

REGIONAL ETHICS BOWL CASES

FALL 2010

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Editor's Note: Please note that we have provided citations for source materials used to generate the following cases. A source may be used multiple times, but only identified once per case.

Case 1: Minding Your Ethics

John is sitting at a bar having a drink to unwind from a long day when he overhears three men talking about how they believe that homosexuality is a sign of the decay of our society and should not be accepted. John has a number of homosexual friends and their standing in society is an important issue for him.

At first, John tries to ignore the men, but they are making no attempt to keep their conversation quiet or to themselves. While they clearly have no tolerance for homosexuals, the men do attempt to make a logical and reasoned explanation for why homosexuality is bad. John recognizes that people can have differing views on the ethical issues associated with homosexuality, but he believes that the conversation the men are having is insensitive and that their arguments are fallacious.

As the conversation goes on beside him, John finds himself unable to ignore the men any longer. He realizes he will either have to confront the men or leave the bar.

But John also believes that he may not be able to argue well enough against the men. When he speaks in public, things tend to come out muddled and not as clear as they are in his mind. He is not sure how much the men have had to drink, and while the men do not seem particularly angry now, it is possible that John's butting into the conversation may lead to a fight. Even if it doesn't, John believes the chances that his remarks will change their minds are remote.

Traditionally, John believes that one should mind one's own business at a bar. But he reasons that if the men were racists, he would certainly be unable to leave without saying something. At best, the men would give him a spirited argument. At worst, they might consider his entry into the conversation rude or an invasion of their privacy. On the other hand, it was the men who were having a loud conversation about the topic at a bar. Furthermore, John is worried that it may be close-minded of him to think that his view is better than theirs, even if he holds his beliefs strongly.

As John is thinking through his next move, one of the men breaks from the group to come to the bar and get more drinks. In the process, he greets John and asks him how his night is going.

Case 2: CGI Child Porn

Second Life is an online community where members interact with each other through their avatars—they can explore, chat, shop, and have sex. Cybersex is a popular activity in Second Life because members can design their avatars to cater to their particular, even peculiar, sexual desires.¹ And generally no one minds. But in recent years, one form of online sexual role-playing—called “age play”—has drawn attention. Age play involves adult users who create child-like avatars and use them to engage in virtual sex, sometimes with other child-like avatars and sometimes with adult-like avatars.² This phenomenon is quite troubling, and some countries have taken steps to criminalize the creation, distribution, and possession of these types of images.³ In the United States, however, these images are not illegal.

In the United States, virtual sexualized depictions of children are not illegal as long as no actual children are involved. These images, referred to as “virtual child pornography,” must be distinguished from “morphed” images or “pseudo-photographs,” which are digital manipulations of photographs of actual children. These morphed images are illegal because they include actual children as a part of the sexualized image.⁴ And even entirely virtual images are illegal if they are considered obscene.⁵ The United States Supreme Court has drawn the distinction between virtual and actual (even morphed) sexualized images of children because children are not directly harmed by the virtual images.⁶ On the other hand, some argue that the morphed images are more like the virtual images because they are not the product of sexual abuse, as other child pornography necessarily is. Either way, as technology continues to develop, it may become increasingly difficult to distinguish between images that incorporate photographs of real children and images that are entirely virtual.

Many other countries have addressed this problem by criminalizing computer-generated, sexualized images of children. This approach resolves the issue of distinguishing between virtual and actual images, focusing instead on the possibility that these images—whether virtual or real—are detrimental to children.⁷ But this approach has also been said to punish “thought crime,” which may be problematic even where the thoughts being regulated are extremely and almost universally offensive.

¹ Joe Stein, “My So-Called Second Life,” *TIME*, Dec. 16, 2006, <http://www.time.com/time/magazine/article/0,9171,1570708,00.html>.

² Daniel Terdiman, “Phony Kids, Virtual Sex,” *CNET News*, Apr. 12, 2006, http://news.cnet.com/Phony-kids,-virtual-sex/2100-1043_3-6060132.html.

³ Marie Eneman, Alisdair Gillespie, and Bernd Carsten Stahl, “Criminalising Fantasies: The Regulation of Virtual Child Pornography,” *The 17th European Conference on Information Systems*, 2009, <http://www.ecis2009.it/papers/ecis2009-0536.pdf>.

⁴ James Nash, “‘Virtual’ child porn is legal, high court says,” *The Columbus Dispatch*, July 26, 2007, http://www.dispatch.com/live/content/local_news/stories/2007/07/26/CHILDPORN.ART_ART_07-26-07_A1_SF7CML1.html.

⁵ Benjamin Duranske, “New Supreme Court Opinion Discusses Virtual Pornography Law; Linden Lab’s 2007 Ban Clarified,” *Virtually Blind*, May 23, 2008, <http://virtuallyblind.com/2008/05/23/ageplay-ban-clarified/>.

⁶ Linda Greenhouse, “‘Virtual’ Child Pornography Ban Overturned,” *The New York Times*, Apr. 17, 2002, http://www.nytimes.com/2002/04/17/us/virtual-child-pornography-ban-overturned.html?ref=child_pornography

⁷ Debra D. Burke, “Thinking Outside the Box: Child Pornography, Obscenity, and the Constitution,” *Virginia Journal of Law and Technology*, Fall 2003, http://www.vjolt.net/vol8/issue3/v8i3_a11-Burke.pdf.

Case 3: Spanish Ban on Bullfighting

In March 2010, thousands of protesters gathered in Madrid, the capital of Spain, holding signs that said “Stop Bullfighting!” and displayed grotesque pictures of bulls downed in the bullfighting arena.¹ The demonstration is the work of over fifty animal rights and anti-bullfighting organizations and the product of a vigorous debate in Spain over the propriety of bullfighting. “Torture is Culture,” the protesters’ slogan, succinctly highlights the conflict between those who advocate protecting bullfighting as an art form deeply embedded in Spanish culture and those who argue that bullfighting should be banned as animal cruelty.

Bullfighting “is an art-form that deserves to be protected and that has been part of Mediterranean and Spanish culture since time immemorial,” Esperanza Aquirre, the regional Partido Popular president of Madrid, has stated.² Indeed, despite the protests, the conservative regional government of Madrid has given bullfighting legal protections as a cultural and historical practice emblematic of Spain, and the regions of Murcia and Valencia have followed suit. News about bullfighting is published in the art section—not the sports section—of Spanish newspapers.³ The spectacle of bullfighting has both inspired and been glorified by iconic artists and writers like Francisco Goya, Pablo Picasso, Ernest Hemingway, Federico Garcia Lorca, and Orson Welles. And just recently, the story of the celebrated matador Manolete, who was gored to death in the bullring in 1947, was glamorized in a film by the same name—starring Adrien Brody as Manolete and Penelope Cruz as his mistress, actress Lupe Sino.⁴ The movie was filmed without harming real bulls, a choice that gained the approval of People for the Ethical Treatment of Animals (PETA) but did not shield the film from the criticism of other animal rights and anti-bullfighting groups.

“It is inadmissible to release a film in which the hero is a matador,” a French anti-bullfighting organization called Alliance Anticorrída announced in response to *Manolete*, encouraging its members to boycott the movie. Groups like Alliance Anticorrída, PETA, and The Humane Society believe that bullfights are simply ritualized slaughter and should be banned as animal cruelty.⁵ They point out that thousands of bulls are killed each year, that the animals die slow and painful deaths, and that the bullfight is not a “fair fight.” During the first stage of a bullfight, men on horses (*picadores*) and men on foot (*banderilleros*) lance the bull in the neck and back to make it harder for him to lift his head. The *banderilleros* then disorient the bull further by making him run in circles. Only then does the matador

¹ “Thousands march against bullfighting in Spanish capital,” *Expatica.com*, Mar. 28, 2010, http://www.expatica.com/es/news/spanish-rss-news/thousands-march-against-bullfighting-in-spanish-capital_33920.html; see also “Suffering laid bare in call for end to bullfighting,” *The Times*, Oct. 10, 2008, <http://www.timesonline.co.uk/tol/news/world/europe/article4916866.ece>.

² Giles Tremlett, “Madrid protects bullfighting as an art form,” *The Observer*, Mar. 7, 2010, <http://www.guardian.co.uk/world/2010/mar/07/madrid-protects-bullfighting-art>; Stephanie Feldstein, “Bullfighting Demonstration: Torture is Not Culture,” *Change.org*, Apr. 6, 2010, http://animals.change.org/blog/view/bullfighting_demonstration_torture_is_not_culture.

³ Giles Tremlett, “Spanish region set to ban bullfighting,” *The Guardian*, Dec. 17, 2009, <http://www.guardian.co.uk/world/2009/dec/17/bullfighting-spain-catalonia-ban>.

⁴ Anita Brooks, “Blood, bulls, and boycotts: Manolete strikes again,” *The Independent*, Mar. 30, 2010, <http://www.independent.co.uk/arts-entertainment/films/news/blood-bulls-and-boycott-manolete-strikes-again-1930679.html>; Frank Gray, “Blood of the matador,” *The Guardian*, Jan. 7, 2008, <http://www.guardian.co.uk/film/2008/jan/07/spain.art>.

⁵ See PETA Media Center, “Bullfighting: A Tradition of Tragedy,” http://www.peta.org/mc/factsheet_display.asp?ID=64 (last visited June 21, 2010); The Humane Society International, “Bullfighting,” <http://hsi.org/issues/bullfighting/> (last visited June 21, 2010).

confront the bull with his cape and sword. And if the matador fails, an executioner kills the bull. Fueled by this grotesque characterization, anti-bullfighting sentiment has grown so strong that in the region of Catalonia a public petition called for a ban.⁶ In response, the Catalan parliament has made steps to ban the practice by removing the bullfighting exemption that is currently a part of the region's animal cruelty laws.⁷ The proposal will go to a final vote this year.

⁶ Henry Chu, "In Spain, Catalonia grapples with proposal to ban bullfighting," *The Los Angeles Times*, June 20, 2010, <http://www.sacbee.com/2010/06/20/2835492/in-spain-catalonia-grapples-with.html>; "Spanish bullfighting should be given UNESCO protection," *The Telegraph*, Mar. 5, 2010, <http://www.telegraph.co.uk/news/worldnews/europe/spain/7377754/Spanish-bullfighting-should-be-given-UNESCO-protection.html>.

⁷ Graham Keeley, "Catalan Parliament passes landmark vote to ban bullfighting," *The Times*, Dec. 19, 2009, <http://www.timesonline.co.uk/tol/news/world/europe/article6961985.ece>.

Case 4: Spanking

Democratic assemblywoman Sally Leiber of Mountain View, California has proposed legislation to prohibit spanking a child three years old and under.¹ The offense would be considered a misdemeanor with punishment including child-rearing classes, fines or even jail time. While such legislation is rather novel in many U.S. jurisdictions, spanking laws have become the norm in Europe. Seventeen European countries ban corporal punishment in school and in homes.² Most of these countries consider the law an educational tool. Parents who violate the law the first time are sent to classes that help them learn to discipline children more effectively without spanking. Only two European countries, the Czech Republic and France, have no legislation banning spanking.

Proponents of the legislation argue that it will make prosecuting child abuse easier. Another reason to support the legislation is the claim that a child three years old and under cannot connect the spanking with his or her problematic behavior. Leiber believes that American society in general seems to embrace violence and wants to establish legislation that will move away from this approval of violence. Nadine Block, the director of the Center for Effective Discipline, states, “A hundred years ago it was considered a novel idea for the law to say you couldn't hit your wife... Today, we can't hit slaves, wives or military personnel. Children are the only class that is unprotected.”³

Those who object to the proposed legislation claim that parents have a right to determine punishment without government interference. They cite the government's increasing violation of citizens' privacy. Some also claim that the law would be difficult to enforce. Others state that spanking consists of swats of a parent's hand on a child's fully clothed behind and is not child abuse. It is a simple tool to get the child's attention. Child abuse is severe mistreatment and in a different category altogether, so there is no need to outlaw spanking in an attempt to stop child abuse.

¹ Jennifer Steinhauer, “A Proposal to Ban Spanking Sparks Debate,” *The New York Times*, Jan. 21, 2007, http://www.nytimes.com/2007/01/21/us/21spank.html?_r=1.

² B.A. Robinson, “Child Corporal Punishment: Spanking; Legal Status of Spanking,” *Religious Tolerance.org*, Feb. 2, 2010, <http://www.religioustolerance.org/spankin2.htm>.

³ Carolyn Sayre, “Should Spanking Be Banned?” *TIME*, Jan. 24, 2007, <http://www.time.com/time/nation/article/0,8599,1581853,00.html>.

Case 5: Human Terrain Systems

US political leaders claim that US conflicts in Afghanistan and Iraq cannot be won through military means alone. Military leaders seem to agree and urge that long-term success requires a political solution. In 2003, cultural anthropologist Montgomery McFate was recruited to develop a database of information for use by officers in the field. In 2004 the Pentagon took this program further and developed a socio-political engagement wing for the US military dubbed Human Terrain Systems (HTS).¹

Where traditional mapping involves describing the geographic terrain, HTS attempts to map cultural trends across a geographic region. According to the US military, “HTS is a new proof-of-concept program . . . The near-term focus of the HTS program is to improve the military’s ability to understand the highly complex local socio-cultural environment in the areas where they are deployed; however, in the long-term, HTS hopes to assist the US government in understanding foreign countries and regions prior to an engagement within that region.”²

HTS operates in part by embedding social scientists, usually anthropologists and linguists acting as contractors, with deployed military groups. Advocates of HTS point out that those units with embedded HTS teams have seen reductions in fighting by as much as 60%. Military officials attribute these reductions in violence to superior intelligence and an increased capacity to successfully accomplish “hearts and minds” programs such as education and infrastructure development.³ Detractors worry that HTS represents a “weaponized” form of anthropology which compromises the objectivity and professional responsibilities of social scientists.⁴

The American Anthropological Association has issued several statements on members participating in HTS. While the AAA has not explicitly prohibited participation, it has warned that participation in HTS threatens to compromise standards of voluntary informed consent and may violate the professional responsibility to do no harm. Additionally, the AAA worries that member participation in HTS may have negative consequences for other non-HTS affiliated anthropologists.⁵ These and other factors lead the AAA to conclude that participation with HTS is inappropriate for professional anthropologists, though it stresses that anthropological cooperation with the military is possible under other conditions.

The AAA report is not without detractors. Advocates of HTS, both internal and external to anthropology, argue that serious research can be conducted by embedded scientists. These advocates argue that anthropological research has often been conducted within the context of colonial and military

¹ Montgomery McFate, J.D., Ph.D., “Anthropology and Counterinsurgency: The Strange Story of their Curious Relationship,” *Military Review*, March-April 2005, http://www.army.mil/professionalwriting/volumes/volume3/august_2005/7_05_2.html.

² Human Terrain System, US Military, last updated May 14, 2010, <http://hts.army.mil/> (homepage), <http://hts.army.mil/reading.html> (Recommended Readings and Films).

³ David Rohde, “Army Enlists Anthropologists in War Zones,” *The New York Times*, Oct. 5, 2007, http://www.nytimes.com/2007/10/05/world/asia/05afghan.html?_r=1&incamp=article_popular_4&pagewanted=all.

⁴ Kambiz Fattahi, “US Army Enlists Anthropologists,” *BBC News*, Oct. 16, 2007, <http://news.bbc.co.uk/2/hi/americas/7042090.stm>.

⁵ American Anthropological Association, “Executive Board Statement on the Human Terrain System Project,” Oct. 31, 2007, <http://dev.aaanet.org/issues/policy-advocacy/Statement-on-HTS.cfm>.

operations. Advocates claim that, so long as anthropologists merely collect data and do not engage in military analysis, anthropology has not been “weaponized.” Further, many insist that professional participation in HTS is to the advantage of local populations and thus advisable.

Case 6: Children of Illegal Immigrants

Children of illegal immigrants to the United States often find themselves in some interesting places on the crossroads of culture and politics. As concern over illegal immigration has become a hot topic in U.S. politics, some have begun to question the wisdom of automatic citizenship for anyone born on U.S. soil.

The 14th Amendment to the United States Constitution states in part that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." Thus, all children born on U.S. soil (other than the children of foreign diplomats), are United States citizens, regardless of the nationality of their parents, with all the rights and duties thereof.

The original thought behind the 14th Amendment was to make the children of slaves, whose parents may not have been born in the United States, into U.S. citizens.¹ However, it also opened the door for foreign nationals to come to the U.S., give birth on U.S. soil, and claim U.S. citizenship for their newborns. Along with citizenship, of course, children would earn the right to public education and public assistance in healthcare, retirement, and so on. Often these benefits exceed the benefits available to citizens of the foreign nationals' home countries. U.S. citizenship for a child can also lead to future opportunities for naturalized citizenship of the parents through family reunification programs. Thus, millions of people who have not paid into the U.S. tax system could wind up benefiting from programs paid for by taxes. Amending the 14th Amendment to prohibit citizenship by birth location alone could certainly curb this practice.

Opponents of the citizenship-by-birth provisions in the Constitution argue that these measures increase illegal immigration because it creates a back-door to the regular immigration procedures. It may encourage pregnant women to undertake risky journeys across the border in the hopes of securing a better future for their children. Further, these protections create an incentive for already present illegal immigrants to expand their families, which essentially compounds an already present problem of foreign-born individuals flouting the legal immigration process. They argue that such rights and privileges should not be awarded to families whose members have already violated law. Finally, they argue that these families are less likely to have contributed to the tax system that supports the benefits, and therefore they do not deserve a share in such resources.

However, proponents of the citizenship-by-birth protections argue that punishing children for illegal acts committed by their parents is both unwise and unjust. Children have no say in where they are born, and returning to their parents' home country may be difficult or impossible. Thus, to deprive these children of education, healthcare, and the other benefits of citizenship in what to them has always been their home threatens to create a population of second-class people. Due to deportation or other circumstances, children of illegal immigrants are somewhat more likely to grow up without a stable family or become orphaned.² Removing citizenship provisions would jeopardize these children's protection from social services organizations. If children of illegal immigrants born in the U.S. were not

¹ Alexander Tsesis, "The Inalienable Core of Citizenship: From Dred Scott to the Rehnquist Court," 39 *Arizona State Law Journal* 1179 (2008), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1023809.

² Office of the Inspector General, "Removals Involving Illegal Alien Parents of United States Citizen Children," Department of Homeland Security, Jan. 12, 2009, http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_09-15_Jan09.pdf.

automatically afforded citizenship, the State would be in the rather awkward position of keeping and protecting young non-citizens within its borders or deporting them to a country which has never had anything to do with them. Neither option holds out much hope for the orphan's future.

Case 7: Shepherding in a New Era of Conservation

Edward Abbey's The Monkey Wrench Gang inspired a generation of environmental activists to get active. While Abbey's fictional portrayal of tactics may have inspired acts of 'ecotage' or 'ecoterrorism' perpetrated by Earth First!, the Earth Liberation Front, the Sea Shepherds, and a slew of other groups, these groups are motivated by much more than fiction.¹ And the Sea Shepherds recently moved our fascination with 'ecotage' from the bookshelf to reality television. The popular program "Whale Wars" depicts the conflict off the coast of Antarctica between the Japanese Institute of Cetacean Research, Japanese government-sanctioned whaling ships, and the Sea Shepherds.²

Depending on the country telling the story of the conflict, one may view the Shepherds' actions as unjustified violence against legitimate scientific research or as non-violent delay tactics aimed at preventing the violation of international whaling bans (claiming research is a mere pretext). The Sea Shepherds state that their mission is to "use innovative direct-action tactics to investigate, document, and take action when necessary to expose and confront illegal activities on the high seas."³ Their actions, however, create controversy. Sea Shepherd Captain Paul Watson openly shares his approach.

"In 31 years harassing and confronting whalers, sealers and illegal fishers, we have never injured a single person, never been convicted of a felony, or been sued. Sea Shepherd does not condone, nor do we practise, violence,' he says. . . . But he freely admits damaging property. In a lifetime of confrontations beginning with Canadian sealers, he has used 'prop foulers' to sabotage ships, boarded whaling vessels, and sunk several in Iceland and Norway."⁴

But the media serves as one of the greatest weapons employed by the Sea Shepherds. The television show provides video evidence narrated by the Sea Shepherds of the interactions between the Japanese whaling ships and the group. Moreover, the Shepherds regularly provide press releases, especially to countries nearest to the conflict, detailing their confrontations. Occasionally they also document their own legal woes, as when crew members are arrested for alleged criminal acts. As Captain Watson put it, "There are many who condemn my crew and I for taking the law into our own hands and for taking on the barons of corporate profit. There are some who would like to see us jailed or even dead, so blinded are they to the conceit and folly of their own anthropomorphism [sic]."

While the choice between replaceable vessels and irreplaceable wildlife seems easy, the battle involves many other facets—the freedom of sovereign nations to govern their own economies, the livelihood of those involved with the whaling research (assuming the Japanese fleet legitimately researches), the violation of certain laws by the Shepherds in their quest to stop whaling, and the involvement of the media in making the Sea Shepherd's side of the story known (and giving them greater incentive to continue confronting the whaling vessels).

¹ Wikipedia contains a wealth of pages dedicated to these groups, ecoterrorism, ecotage, and Abbey's life and works, and links to firsthand sources to aid in understanding the history of this movement.

² "Hardline warrior in war to save the whale," New Zealand Herald, Jan. 11, 2010, http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10619393.

³ "Sea Shepherd's Mission Statement," Sea Shepherd Conservation Society, <http://www.seashepherd.org/who-we-are/> (last accessed Aug. 1, 2010).

⁴ "Hardline warrior in war to save the whale," New Zealand Herald, Jan. 11, 2010, http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10619393.

Case 8: Responsibility to Vote

Contrary to the USA policies on voting—where citizens can choose whether they register to vote and whether they actually vote—voting is compulsory for Australian citizens 18 years of age and older.¹ Australia imposes a penalty on Australian citizens who do not vote and cannot provide a valid reason for failing to vote. As in the USA, Australians can choose to leave the ballot blank, declining to vote for any candidate. Penalties for not voting range from \$20 to \$50.² Such a measure results in much higher voter turnout—approximately 95% in Australia, as compared to typical voter turnout in the US, which usually ranges from around 38% for mid-term elections to 55% for presidential elections (and solely local elections typically garner even lower voter turnout).³

Americans cite various reasons for choosing not to register to vote. One reason is that courts select jurors from registered voters, and many people wish to avoid being called for jury duty.⁴ (Perhaps jurors can be chosen by casting a wider net—for example, by using drivers' license numbers, as has been proposed in Arkansas.) Others complain that they do not have time—that they are too busy to be involved in politics and vote. Often, people who choose not to vote say that they do not like any of the candidates and believe that their vote will not matter at all.

Compulsory voting traces its origins to the Athenian concept of direct democracy, which held that it was every citizen's duty to participate in decision making.⁵ Proponents of compulsory voting argue that it would make elections less expensive since the parties would not have to spend money and resources to “get out the vote.” A higher election turnout would result in a higher level of democracy, as the elected officials would be chosen by a more representative sample of the public.

On the other hand, those who oppose compulsory voting argue that people may resent being forced to come to the voting place. Moreover, they argue that individuals forced to vote will not be educated about their choices, which will lead to poorer quality elected officials. In sum, they contend that it represents an imposition on the free will of citizens and that it trivializes the process inasmuch as those compelled to vote may cast invalid or spoiled votes.

¹ See generally, the Australian Electoral Commission (AEC) at: <http://www.aec.gov.au/>.

² Voting Within Australia – Frequently Asked Questions,” Australian Electoral Commission, http://www.aec.gov.au/faqs/voting_australia.htm (last updated Nov. 12, 2007).

³ Matt Rosenberg, “Compulsory Voting: Australia is Well-Known for its Compulsory Voting Laws,” About.com Guide, <http://geography.about.com/od/politicalgeography/a/compulsoryvote.htm> (last accessed Aug. 1, 2010); “National Voter Turnout in Federal Elections: 1960–2008,” Infoplease.com, 2008, <http://www.infoplease.com/ipa/A0781453.html>. Note that voter turnout in the last federal election (2008) was the highest in decades. See Curtis Gans, “African-Americans, Anger, Fear and Youth Propel Turnout to Highest Level Since 1964,” American University News, Dec. 17, 2008, http://timeswampland.files.wordpress.com/2008/12/2008turnout-report_final11.pdf.

⁴ Charlotte Dixon, “The Right and Responsibility to Vote: Non-Voters Take Our Freedom For Granted,” Associated Content, Sept. 10, 2007, http://www.associatedcontent.com/article/367768/the_right_and_responsibility_to_vote.html?cat=9

⁵ For more sources and community content, see “Compulsory Voting,” Wikipedia (article), http://en.wikipedia.org/wiki/Compulsory_voting (last modified Aug. 16, 2010).

Case 9: Facebook Privacy

In the last six years, Facebook.com has gone from being a relatively exclusive website for Ivy League students to the most popular social networking site on the web. With more than 400 million users and 25 billion items of content by its own count,¹ and a structure that allows people to choose their “friends,” the website and the company running it can have dramatic effects on many lives.

Lately, though, some users have begun to wonder whether they have misjudged the company’s dedication to user privacy. While Facebook has recently stated that it operates on a principle whereon “People have control over how their information is shared,”² its recent actions can seem to be in conflict with this principle.

The key decision that first concerned privacy advocates was Facebook’s decision to change users’ default privacy settings to publishing users’ posts and photographs automatically unless they specifically opted-out. If someone wasn’t keeping up with Facebook’s announcements, previously private pictures were in many cases made visible to everyone on the Internet and so-called “status updates” were broadcast to everyone as well.³ This prompted a warning from privacy advocates such as the Electronic Freedom Foundation not to use Facebook’s default privacy settings⁴ until users had easier control over their own information.

Facebook is a privately held company that has not bothered to hide its interest in using its massive user base to make money from advertising and other forms of marketing. Facebook users’ decision to invest large amounts of time in social networking on the site is a result of the experience Facebook has created so far. No one is forced to use Facebook or its services, and if users strongly disagree with the company’s privacy policies they can cease to use the site, deactivate their accounts, or delete their accounts (though Facebook doesn’t make this option easy to find).

Some point out, however, that Facebook has a duty to respect the privacy of the users who began using its service before privacy became a secondary concern. Users became accustomed to the idea that their data was private unless they specifically allowed it to become public. They point out that users’ previous experience with the service amounts to an agreement that Facebook cannot break lightly. Since the option to make one’s profile public was always available without many people making use of it, one could surmise that many users did not want to make their profiles available for everyone to see.

¹ “Statistics | Facebook,” Facebook Company Website, <http://www.facebook.com/press/info.php?statistics>.

² “Facebook Redesigns Privacy,” Facebook Company Press Release, May 26, 2010, <http://www.facebook.com/press/releases.php?p=164155>.

³ Ryan Singel, “Public Posting Now the Default on Facebook,” *Epicenter* (weblog), Dec. 9, 2009, <http://www.wired.com/epicenter/2009/12/facebook-privacy-update/>.

⁴ Kevin Bankston, “Facebook’s New Privacy Changes: The Good, the Bad, and the Ugly,” *The Electronic Freedom Foundation*, Dec. 9, 2009, <http://www.eff.org/deeplinks/2009/12/facebooks-new-privacy-changes-good-bad-and-ugly>.

Case 10: Real-Life *Avatar*

In the blockbuster movie *Avatar*, corporate mercenaries from Earth battle against a coalition of indigenous aliens in an effort to generate profits by destroying their planet. *Avatar* director James Cameron has called his latest philanthropic project "kind of 'Avatar' for real."¹ Of course, Cameron is not referring to interplanetary war. Instead, Cameron is talking about local resistance to the Belo Monte dam project in the Amazon rainforest. Cameron's involvement in local resistance to the Dam project has drawn international attention and helped to publicize the dislocation of several indigenous groups.

The Belo Monte dam is part of a proposed hydroelectric project on the Xingu River in the Brazilian state of Pará. Pará is Brazil's leading source of mineral resources such as bauxite, the raw material from which aluminum is produced. It is estimated that the Belo Monte dam will produce 11,223 megawatts of energy, making it the third largest hydroelectric facility in the world. The lion's share of the energy produced at Belo Monte is expected to be used in smelting facilities at Carajás, Jurutí, and Alumar. Excess energy will supply local communities and be transmitted to Sao Paulo and southeast Brazil.²

The dam's advocates point out that infrastructure improvements are vital to the development of Brazil's national economy. Further, they argue that hydroelectric energy generation is far more environmentally friendly than energy based on fossil fuels. Others are concerned that the Belo Monte dam will flood some 400 square kilometers of the Amazon and that the construction of reservoirs controlling the flow of water to the dam may lead to substantially reduced water levels on large portions of the Xingu River.

The indigenous people of several tribes practice traditional lifestyles, consisting of subsistence farming, fishing, and hunting along the Xingu River. The flooding and rerouting of the Xingu is expected to displace between 20,000 and 40,000 such people. The Brazilian government has plans to relocate the people of the Xingu, but this relocation has been rejected by many indigenous people. Some 18 tribes representing 9 ethnic groups collectively oppose the development of the Belo Monte dam and the relocation that this development entails.

James Cameron sums up the dilemma posed by the Belo Monte dam as a "quintessential example of the type of thing we are showing in 'Avatar'—the collision of a technological civilization's vision for progress at the expense of the natural world and the cultures of the indigenous people that live there."³ Modern Brazilians value the generation of electricity and the technological resources that this electricity makes possible. However, Brazilians participating in traditional cultures have little interest in the technological advances that electricity makes possible and appear to be harmed by the damming of rivers in an effort to produce power. One wonders whether the tensions between modern and traditional cultures are reconcilable.

¹ Alan Duke, "James Cameron joins real-life 'Avatar' battle," *CNN*, Apr. 20, 2010, <http://www.cnn.com/2010/SHOWBIZ/04/20/james.cameron.rain.forest/index.html>.

² "Brazil: Belo Monte Dam," *Amazon Watch*, http://www.amazonwatch.org/amazon/BR/bmd/index.php?page_number=99 (last accessed Aug. 1, 2010).

³ Alexei Barrionuevo, "Tribes of Amazon Find an Ally Out of 'Avatar,'" *The New York Times*, Apr. 10, 2010, <http://www.nytimes.com/2010/04/11/world/americas/11brazil.html>.

Case 11: Outwitting Insurers

Some people liken the securities industry to legalized gambling because the industry profits from the investment of money, assumption of risk, and attempts by the investor to foresee the future.¹ Like gambling, the stock market often provides fixed rules, like the odds on a given bet, which are meant to give some degree of transparency and fairness to the system and entice people to participate. Thus, many securities come with long prospectuses or contracts that will help identify the rules of the game. The entities selling securities set those rules. And then there are the purchasers, some of whom want to find a way to beat the system by using the rules to their advantage. Such is the case with a recent scandal involving variable annuities.

The Wall Street Journal recently reported on what some call an “insurance scam”: a lawyer and investors recruited terminally ill patients, provided the money for the purchase of variable annuity contracts, used those patients’ names, and listed themselves as beneficiaries.² They paid the terminally ill individuals and/or their families for their participation—often a small fraction of the overall proceeds.³ When the patients died, the contracts were cashed in for the benefit of the investors.

In gambling, counting cards turns what should be a game of chance into a calculation that allows gamblers to gain a leg up on the casino—they look at the cards that have been played, and can with greater certainty predict what will come next and bet accordingly. Casinos prohibit counting cards. Similarly, insurance companies wish to limit the purchase of variable annuities by strangers who essentially “count cards” by looking at the most profitable way to use the products and finding the perfect customers to make that profit happen. Thus, the purchase of variable annuities for strangers is frowned upon by insurers, and these companies are increasingly fighting the claims by such investors. Even people with no stake in the variable annuity scheme may find the arrangements reprehensible simply because the endeavors profit off of the illness of others.

The investors argue that insurance companies draft the contracts that govern how the variable annuities will work. The investors who take advantage of such arrangements have carefully reviewed the contracts to avoid violating any contractual terms. They see no reason why they should be limited simply because they are business-savvy. The companies do not want to restrict their customers’ freedom to choose who may benefit from their annuity. For instance, a paramour or dear friend should not necessarily be excluded for want of a sufficiently valid tie. But the true stranger should be excluded. As such, the insurance companies see themselves as bound, wanting to provide the greatest freedom for their customers but at the same time wanting to limit “stranger-originated” contracts that game the system.⁴

¹ See “Gambling with the Economy,” Roger Lowenstein, *The New York Times*, Op-Ed, Apr. 19, 2010, <http://www.nytimes.com/2010/04/20/opinion/20lowenstein.html>; “Investing Versus Gambling,” Clifford G. Dow, 1999, <http://www.dows.com/Publications/investing%20versus%20gambling.htm>.

² “Investors Recruit Terminally Ill to Outwit Insurers on Annuities,” Mark Maremont & Leslie Scism, <http://www.radeylaw.com/investors-recruit-terminally-ill-to-outwit-insurers-on-annuities/>, reprinted from *The Wall Street Journal*, <http://online.wsj.com/article/SB20001424052748704479704575061392800740492.html>, Feb. 16, 2010.

³ In one case, the patient was paid \$5,000 for a \$100,000 policy. Note that the investor paid the premiums and set up the annuity, so the patient was being paid only for his participation and not for any investment of his own money.

⁴ For more about the regulation of securities, see the Financial Industry Regulatory Authority at www.finra.org.

Case 12: Pregnant Athletes

During her junior season, Fantasia Goodwin started every game for the Syracuse women's basketball team. That is, she started every game except the final game of the season. Just before the final game, Goodwin told head coach Jack Warren that she was pregnant. Coach Warren responded by telling her to sit out the final game. A spokesperson for the Syracuse athletic department reports that "when the athletic department becomes aware that a student-athlete in a physical contact sport is pregnant, we pull her immediately and refer her to our medical staff."¹ This response may be motivated in part by concerns for the student, fetus and the university's potential liability.

The American Gynecological and Obstetrics Association officially recommends that certain activities be avoided during pregnancy, including "contact sports, such as ice hockey, soccer, and basketball [which] could result in harm to both you and your baby."² Aside from contact, another source of potential harm from athletic activity is the potential for fetal overheating. Fetal temperatures average 1 degree C above maternal readings, and a maternal temperature of 102.6 degrees has been identified as a possible threshold for developing teratogenic and neural tube defects during the first trimester of pregnancy.³ Despite these warnings, medical professionals point out that there is wide variability among women and pregnancies, suggesting that in individual cases vigorous athletic activity may be more or less dangerous.

Interestingly, Goodwin played the entire season pregnant and waited until the last game of the season to tell her coach; she delivered a healthy baby boy less than two months later. Why would Goodwin play nearly an entire season of competitive collegiate basketball knowing that she was pregnant and taking a substantial risk of miscarriage? Goodwin herself has remained largely silent on this matter, but other elite athletes have been more forthcoming. For some the reason is simple: they enjoy competing in their sport and believe that it is possible to continue playing in relative safety.⁴ For scholarship athletes there may be a financial incentive to keep pregnancy quiet and continue to compete. While Title IX of the Civil Rights Act specifically prohibits public discrimination against pregnant women, some may assume pregnant women are unable to compete in athletics and this view may lead to the termination of athletic scholarships.⁵

The NCAA's rules provide that pregnant athletes may be medically redshirted to allow an extra 6th year of athletic eligibility.⁶ However, the medical redshirt option is used at the discretion of the

¹Zach Schonbrun. "Fantasia Goodwin speaks about pregnancy," The Daily Orange, Apr. 30, 2007, <http://www.dailyorange.com/2.8655/year-in-sports-fantasia-goodwin-speaks-about-pregnancy-1.1233371>.

²"Exercise During Pregnancy," The American Congress of Obstetricians and Gynecologists, June 2003, http://www.acog.org/publications/patient_education/bp119.cfm.

³"Exercise and Athletic Participation During Pregnancy," The American Chiropractic Board of Sports Physicians, http://www.csmfoundation.org/ACBSP_Position_Statement_on_Exercise_and_Athletic_Participation_During_Pregnancy.pdf (last accessed Aug. 1, 2010).

⁴Dr. Suzanne Gilberg-Lenz, "Are Pregnant Athletes Selfish?" MomLogic.com (opinion), Feb. 17, 2010, http://www.momlogic.com/2010/02/are_pregnant_athletes_selfish.php#ixzz0vqCon9bM.

⁵Lindsay Rovegno, "Athletes often forced into heartbreaking decisions," ESPN.com, May 12, 2007, <http://sports.espn.go.com/ncaa/news/story?id=2865230>; Deborah L. Brake, "The Invisible Pregnant Athlete and the Promise of Title IX," 31 Harv. J. L. & Gender 323, Summer 2008, <http://www.law.harvard.edu/students/orgs/jlg/vol312/323-366.pdf>.

⁶Issues Related to Pregnancy and Athletic Participation: The Foundation Position," Women's Sports Foundation, 2008, <http://www.womenssportsfoundation.org/Content/Articles/Issues/Equity%20Issues/I/Issues%20Related%20to%20Pregnancy%20Athletic%20Participation%20The%20Foundation%20Position.aspx>.

school's athletic program. It is not a right provided to pregnant women. One athlete who lost her scholarship due to pregnancy reports, "this may sound stupid, but the way I look at it is God will forgive the premarital sex more than he would killing my child. But if I had an abortion, I'd still be on the team."⁷ Others wonder, "Are pregnant athletes selfish?"⁸ For many women athletes there is a tension, perceived or real, between motherhood and athletics.

⁷ Jeff Jacobs, "Son's Smile Erases Pain, But Not The Injustice," *courant.com* (The Hartford Courant Online), Mar. 25, 2003, http://articles.courant.com/2003-03-25/features/0303251484_1_tara-brady-title-ix-church-and-state.

⁸ Gilberg-Lenz, http://www.momlogic.com/2010/02/are_pregnant_athletes_selfish.php#ixzz0vqCon9bM.

Case 13: Objectivity to Truthiness

The turn of the 21st Century brought with it what some call the death of traditional journalism. Indeed, the development of cheap and instant recording devices, satellite transmission, and a world-wide web of publication points potentially makes every person an information-giver. Social networks and news aggregators allow those browsing the web to find information on their own, without the gatekeeping associated with traditional news media. Hybrid television shows that linked information and entertainment such as magazine shows like *Dateline*, reality shows like *To Catch a Predator* and *Cops*, along with Comedy Central's *The Daily Show* and the *Colbert Report* gained credibility as news sources, particularly among younger viewers. Even network news shows have somewhat given up the idea of telling the same, homogeneous truth and have accepted or marketed their appeal to audiences with particular political points of view. Advertiser dollars drained from traditional platforms like newspapers to digital media, resulting in inevitable layoffs, with fewer staff providing what used to be called "professional" coverage.

Some who grieve the loss of traditional journalism in the lives of citizens believe that the greatest loss is the idea of journalism as the "Fourth Estate" of government. In this view, journalists play an essential role in maintaining democracy. Citizens depend on journalists to give them the truth, as objectively and as dispassionately as possible. The President, Congressional statespeople, and the Judiciary (who comprise the other three estates of democratic government) know that the journalists' job is to keep watch on how they do their work and independently report back to citizens. As citizens do not have the time to attend the meetings in which government leaders are making decisions on their behalf, journalists do that work for them. Without journalism, and the credibility of a profession that reports events and issues with no interest other than helping citizens know the facts and make up their own minds, some think that democracy cannot function long or well.

Yet others put trust in what is now called the "Fifth Estate"—information generators and givers who broadcast their own beliefs with the news and who are not beholden to a paycheck from a corporate media owner. They argue that the wide collection of voices available from independent and often "cause-motivated" news-givers provides a higher likelihood that citizens will be able to gather the many perspectives necessary to understand complex social and governmental events. Citizens can learn from or add to collaboratively-developed truths, such as Wikipedia. Or they can get a sense of what many individuals and groups believe and decide what they choose to believe, accepting "truthiness" over the archaic belief in one objective truth.

But the Fifth Estate lacks a common set of values that kept the Fourth Estate a credible source of news. Too much information with no good way of separating fact from fiction can make it difficult for citizens to participate in self-governance.

Case 14: Testing the Bounds—Advocating Animal Testing

The first day of class at most universities is often a thrilling time, when students discover the road map for the next several months of their study in a particular subject. Professors distribute a syllabus, explain their expectations of student performance, and sometimes even delve into some preliminary substantive lectures. A psychology professor at a major state university, John Smith,¹ takes his first day of class on a rather unique path. Prof. Smith spends the first day of every semester lecturing students on the benefits of animal testing.

While many people associate psychology with human rather than animal testing, some biologically-based psychological truths can be exposed through the testing of other species. For instance, animal research has helped researchers understand 1) how the central nervous system recovers after neural damage; 2) the biological bases of fear, anxiety, and other stress reactions; 3) “subjective and dependence-producing effects of psychotropic drugs”; 4) motivational processes; and 5) learning and memory.² Some of the more controversial forms of psychological animal testing include maternal deprivation and addiction studies.³

However, Prof. Smith does not limit his lecture to psychological studies. He discusses the benefits of animal testing for medicine—both in terms of the benefits from drug testing and surgical research. Prof. Smith also points out the pervasiveness of use and abuse of animals in society, noting that animals are regularly eaten, placed in animal control shelters and put to sleep, and turned into consumer goods, as with cow hides.⁴ During the lecture, he includes a PowerPoint presentation that graphically shows animal testing, harmful conditions that humans suffer without the products of animal testing, and other ways that animals are used in society (such as meat processing and animal shelters).

At the end of the first class, Prof. Smith warns students not to rail against testing unless they avoid all sorts of products, particularly cosmetics, leather, and meat (for consumption), and don’t mind the lost opportunities at curing AIDS, cancer, etc.⁵ Some students found Prof. Smith’s lecture to improperly advocate personal beliefs, and others were highly offended at the depictions of the processes.

¹ Professor John Smith is a fictional character.

² “Research with Animals in Psychology,” *American Psychological Association*, <http://www.apa.org/research/responsible/research-animals.pdf> (last accessed Aug. 7, 2010).

³ “Types of Research: Psychology and Addiction Research,” *American Anti-Vivisection Society*, <http://www.aavs.org/researchPsychology.html> (last accessed Aug. 7, 2010).

⁴ “Animal Testing,” *U.S. Food and Drug Administration*, <http://www.fda.gov/Cosmetics/ProductandIngredientSafety/ProductTesting/ucm072268.htm> (last updated Nov. 19, 2009);

“Animals Used for Experimentation FAQs,” <http://www.peta.org/about/faq-viv.asp> (last accessed June 28, 2010).

⁵ Bob Torres and Jenna Torres, *Vegan Freak: Being Vegan in a Non-Vegan World*, 127-137 (Tofu Hound Press 2006); Laura Blue, “How Much Does Animal Testing Tell Us?” *TIME*, June 17, 2008, <http://www.time.com/time/health/article/0,8599,1815241,00.html>.

Case 15: Development with Coal

Coal is one of the cheapest and dirtiest scalable methods of producing power. On leading accounts, “coal emits around 1.7 times as much carbon per unit of energy when burned as does natural gas and 1.25 times as much as oil.”¹ The CDC estimates that 12,000 coal miners died from black lung in the decade between 1993 and 2002.² However, coal use was the driving force in the West’s industrial revolution. Coal was the main fuel for the steam engine, without which the mechanization of production would have been seriously hindered. Today the steam engines used to drive turbines produce 42% of the world’s electricity, a number which is growing as more nations develop coal-fired electrical plants.³

America is a leading producer and consumer of coal, but in the last 50 years the US has begun to move away from coal.⁴ The EU has imposed serious limits on coal-fired plants and uses very little. Coal is abundant in the US and remains the least expensive form of large scale energy production, costing roughly \$1.72 per million BTU, compared with over \$7 per million BTU for petroleum and natural gas.⁵ The reason that many Western nations have moved toward more expensive energy is the widespread belief that the commodity price of coal conceals long-term environmental costs.⁶ According to the Union of Concerned Scientists, in an average year, a typical coal plant generates: 3,700,000 tons of carbon dioxide (CO₂), the primary human cause of global warming—as much carbon dioxide as cutting down 161 million trees, as well as 10,000 tons of sulfur dioxide (SO₂), which causes acid rain that damages forests, lakes, and buildings, and forms small airborne particles that can penetrate deep into lungs.⁷

Now that China, India, South Africa and other nations are seeking to industrialize, they find competition for fuel resources with the West prohibitive and often turn to coal.⁸ In one way this is very good for the US, since we have the world’s largest reserve of coal and one of the largest natural deposits. However, the environmental impact of widespread Western coal use for hundreds of years means that more coal use poses an especially serious problem to the global ecosystem. The United

¹ Energy Information Administration, “World Energy Use and Carbon Dioxide Emissions: 1980-2001,” May 2004, <http://www.eia.doe.gov/emeu/cabs/carbonemiss/energycarbon2004.pdf>.

² National Institute for Occupational Safety and Health, “Work Related Lung Disease (WoRLD) Surveillance System,” Centers for Disease Control, <http://www2a.cdc.gov/drds/worldreportdata/FigureTableDetails.asp?FigureTableID=24> (last updated June 23, 2008).

³ World Coal Institute, “Where is Coal Found?” <http://www.worldcoal.org/coal/where-is-coal-found/> (last accessed Aug. 1, 2010).

⁴ Andrew Bell, *The Coming of Post-Industrial Society: A Venture in Social Forecasting* (New York: Basic Books, 1999).

⁵ Energy Information Administration, “Coal Prices,” <http://www.eia.doe.gov/neic/infosheets/coalprice.html#foot1> (last updated Feb. 2009); “British thermal unit,” Wikipedia (article), http://en.wikipedia.org/wiki/British_thermal_unit (last modified Aug. 13, 2010).

⁶ Mao Yushi, Sheng Hong, Yang Fuqiang, “The True Cost of Coal,” Greenpeace, 2007, <http://act.greenpeace.org.cn/coal/report/TCOC-Final-EN.pdf> (last accessed Aug. 1, 2010).

⁷ Union of Concerned Scientists, “Environmental Impacts of Coal Power: Air Pollution,” 2009, http://www.ucsusa.org/clean_energy/coalvswind/c02c.html.

⁸ U.S. Energy Information Administration, “International Energy Outlook 2010,” July 2010, [http://www.eia.doe.gov/oiaf/ieo/pdf/0484\(2010\).pdf](http://www.eia.doe.gov/oiaf/ieo/pdf/0484(2010).pdf) ; UNEP Regional Office for Africa, “Briefing Notes on South Africa,” pg.11, Nov. 2008, gridnairobi.unep.org/chm/roa/Country%20Profiles/South%20Africa.doc.

Nations Environment Programme (UNEP) has suggested strong limitations on coal use, but such limits reduce the capacity of many nations to purchase the power needed for industry.⁹

Developing nations argue that the West got rich using dirty coal and other countries have a right to do so as well. Some try to bridge this divide, arguing that the West owes the developing world assistance in financing clean energy because it used more than its share of acceptable environmental pollutants. Developing clean coal technologies would be expensive, perhaps beyond the reach of developing nations. It can be argued that the West owes the developing world financial and technical assistance in finding sustainable, clean sources of energy, given that it has generated the lion's share of existing environmental pollution.

⁹ United Nations Environment Programme, "Mitigation: Responding to Opportunity," <http://www.unep.org/climatechange/UNEPsWork/Mitigation/tabid/242/language/en-US/Default.aspx> (last accessed Aug. 1, 2010).