropological artifact. Bracketing can also occur if the context of an unoriginal joke is not public, but private. If the person knows you well enough, then even if the audience is a member of the stereotyped group, the joke may deepen the relationship rather than alienate the listener and the use of the stereotype could then be morally laudable.

## *2. The Conversational Quip*

There is a difference in kind between the retelling of an unoriginal joke that includes morally problematic content and the use of similar terms as an ad-libbed barb in passing conversation. During any robust discussion, opportunities for witticisms will occur. Seizing the opportunity and making the joke in such a context does not morally bind the teller to the stereotype or other morally problematic meaning involved. In the case of the unoriginal joke, the teller is responsible for creating the occasional community. The telling of the joke establishes the teller as teller and the audience as audience. The telling is convened by the teller with the implicit declaration that this is a funny joke and you should hear it, react to it, and continue its propagation through the linguistic community.

The quip, on the other hand, arises from someone other than the teller. The teller is in no way responsible for the set up, but realizes in real time that there is a set up that has been laid out and takes advantage of his or her quickness to complete the joke. The teller of the unoriginal joke is the convener of the occasional community, that is, the reason for the joke in its telling and the assertion that the audience ought to hear this one. However, in the case of the quip, the occasional community pre-exists for reasons other than the cleverness of the quip (with the possible exceptions of the Algonquin Roundtable and the nation of Great Britain) and the content of the joke. We see this moral alienation between teller and joke in the standard reaction to the member of the audience who unwittingly set up the quip, which tends to be something along the lines of “Well, I walked right into that one.” By making the quip, one is not asserting the content of the joke, but rather pointing out that one could make such a joke. It is a partially actualized hypothetical where the antecedent is the other person’s setup.

Quips can be unbracketed and the teller could in some circumstances be saddled with moral responsibility from the quip. Consider the person who is relentless in making quips that point out a particular speaker and continually engage the same stereotype. In this case, the quip is not incidental, but can be seen as a larger campaign on the part of the teller to associate the audience member who provides the set up with the undesirable characteristic. As such, while the teller did not provide the

set up, he or she was continually looking for it and that indicates premeditation in the same way as telling the unoriginal joke.

### *3. The Unbeckled Comedian*

We must draw a crucial distinction between the comedian and the unoriginal joke teller based on two essential differences. First, the comedian writes his or her own material. The jokes the comedian tells are not pre-existing jokes, but ones that the comedian conceives of on his or her own. Second, where the unoriginal joke teller creates the occasional community by the very act of telling the joke, at a comedy show, on the other hand, three comedians walk into a bar in which there is a pre-existing occasional community convened for hearing jokes. The unoriginal joke teller thinks he or she has a joke you need to hear and is thereby responsible for creating the joking relationship and thus assumes responsibility for the full content of the joke there told. The unoriginal joke teller acts and the audience responds. The comedian has that relationship created for him by the audience who demands jokes and by performing his or her act; it is the comedian who is responding to the audience. That response leads the comedian to create and perform jokes he or she thinks the audience wants to hear. The comedian is an employee of sorts and while creative in giving rise to the joke, does so in order to please the audience to keep on working.

When I began performing, I found most of my jokes missing the mark. I was a Ph.D. wielding philosophy professor in a bar full of drunk nineteen to twenty-five year-olds who wanted nothing more than to hook up with each other. As such, I realized that to be a successful performer, I had to tell different jokes. My material changed, my delivery changed, and my on stage persona changed. I became much more blue, less clever, linguistic, and observational. Was I morally responsible for the content of my act? Yes, but that responsibility was shared with the audience in a way that is not the case for the unoriginal joke teller.

Rooms come with usually implicit, sometimes explicit social contracts in terms of what sorts of jokes are expected. By doing material that was far too highbrow, I had run afoul of the social contract at Magooby's in Parkville, a working class neighborhood in Baltimore. But when I played Listrani's in Arlington, Virginia, a suburb of Washington, D.C., the audience was generally highly educated young staffers from Capitol Hill who expected a very different sort of set. There was a very different social contract in place for that occasional community. Different places have different expectations. The occasional community pre-exists and the comedian has to figure out the terms of the social contract and perform accordingly. As such, there are different moral considerations attached to judging comedians for the jokes told than there are for the unoriginal joke teller. There is an is/ought distinction here – where the unoriginal joke teller thinks you ought to hear this one, the comedian in the night club tells a joke because he or she thinks you do want to hear this one or

something like it. This is one reason why we give the comedian more moral space in being able to say things we usually cannot – because we want there to be a space in which we can be shocked into laughter. We judge comedians ruthlessly for their ability to successfully do what most of us would be far too petrified to ever do, get up in front of a roomful of random strangers and make them laugh, and in return we give them a broader swath of utterances to be able to present without moral condemnation since some of those can be uttered in very funny ways. The breadth of this region is not without boundaries, but the borders are wider than we allow in common discourse.

#### *4. The Heckled Comedian*

Here we reach the Richards and Tosh cases. The standard presentation has portrayed them as comedians making jokes that include the n-word or positive feelings towards rape. But in both cases, they were on stage responding to hecklers. Comedians spend more time writing than doing anything else. Developing material, honing your wording, and crafting the bits into which the jokes are set takes great time and effort. You do this and then take to the stage hoping that the audience will respond positively and your career will advance. The comedian's primary tool is timing; your jokes, bits, and routines are structured around a particular architecture that requires precision delivery. A loud waitress or dropped dish at the wrong moment can kill everything you've been working towards and screw up an entire set.

Enter the heckler. Here is someone who thinks he or she ought to be the focus of the audience's attention, not the comedian. If unexpected ambient clatter can interfere with a comedian's work, the heckler threatens to derail the entire enterprise. The social contract has the comedian telling the jokes and the audience receiving them. The heckler not only violates the social contract, but in making the comedian unable to present his or her material, seems, in the mind of the comedian, to undermine the entire foundation of the occasional community itself, the existence of which is essential to his or her existence as a comedian. To go back to the roots of social contractarianism, to the comedian, a heckler creates the comedic version of Hobbes' state of nature. Smooth social functioning requires that some surrender certain rights and that others acquire them. By sitting in the audience, the members have covenanted away their right to be the center of attention to the comedian and the comedian has accepted these rights by assuming the responsibility of being entertaining. The heckler voids the social contract of the occasional community pre-existing in the comedy club. With no social contract, the comedian perceives him or herself to be in the state of nature that is, as Hobbes' describes, a state of war with each against another. The only way for the comedian to restore order is to assert his or her place as temporary sovereign, to vanquish the heckler by any means possible including showing how poor, solitary, nasty, brutish, and short the heckler is – and by short, I mean length, not height.

The heckler has thrown the entire community into chaos and the only chance for a resumption of peace and order is for the harshest of measures to be exacted upon the heckler. That is why Richards and Tosh went where they went – to the most vile, horrible, awful places they could go. Unlike the unoriginal joke teller, they did not get on-stage intent on being racist or misogynistic, but became so to reestablish the preconditions for the possibility of comedy, the *raison d'être* for the occasional community that they serve. Comedians live in constant fear of hecklers and pride themselves on being able to bring a sledgehammer down on the head of anyone who tries to destroy the occasional community that gives them their place as a comedian. As such, comedians hold there to be no boundaries whatsoever in verbally assaulting a heckler. They consider themselves victims in metaphorical mortal danger and their response is justified by something akin to a stand-your-ground law that allows for metaphorically lethal force in silencing the heckler.

Are comics wrong in this ethos? The line in support of it contends that the audience willingly enters into the occasional community, which is the comedy club, that is, by sitting down, you have implicitly agreed to follow the social contract. You know that the comedian is the entertainer and that by disrupting the show you are out of line. You know that comedians are quick and clever and that by challenging them, you open yourself up to response by them that will be harsh. You deserve whatever you get since you should have expected it.

The line on the other side holds that the line between the occasional community of the comedy club and the larger socio-political community is porous. What happens in the comedy club does not stay in the comedy club. As such, the words of comedians have social ramifications and if the comedian exceeds his wider moral boundaries, he or she has forfeited the right to the mic thereby justifying the ending of the comedian's reign as temporary sovereign.

This is what happened in the Tosh case where an audience member deemed a rape joke morally out of bounds and sought to remove Tosh from his place of power as the center of attention. It was a comedic *coup d'état* justified with a version of the Lockean right to revolution. If the comedian uses his power as temporary sovereign of the occasional community to become a dictator and harm his subjects in the audience using weapons of subjugation from unequal power relations in the wider society, then the audience not only has the right, but the responsibility to revolt (and, trust me, some audiences are indeed revolting). If there is that right, then the comedian must be muted in his or her dealing with hecklers. Richards and Tosh would become comedic war criminals on this view.

I think that the correct answer is in between these two lines. Comedians, like Hobbes' sovereign, should have a limited right to use a comic death penalty on hecklers. This right is limited in two ways. First, it should only be used on hecklers who threaten the community itself and not on those whose revolt is limited to the temporary sovereign. There are two kinds of hecklers – those who are objecting to a particular comic and those who are threatening to undermine the entire show.



There is a difference between the drunk who undermines every comic who takes the stage and the Tosh case where the heckler is responding to a particular joke or comic. In the former case, the comedian ought to be able to shut the heckler down viciously. His crime is such that it undermines the entire community. In the case of the latter, the comedian needs to respond, but must do so in a fashion that is not oppressive.

How nasty is the comic justified in being? It depends. Was the heckle necessary? Do the reverberations of the joke echo through the larger discourse? Let us assert that Tosh's initial rape joke was out of bounds. Would disapproval – booing the joke or saying nasty things about Tosh's set after the fact – have been sufficient to undermine his power or is his power such that it needed to be revoked and is the threat part of a larger structural injustice outside the club? Could the heckler have waited him out or “worked within the system” to change Tosh's material? If so, then proportional response is allowable. Tosh's comeback was clearly out of proportion.

The second limitation is on the means used in legitimate cases where the comic can use overwhelming humorous force. The revolution may be bloody and mortal shots can be fired, but all out Sherman-like wars of attrition are unwarranted. Having the right to execute does not give one the right to all means. Use of personal attack is legitimate, but when doing so further entrenches structural inequities in power balance outside of the club setting, then the line has been crossed.

If the men Richards verbally attacked were not just bothersome, but undermining everyone's ability to enjoy the show, he would be justified in comedically “taking them out,” but that does not mean he would be justified in using the n-word. That remains out of bounds, despite the offense committed.

So, when we consider a comedian's right of response to a heckler, the question is complex. We already provide comedians with a broader moral range of topics and language in making us laugh, and in the case of hecklers, we need to enlarge that even further. But several considerations are involved in how much further – Is the heckler a threat to part of your act, your entire act, or to the entire show? Was the heckler legitimately pointing out a comedian's abuse of the power of the mic? If the heckler deserved to be shut down, were legitimate means used? Comedians ought to have the power to violently take out hecklers in some situations, but there are nuances to understanding the when, who, and how.

### **Endnotes**

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<sup>1</sup> See Richards' 2006 for commentary on Kramer's racist tirade.

<sup>2</sup> Daniel Tosh later apologized. For more context see Hibberd 2012.

<sup>3</sup> Grice 1975, 47.

<sup>4</sup> Grice, 1975, 79.

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