



FASPE

Fellowships at
Auschwitz
for the Study of
Professional Ethics



2023 Journal

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JOURNAL



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ABOUT FASPE

Fellowships at Auschwitz for the Study of Professional Ethics (FASPE) is a non-profit organization devoted to challenging future leaders to recognize their ethical responsibilities through experiential learning. Our training and enrichment offerings include a fully funded, two-week Fellowship for graduate students and early professionals, and workshops at global institutions. FASPE also offers an Ethics Abroad Travel Program in Europe; it is a condensed version of the fellowship program in which our Fellows participate, open to a wider audience.

Our professional areas of focus include Business, Design + Technology, Journalism, Law, Medicine, and Seminary. FASPE Fellowships take place in Berlin, Krakow, and Oświęcim, where participants visit sites of Nazi history, including the former extermination camp of Auschwitz. Utilizing historical case studies, we examine the motivations and actions of the professionals who designed and established Nazi policies between 1933 and 1945. By studying the actions of the perpetrators through a comprehensive approach that provides physical and cultural context, Fellows are urged to reflect upon their own ethical standards in ways that leave a lasting impact throughout their careers and the rest of their lives.

Individual ethical standards are subjective and often influenced by cultural factors. Rather than impose or suggest specific moral or ethical standards, FASPE encourages Fellows to question their own ethics. Our curriculum encourages self-reflection and curiosity to ensure that ethical consideration is at the forefront of decision-making.

CURRICULUM AND FACULTY

The FASPE curriculum was designed in partnership with leading ethicists, historians, and practitioners, as well as professional school faculty at Carnegie Mellon, Columbia, Georgetown, Harvard, MIT, NYU, Yale, University of Virginia, Jagiellonian University in Poland, the University of Vienna, and elsewhere. Each year, our curriculum is presented by specialized faculty, including experts, educators, and accomplished professionals working in leading industries and institutions.

OUR FELLOWS

As of 2023, FASPE annually awards 80-90 Fellowships throughout six areas of focus. Each program travels with two other cohorts representing different fields of work and study, allowing Fellows to benefit from cross-disciplinary perspectives.

The FASPE experience doesn't end when our Fellows board their planes home. Rather, it is the beginning of a longstanding relationship built on mutual support and engagement. Our alumni participate in programs and governance in support of our improvement and growth as an organization. Similarly, we continue to offer opportunities for professional development, networking, and highlight their professional contributions and accomplishments. Each year, an alum who embodies FASPE's commitment to professional ethics is honored at our Awards for Ethical Leadership.

FASPE Fellows are better prepared to confront ethical issues at work and beyond due to having participated in a fellowship program and through their ongoing contact with FASPE. Our Fellows go on to pursue distinguished careers, applying principles of ethical leadership to their work and to their engagement with their communities. Through our Fellows and their influence, FASPE seeks to have a lasting positive impact on contemporary civil society.

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Letter from the Chair

BY DAVID GOLDMAN,
FOUNDER AND CHAIR

FASPE's basic mission is to promote ethical leadership in the professions. As we now enter our 14th year, perhaps it is valuable to revisit what this means, especially in 2023 (as opposed to 2009). Might the concept of ethical leadership change from generation to generation? Is there reason today for hope?

No doubt every generation believes that it is facing *the* most impactful and fraught ethical risks. And, no doubt, FASPE will continue to ask for ethical leadership from our professionals in any generation. Accepting these as givens, may we today still ask whether the challenges of 2023 are different because of a lack of clarity and the confluence of enormous risks? It seems that every profession is facing truly existential questions that require consideration of ethical implications, even if grayness abounds. 2023 feels different! And, different in a way, that makes the call on our professionals even more urgent.

- Medical therapeutics and preemptive medical preventions are available as never before with new technologies and genetic treatments. But what of the ethical implications arising because of the challenges of access and the expense of these technologies and treatments as well as the ethical questions of particular research methods—let alone the ethical implications posed by “life-designing” genetic engineering?
- Can ethical journalism survive in a world of unlimited access to the public market of information delivery, a willing disregard of facts, and rampant disrespect of civil discourse? Or, put differently, can ethical journalism survive in this world?
- Technology is an increasing component of every aspect of our lives and lies at the heart of every profession. But what are the implications when there is near unanimous distrust of technology and technologists, when there is near unanimous belief that technologists are too often driven by the mystery and possibilities of their technology without regard to ethical implications, especially at a time when so many of us fear the sharing of data that may be the prerequisite to the effectiveness of some of these technologies?

- Can there be such a thing as “ethical capitalism” where the free market is global, no doubt impacted and interrupted by unregulated and ethically untethered participants?
- Can we trust a legal system that relies on ethical advocacy, one in which polarization leads many to no longer trust the system to protect us against the advocates (and the mediators, the judges) who are not moral and/or impartial players?
- And what of the dwindling of traditional faith communities at the same time that political polarization weaponizes religion?

Yes, the stakes seem much higher, yet long-trusted norms and traditions no longer seem to provide the guardrails. We are not comforted simply by traditional expectations for professional ethics, by the “norms” that typically offer protections. External factors—technology, globalization, polarization, nationalism, demagoguery—all seem to be creating the perfect storm in which the systems of the professions and historical norms are not sufficient.

FASPE believes that the answer lies with the individual *professionals*, the *influencers*.

- Why the *professions*? And what do we mean by “the professions?” FASPE defines “professions” in the context of *influence*, not in the traditional manner that relies on the existence of barriers to entry, organizational structures, etc. So, we look at those individuals who, by virtue of their given areas of expertise, have particular influence in their communities, defined broadly. The definition therefore answers the question of “why the professions?” We seek to train the *influencers*.
- *Leadership*? Yes, we believe that influencers must lead. And, here, we mean not just leading vis-à-vis their individual clients, patients, customers, readers, parishioners, et. al. FASPE believes in the proposition that those with expertise, those in areas of influence, must lead in a broader sense. They must assume the responsibility that comes with that expertise, and they must affirmatively and intentionally use that potential for influence. Put differently, if you have influence, use it.
- *Ethics*. FASPE accepts that *ethical* right and wrong cannot always be defined; it’s simply not that simple. Yes, there may be universally accepted precepts. But that is generally not the case (can murder, for example, be ethically justified in time of war?). So, FASPE acknowledges that ethical professionals

can disagree as to what the absolutely ethical answer to a particular situation is. We ask (demand?) that professionals at least ensure that the question of ethical right or wrong, however they answer it, remains top of mind, that the question of ethical right or wrong be a required component in day-to-day decision-making. #QuestionYourEthics!

FASPE believes that professionals must not accept moral neutrality. Doing their job well without regard to ethical implications is not sufficient. Individual professionals must lead and lead ethically. We must turn to individual responsibility in the face of these external factors—the systems and norms are not sufficient.

The 2023 FASPE Fellows join an alumni community that will soon exceed 1000. We are enormously proud of their influential work—inside boardrooms, laboratories, courtrooms, and operating rooms; speaking from pulpits, through chaplaincies, in classrooms, and through all kinds of media; creating algorithms and building *things*. They are touching and influencing countless numbers in countless contexts. But it is not enough that they are there; we expect them to act!

As you read these pages, we offer you a dose of optimism, optimism that we are building cohorts of ethical actors whose work and whose leadership is important and impactful. We hope that you feel and share this optimism, this commitment to impact our collective future, as you read a selection of their work.

Introduction

BY THORSTEN WAGNER,
EXECUTIVE DIRECTOR FOR STRATEGY AND ACADEMICS

Dear friends and supporters of FASPE,

We are delighted once again to be able to present a fine selection of essays and other capstone projects produced by this year's cohort of Fellows to you. As you will notice, they often both encapsulate very personal experiences and at the same time address some of the key aspects of FASPE's quest and mission. You will witness a broad spectrum of perspectives, genres, and approaches, ranging from poetry (Amanda Fritz) and reflections on one's personal position as defined by biographical and other factors (Jonathan Ort, Michaela Baker), to historical and contemporary analyses of the role and responsibility of professionals (Kevin Frazier). In addition, quite a few Fellows collaboratively created exciting and innovative projects such as podcasts and simulation games (Monica Chan and Jeffrey Ho; Leah Kaplan, Elodie O. Currier, Mohammed Omar, and Ornella Tchoumie).

The essays frequently highlight the significance of moral and other normative orientations as they are embedded in or expressed by particular narratives and are connected with specific interpretations of history. Heinrich Himmler's infamous Posen speech in October 1943 constitutes a case in point here. Nevertheless, moral failure seems often to have been caused by surprisingly ordinary motives. As Sarah Vernovsky emphasizes: "I wondered: did each perpetrator really need a rousing story? Not everyone shot a gun; some people organized identifying documents in offices or leveraged *Reichsmarks* to pursue business opportunities and technological advancement. How many people yawned through signing papers to authorize death sentences? How many were bored at work? Could Holocaust perpetrators be bland? For those removed from slaughter and anguish, which stories did they detach from and attach to?"

The contributions often carry echoes of the powerful confrontation with the specific space and place of the crimes and their connections to professional complicity, which is such a crucial dimension of the Fellowships. Site names like Brandenburg, Grunewald, Wannsee, Sachsenhausen, and, of course, Auschwitz resonate throughout the texts. Within the framework of these site-specific reflections, particular

contemporary challenges within respective disciplines are discussed: Kevin Frazier analyzes the tendency in legal ethics to move from an emphasis on republican virtue to an increasingly narrowly defined client advocacy, an approach that defines lawyering as business instead of as an acknowledgement of one's responsibility to the common good as an officer of the court.

Fellows of the Design and Technology program highlight the (potentially detrimental) consequences of technological innovation and its often-myopic focus on scale and efficiency: pursuing innovation per se is not sufficient. Engineers and technologists need to pair technological with moral responsibility, and chasing the *big* impact often means ceding control over *what* the impact may look like: "We as technologists get to decide what we want our priorities to be. In an era of rapid innovation, we must choose to prioritize the impact of our work and the world we are a part of rather than innovation itself." (Spencer Doyle, Leah Kaplan, and Emma Pan)

Several of the medical contributions touch on the promises and challenges connected with new technologies as well, particularly in the realm of genetic intervention and gene editing. Against the backdrop of medical complicity in Nazi crimes, the Fellows highlight the danger of physicians' contributing to a bias against people with disabilities. Medical and other professionals need to be aware of their power, have to be wary of applying categories of "usefulness", and ought to emphasize the shared humanity of others (Simrun Bal). The motivations and methods of past perpetrators warn of the risk of misappropriating rapidly advancing technologies in medicine; clinicians have a duty to preserve respect for persons with disease and disability and actively to avoid their devaluation and stigmatization, as many children will continue to have these diseases and the hereditary aspects of genetic disorders are so much more complex than often assumed (Michaela Reinhart).

The essays also touch on a broad spectrum of ethical issues in contemporary journalism, particularly in an era of decreasing trust in the press—issues such as transparency, fact-checking, and journalistic accountability. The example of George Orwell as a correspondent and combatant during the Spanish Civil War illustrates how taking sides in a very literal sense might seem necessary but potentially creates blind spots regarding the complexity of a conflict (Malone Mullin). Furthermore, the essays ask under what circumstances foreign journalists should step up to the plate when domestic journalists are forced into self-censorship. When is it time for both to leave? Nejra Kravić beautifully sums up the importance of FASPE fostering a sense of mutual support and trust: "I do, however, now have a community of journalists and

fellows that face similar challenges, a group of people that is adamant about recognizing and confronting their roles as professionals. While I am still apprehensive, I do not feel isolated”.

Devin Ames, one of this year’s Protestant Seminary Fellows, succeeds in bringing together several central aspects of the program: moving beyond the identification with the victims to a focus on the potential for complicity and an emphasis on avoiding the temptation to perceive oneself as standing on the right side of history: “I thought about an image of a pastor blessing Nazi soldiers. I thought about how many Christians in Germany threw their support behind Adolf Hitler [...] ‘Question Your Ethics,’ feels like a calling and a plea. A sometimes pain-filled and pressing plea in an increasingly divisive world, where we dig our heels in on issues so quickly and vilify those who disagree with us, seeing ourselves as champions of the ‘right way.’ What would happen if we consistently and honestly looked at our grounding principles, our ethical foundations, and considered how they may need to shift or change depending on their impact on other people?”

And Kingsley East Gibbs contributes with a sermon that masterfully weaves her FASPE experience together with a distinctly American perspective. Remembering the trees growing today at memorial sites such as Grunewald, Sachsenhausen, and Auschwitz, she asks: “Can you hear the trees screaming around us here in Waco? The lynching trees on our land are waiting with eager longing for the revealing of the children of God. Just this year, Waco erected a historical marker for Jesse Washington to memorialize “The Waco Horror,” when locals lynched this seventeen-year-old Black child in the year 1916. Historians say some 10-15,000 people came out to watch and participate in this lynching. 10-15,000 people from Waco and the surrounding areas, from largely Christian communities. Lord, have mercy. Lord, have justice.”

Let me end this introduction by quoting one more Seminary Fellow, Jonathan Ort. Referencing the complexities of his own family connections to Czech anti-Nazi resistance, he reflects on how a binary narrative, pitching the perpetrator against the heroic resistance fighter, does not capture the more fundamental and complex aspects of our own complicity rooted in privilege and power. Even clergy, journalists, and doctors who eventually mobilized the courage to reject the policies of Nazism, had often previously helped pave the way for its crimes: “I had hoped, even expected, that FASPE would ground me in moral bedrock. I imagined learning principles that could guide my decisions. I had it wrong: FASPE issued a call, not a credential—the call to

be and to remain troubled, to recall the horror I felt at Birkenau, to remember that I am not so far removed.”

BUSINESS

What's in a Phone Number?

BY MICHAELLA BAKER

Dear Grandchild,

99237 was too few digits to be a telephone number, but at a young age—at your age—I didn't know that. I never tried to dial the number and see who might pick up. I'm not even sure I knew how to use a phone back then.

As the granddaughter of an Auschwitz survivor, I anticipated experiencing a range of emotions visiting the concentration camps for the first time. Guilt though, guilt was not one of them. There was a reason Papa told us the number on his arm was his phone number. He was shielding us from the horror he endured.

I walked through the dusty paths of Birkenau, where 99237 was tattooed on Papa's arm and where he lived for two-and-a-half years. Looking at the latrines he might've used and the dingy barracks he might've slept in, guilt seeped in. I felt like I was breaching an unspoken pact we had made. In exchange for Papa not burdening us, his grandchildren, with his story of survival, we would remain innocent, shielded.

Why did I choose to visit the place he tried so hard to protect us from? Why did I choose to go where he was forced to?

In a space where Papa's existence was so precarious, protection overtook my guilt. Despite visiting Holocaust memorial sites throughout my life, for the first time, I felt like I had people to lean on. This feeling was unanticipated, especially given that most FASPE fellows were not Jewish, were strangers before the trip, and didn't have as robust an educational background or personal connection with the Holocaust. On the grounds of Auschwitz, astoundingly, I felt safe.

Upon this realization, I began to think I had reached my emotional limit. I needed to separate from the group. I walked to a quiet spot, sat down under a tree, not far from the camp's first gas chamber, and wrote down my thoughts. My blatant display of

emotion continued to elicit immense compassion from fellows, and several people approached me, recognizing that I was not just moved but personally affected, as the historical events touched my own family. Although I appreciated their recognition, I didn't necessarily feel entitled to receive more sympathy than anyone else. The safety and protection I felt turned into confusion.

When learning about the Holocaust, nearly everyone has a visceral reaction, Jewish or not. But Jewish people lay particular claim to deep-seated emotional responses. This concept, which I've termed "emotional entitlement," is a play on the theory of psychological entitlement.¹

Emotional entitlement, however, narrows this theory by focusing on Jewish people's relationship to the Holocaust. Jews believe we are owed the privilege of our emotions in this regard, feel entitled to others' sympathy in recognizing what we have gone through and are going through when engaging with Holocaust memorials. On this view, we don't need to reciprocate, nor do we need to acknowledge that others bear distinct emotional reactions too.

At least, this has been my experience. The first time I visited the United States Holocaust Museum, I was with my eighth-grade class on a field trip to Washington, DC. As I walked through the museum, I remember being struck by the atrocities without experiencing the deep, visceral reaction I expected. "Oh well," I thought to myself, "I don't like crying in public anyway." I remember looking over at a friend, who was also Jewish but didn't have family connections to the Holocaust, bawling over the exhibit, being cared for by a teacher. The immature 13-year-old in me wanted to scream: "she doesn't even have family who died in the Holocaust. *My grandfather* was a survivor, and look at me. I'm not demanding more attention, am I?"

I hadn't thought of that moment until I participated in the FASPE trip. The trace of a forgotten moment came to the forefront of my mind. During the visits to Brandenburg and Sachsenhausen, fellows provided comfort. Small gestures—eye contact and a subtle smile, a hug at the end of the tour, a word to check if I was okay. The sense that people were in my corner was nurturing but also led me to question why I had not recognized such support in the past. The gestures that FASPE fellows offered, ones that I didn't return, made me question my sense of emotional entitlement. It wasn't until Birkenau that I realized my emotional entitlement was alive and well.

In the concluding days of the trip, I started asking myself: based on the theory of emotional entitlement, who is entitled to have emotional reactions to historical events?

An obvious answer is that I'm entitled to feel a certain way because of my identity as a Jewish person or because of my family history. This is no different from the emotional reaction of Japanese Americans visiting internment camps or the descendants of slaves visiting plantations in the American South. Feeling emotionally entitled to events, however, conceivably makes it more challenging for other people to empathize with us and relate to histories that, at first, may not seem to be theirs too.

After all, it's not just Jews that perished. FASPE fellows from various backgrounds had different connections to the atrocity. One of the fellows (now a close friend) is an amputee and identified with the killing of the physically disabled victims. Another fellow grew up during South African apartheid and resonated with victims of Nazi discrimination based on his own family's history. The list goes on.

The idea of emotional entitlement is not to hinder people—Jewish or not—from feeling genuine emotions that arise from challenging history and memorial sites. Rather, the purpose is to add texture to our emotions and better understand how these emotions might hinder others' learning and engagement. If Jewish people take ownership of the emotional connection to the Holocaust and walk into memorial sites expecting sympathy and giving nothing in return, we've gravely missed the point.

Sitting under the tree on the outskirts of the Birkenau gas chamber, it occurred to me that despite having the dirt of Auschwitz on my shoes and under my nails, our secret and unspoken pact hadn't been breached. I would always remain innocent because I could never understand the terrors Papa faced. And perhaps that's the true irony: I came into this experience hoping to understand, but I left humbled by my lack of understanding. 99237 was an identity, a memory, a grandfather, a phone number. But it isn't just *my* number to remember. It's ours.

I don't have a number on my arm or any tattoo for that matter. Without the tangible evidence of atrocity, how can I explain to you, my grandchild, our family history of the Holocaust? How can I convey to you what your great-great-grandfather experienced in

a way that helps you acknowledge his struggle without a sense of guilt or a stifling burden? Without a sense of emotional entitlement?

I can only share with you what I have learned. And though not a tattoo, my experience at the concentration camps and in Papa's home country left an indelible mark: a lesson to appreciate history in a way that allows people to engage and empathize, to learn from hardship, but not to claim it as your own. Allow other people to understand alongside you and embrace even the most unexpected emotions. Offer protection, cultivate humility, and practice kindness.

I know I can't protect you from everything or give you all the life lessons you could ever need. So, I'll say this: dial Papa's phone number if you ever need some perspective. I can't promise he'll pick up, but I promise he'll be there.

Love always,

Your Grandmother

Michaella Baker *was a 2023 FASPE Business Fellow. She is a behavioral health specialist at McKinsey & Company.*

Notes

1. Psychological entitlement "refers to an inflated and pervasive sense of deservingness, self-importance, and exaggerated expectations to receive special goods and treatment without reciprocating" (Fisk, 2010; Grubbs & Exline, 2016). Source: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6552293/>

Reflection on the T4 Program and My Prenatal Choices

MELANIE D'MELLO

This spring when I visited the Brandenburg site with FASPE, I was pregnant. Shortly before the trip I had received the results of my NIPT, a non-invasive blood test giving information about potential fetal chromosomal abnormalities, including trisomy 21, commonly known as Down syndrome.

During the Nazi period, Brandenburg was a T4 facility where nurses and doctors euthanized mentally and/or physically disabled people ranging from 2-94 years old. The program even helped develop the gassing techniques later used in death camps. The rationale for the killings was that the patients were living a life of suffering (potentially an unworthy life) and were a burden to society (they required extra care and were not active participants in the economy). All the medical practitioners involved had the choice to refuse participation in the program at any time. Mostly they thought they were doing the right thing.

Visiting the site unexpectedly put me in a quandary over my own choice: did conducting prenatal testing and considering aborting a child with chromosomal abnormalities mimic the logic at play here?

Prior to conceiving, my husband and I had talked about whether we would terminate the pregnancy if the tests showed a risk for trisomy or other chromosomal abnormalities. I always felt that, in my case, the answer was crystal clear: I would terminate the pregnancy. My rationale was that I wanted to protect my family and my marriage. The idea of raising a child that has special needs and requires constant care from at least one of the parents would put a strain on our marriage and prevent us from having the time and resources to raise another child, thereby “endangering” our hypothetical family. It felt unfair to subsequent children. Reflecting on that day at Brandenburg, I wondered why I would so vehemently defend the needs of a potential future sibling over the needs of a conceived disabled child. I felt uneasy that my reasoning mirrored that of the Nazi administration: an individual with disabilities is a burden to society (i.e., my husband and me).

There are many layers and permutations in this hypothetical situation: the condition itself, life expectancy, whether the child would physically suffer from its condition, as well as the resources locally available to parents to help accommodate the child's special needs. To further complicate matters, current testing cannot predict the severity of complications for a fetus with Down syndrome, which vary greatly from one child to another.

Returning to my situation, I did not deeply consider the ethical issues associated with a pre-natal genetic screening conducted at nine weeks of gestation. My husband and I had been through several miscarriages before, and I viscerally needed to know whether this pregnancy would be viable (70 to 80% of miscarriages are caused by chromosomal abnormalities). The test came back. Everything was normal. It was a somewhat of a relief (one milestone achieved, many others to come).

However, when visiting Brandenburg, a myriad of questions swirled in my mind: what would I have done if the test showed elevated risks? More specifically, why was it so acceptable to abort an in-utero child with disabilities when there was a unanimous consensus that euthanizing a born child aged two years old and older was murder?¹

Ultimately, I wanted to understand if there was a clear ethical distinction in what at first glance seemed a difference of "posture" or "framing" with regard to how we viewed abortion as opposed to the euthanasia conducted at Brandenburg.

First, I conducted some research about the ethical concerns raised by the NIPT test. I then researched testimonies of parents with Down syndrome children. The few studies and testimonies I gathered took place in the 1970s and 1980s, a time when *Roe v. Wade* was at the center of the public discourse, as it is today.

The NIPT test can only evaluate the risks of the fetus being affected by a chromosome abnormality, not the severity of its condition. According to my research, there is currently no possibility of knowing the severity of the condition; no one is sure of a path forward in this regard. A child with, for example, Down syndrome may have substantial difficulties and complications or have a fulfilling and largely autonomous life.

Other advances in medical technology have put forward ethical concerns around the future of pre-natal genetic screening. Such screenings are routinely conducted in IVF

procedures to determine which embryos have the best chances of successfully implanting. Such medical advances raise questions and concerns whether future parents will soon be able to use these genetic screenings to select other attributes such as eye color, hair color, IQ, etc. Should these become possible, the case would obviously veer closer to Nazi “race selection.”

To bring this back to the NIPT test, there may be ethical concerns if the test becomes a routine pregnancy test. In this scenario, people might uncritically adopt the test, using it even in cases where there are no antecedent miscarriages or known risks for chromosomal abnormalities. “The risk of routinization could undermine reproductive choices and increase discrimination against children living with trisomy. This risk is particularly elevated since the NIPT test is non-invasive; it is a simple blood test that does not physically endanger the fetus or the mother.”²

Perhaps an answer might arise regarding ethical use through an investigation of different nations’ approaches to related bioethical situations. As a result, my investigation into existing sources took me in this direction. Each country weighs the freedom to terminate against other principles and values such as human dignity, disability rights and health care professionals’ duty of care. While many countries and cultures value reproductive autonomy, the way such concept is understood and implemented is influenced by socio-cultural context.

For example, we might turn to this research undertaken in the Netherlands:

The following study addresses women’s perspectives on prenatal screening with NIPT by evaluating three aspects related to routinization: informed choice, freedom to choose, and (personal and societal) perspectives on Down’s syndrome. Nationwide, a questionnaire was completed by 751 pregnant women after receiving counseling for prenatal screening. Of the respondents, the majority (75.5%) made an informed choice for prenatal screening as measured by the multidimensional measure of informed choice (MMIC). Education level and religious affiliation were significant predictors of informed choice. The main reason to accept screening was “seeking reassurance” (25.5%), and the main reason to decline was “every child is welcome” (30.6%).” Most respondents (87.7%) did not perceive societal pressure to test. Differences between test-acceptors and test-decliners in personal and societal perspectives on Down’s syndrome were found. Our study revealed high rates of informed decision-making and perceived freedom to choose regarding fetal aneuploidy screening, suggesting that there is little reason for concern about routinization of NIPT based on the perspectives of Dutch pregnant women. Our findings highlight the importance of responsible implementation of NIPT within a national screening program.³

Another study also conducted in the Netherlands by E. Garcia came to a similar conclusion that “the increased use of the NIPT tests had no negative effect on Dutch women’s reproductive autonomy,”⁴ though it is not clear if this trend will always hold.

Having looked at some numbers, I was interested to dive deeper in testimonies from parents with Down syndrome children, especially at a time when abortion was newly available to women. In this way, I hoped to know more about their views on disability-selective abortion and its relationship to Nazi euthanasia campaigns.

To this end, I looked at the following study, which was published in the *Journal of Medical Ethics* in 1983 and conducted over several years:

In 1972 a study (unpublished) was made of Down's syndrome children born in the years 1964-66 and living with their parents in South Wales. Two new studies based on this work were carried out in 1981. For the re-study contact was again made with all Down's syndrome children living with their parents and born in 1964-66 and, in addition, a new sample of all Down's syndrome children born in the years 1973-75 was also studied.⁵

This study included 78 parents with children aged from 8-16. Mothers were asked: “How do you feel about abortion after an amniocentesis test has shown a mother is carrying a handicapped child?”⁶ Researchers also asked parents whether they felt that the life-saving care routinely extended to babies should be definitively extended to handicapped babies. If they did not agree with this extension, they were asked if Down syndrome is severe enough to allow such a baby to die without such care.

The study found that, “while most were in favor of abortion for a severely disabled fetus, they were equally divided on whether euthanasia”⁷ was an acceptable practice. There was an array of (emotional) reasons why the parents were not pressed to make the distinction between killing a baby and letting the infant die. Even though according to many, “there is little moral difference between active (euthanasia, abortion) and passive killing (refusing basic care).”⁸

At the time of the study little help was available from the government and medical/educational institutions to raise a child with special needs. With this in mind, the researchers also note that care options were substantially limited in the decades leading up to the survey, meaning that stresses on parents may have been greater when their now-older children were younger. Those with children born in the 1960s

frequently mentioned this problem: "They didn't ask me if I wanted her. They said 'Well you can't leave him here' (in the maternity hospital)." While fostering was not an option then, the 1970s saw an increase in hospital care for such babies in the weeks after their births."⁹

Only a third considered an average Down syndrome child to be a suitable candidate for euthanasia. Parents argued that the child's degree of disability was the crucial factor in making this decision.

What counts as a severe disability, however, is subjective, even perhaps defying stereotypes or expectations. "One father, whose child scored exceptionally well on tests said, 'Look at M, it's not a full life, there are a lot of problems.'" In contrast, of the parents of the 12 children who scored more than one standard deviation below the mean on the Ginzburg Progress Assessment Chart 1 (a measure of social competence) only one parent considered Down syndrome children "very severely handicapped."¹⁰

We can see this divided opinion clearly in the following testimonials from the studies:

If I knew as I know now I'd have euthanized her. It's cruel for me and cruel for her. There's no life for me while she's here and none for her [...] it's not a bit of good, the country's better off without them[...]a handicapped mind and a handicapped body, it's cruel. When a dog's injured you put it down.

I think it's wrong. Someone could have done it to [my daughter] but she's come on exceptionally well and we'd have missed a lot. It's the same as murder of an ordinary child - no question with any handicap, it's the taking of life. How can you tell at that age?" Asked whether she felt that, where the degree of handicap could be determined to be severe, euthanasia was acceptable she replied: 'I still wouldn't agree. It's like Hitler and a super race. There's a reason for us all.'¹¹

The study found a correlation between their opinion on euthanasia and their social class:

Table 1: Social class of parents and opinions on euthanasia for very severely handicapped children (% in brackets)			
Social classes	In favour of euthanasia	Against euthanasia	Total
I and II	17 (68)	8 (32)	25
III (a and b)	15 (42)	21 (58)	36
IV and V	5 (31)	9 (56)	14
	37 (48)	38 (49)	75*

Goodman and Kruskal's gamma = .418 (15).
This produces a standardised normal deviate of 2.19 (Significant at the 5% level).
* Two mothers were undecided.

Table 2: Social class of parents and opinions on euthanasia for average Down's syndrome children (% in brackets)			
Social classes	In favour of euthanasia for Down's syndrome	Against euthanasia for Down's syndrome	Total
I and II	14 (56)	11 (44)	25
III (a and b)	8 (22)	28 (78)	36
IV and V	3 (21)	11 (79)	14
	25 (33)	50 (67)	75*

Goodman and Kruskal's gamma = .511 (15).
This produces a standardised normal deviate of 2.63 (Significant at the 1% level).
* Two mothers were undecided.

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Parents were even divided on whether the doctor should make the decision of terminating the life or gestation of such a child. Some even proposed that a doctor should decide. Although I do not personally agree with this approach, each parent mentioned how challenging this decision would be, so I can understand the desire to transfer responsibility to a medical professional.

I therefore researched if there was such a precedent. I came across the case of "Re B (A Minor) (Wardship Medical Treatment)," which took place in 1981. The child was born with Down Syndrome and an intestinal blockage. She needed the obstruction removed if she were to survive more than a few months. If the operation were performed, her life expectancy might extend to 20-30 years.

Having decided that it would be kinder to allow her to die rather than live a short life

as a physically and mentally disabled person, her parents refused to consent to the operation. The local authorities made the child a ward of the court, and, when a surgeon decided that the wishes of the parents should be respected, they sought an order authorizing another surgeon to undertake the procedure.

The appeal was allowed. The question for the court was whether it was in the child's best interest that she should have the operation. Based on the evidence provided if the operation were performed, the child could expect a normal life span given her condition.¹³

Judge Templeman LJ's remarks were as follows:

On behalf of the parents Mr. Gray has submitted very movingly [...] that this is a case where nature has made its own arrangements to terminate a life which would not be fruitful and nature should not be interfered with. He has also submitted that in this kind of decision the views of responsible and caring parents, as these are, should be respected, and that their decision that it is better for the child to be allowed to die should be respected. Fortunately, or unfortunately, in this particular case the decision no longer lies with the parents or with the doctors but lies with the court. It is a decision which of course must be taken in the light of the evidence and views expressed by the parents and the doctors, but at the end of the day it devolves on this court in this particular instance to decide whether the life of this child is demonstrably going to be so awful that in effect the child must be condemned to die, or whether the life of this child is still so imponderable that it would be wrong for her to be condemned to die.

Judge Dunn LJ said:

"I have great sympathy for the parents in the agonizing decision to which they came. As they put it themselves, 'God or nature has given the child a way out'. But the child now being a ward of court, although due weight must be given to the decision of the parents which everybody accepts was an entirely responsible one, doing what they considered was best, the fact of the matter is that this court now has to make the decision. It cannot hide behind the decision of the parents or the decision of the doctors; and in making the decision this court's first and paramount consideration is the welfare of this unhappy little baby."¹⁴

In this context, we should note the mention of the "unhappy" baby, a notion that some have challenged on the basis that many of those with Down syndrome live fulfilling lives. Upon reading this term, I could not help but reminisce about Aktion T4 and the Nazi "mercy killings." The term "mercy killing" itself implies that by abridging their lives these medical professionals were doing a favor to these disabled individuals.

Indeed, their testimonies confirm that doctors believed that the patients were suffering or living an indecent existence unworthy of continuing.

In view of these readings and reflections I am still not convinced that there is a deep fundamental difference between the Aktion T4 euthanasia rationale and the rationale of expecting parents to decide whether they would terminate the gestation of a fetus with elevated risks of trisomy, specifically Down syndrome.

Please note that I do not wish here to discuss the legality or morality of abortion. I believe that women should have ownership over their bodies and the right not to pursue an unwanted pregnancy. In this reflection, I have discussed a specific situation: abortions of wanted pregnancies motivated by pre-natal screening indicating increased level of trisomy 21. I intentionally excluded abortions motivated by other forms of trisomy that ultimately condemn the fetus to miscarriage and stillbirth (which can also endanger the mother's life) or imminent death following birth.

Choosing to terminate a pregnancy with increased level of trisomy 21 is a grey area. I do "feel" that it is a lesser evil to kill a fetus rather than to kill a living child or person. I was, however, unable to identify and articulate a fundamentally different rationale. In part, this difficulty remains because medicine cannot inform parents of the severity of the condition based simply on a NIPT.

Other limitations applied too. The concept of a "worthy" life seems heavily determined by socio-economic and cultural context (especially religious beliefs). This notion might be challenged further by technological and medical advancement allowing for increasing access to detailed pre-genetic screening.

In the end, I have come to see the multifaceted complexity of the comparison. While both Aktion T4 euthanasia and abortions specifically motivated by an increased level of trisomy 21 involve deciding what constitutes a "worthy life," there is one important difference: during the time frame allowed for abortions it is not possible to predict the child's health and viability, as the complications and severity of trisomy 21 vary greatly. On the other hand, Aktion T4 mercy killings were conducted on individuals aged 2-94 who were alive and "viable." The ethical justification in each case, however, follows similar lines of reasoning. I cannot say I have found an answer, only more questions.

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Notes

1. The aim of this essay is not to challenge the murderous nature of the Aktion T4 nor is it to question the reasonableness of terminating pregnancies as such. My own experience has simply led me to explore why a great number of individuals, including myself, accept the idea of terminating pregnancies with elevated risks of trisomy.
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5. "Abortion and euthanasia of Down's syndrome children - the parents' view" Billie Shepperdson Medical Sociology Research Centre, University College, *Swansea Journal of medical ethics*, 1983, 9, 152-157
6. "Abortion and euthanasia of Down's syndrome children - the parents' view" Billie Shepperdson Medical Sociology Research Centre, University College, *Swansea Journal of medical ethics*, 1983, 9, 152-157
7. N.B., no distinction was made between active and passive euthanasia.
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9. Abortion and euthanasia of Down's syndrome children - the parents' view Billie Shepperdson Medical Sociology Research Centre, University College, *Swansea Journal of medical ethics*, 1983, 9, 152-157
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12. Abortion and euthanasia of Down's syndrome children - the parents' view Billie Shepperdson Medical Sociology Research Centre, University College, *Swansea Journal of medical ethics*, 1983, 9, 152-157
13. Please note here that "normalcy" of lifespan is subjective and relative to a given time and place in history.
14. *n Re B (A Minor) (Wardship: Medical Treatment)*: CA 1981 [1990] 3 All ER 927, [1981] 1 WLR 1424

Two Poems

BY AMANDA FRITZ

The Eagle

Feathers ruffle against the dreary sky,
the train whistles: four more cars. Herding sheep
the soldiers yell, hit, mock my bloodshot cry.
A brother? Cousin? Likeness starts to seep
'tween prisoners and captors—which'll keep?
Which'll perish? Why? Logic drives not men
whose weakness is fear of weakness's creep.
Innocent faces, remember them.

Day and night, mere boys with guns. Some are shy
and befriend the prisoners. Others weep
and wish they were home with families. Why
is there so much hate? Of oneself, a deep
distaste for complying but scared. Bopeep
around, no choice but to nod yes, surrend-
-er. What happens to those who fight? Who bleep?
Complicit faces, remember them.

Why does man find joy in methods to try
and make those different seem afraid, weak
and inferior? Does it satisfy
an innate evil? Is it learned? We keep
searching for answers; a sad, hollow keep
leads to more questions. The evolution
of studies is dark; it lacks warning beeps.
Curious faces, remember them.

Feathers ruffle against the sun and seep
into the background, like a mother hen
watching newcomers see, learn, blush and weep.

All victims' faces, remember them.

Little Birdie

Little birdie in the sky,
teach me how to pray.
Careless, free, and feathered cry,
verses lifted up to the Dei.

“How long have you lived up there?”
I wonder, but not out loud, do I say.
Sky so blue, so clear, so bare,
so few clouds in a space so gray.

I look up high and yonder,
then back down to the ground
where dirt and ash are mixed. I wonder,
“How many men, women, children live under this mound?”

As I look at my group's eyes, which glean,
wide with disbelief,
I notice the sickening contrast between
the beautiful sky and the camp ridden with grief.

The barren earth, the cold, rough beds
in barracks running miles wide.
Rows and rows between wire barbed,
suffocating all those inside.

I see the kitchen, crematoria, shooting wall—
all used to murder innocent folk.
I see the faces of the unknowing in all
the photos, and up with tears I choke.

One photo is of three small boys,
the two younger, knuckles white, clinging hard.
Their naïve walk to their impending doom, a decoy
devised by the Nazis who run the yard.

I think of my brother, sister, and me—I am the oldest—
and feel sibling trust in these young lads' eyes.
A pang stabs my heart and I wonder, "Would I be the boldest?
Would I comfort them even as my soul cries?"

Rooms of shoes, of suitcases, of shaved hair,
I spy one braid long, red hair tie and dirty blonde,
so perturbing. Personal touches made with care,
robbed from those by whom they were once donned.

As we walk around the concentration camp
on this bright and sunny day,
I feel like there is no escape from the damp
dreariness I feel stalking me as I turn every which way.

Physically imprisoned by the barbed wire fence
and smothered by emotional distress,
I cannot fathom treating others with such lack of penitence.
Animalistic in nature, from all angles evil does egress.

Reflecting on experiences, past, present, future,
as I start my new career,
I ask how I can do better—both suture
prior wrongs and do right when ethics aren't crystal clear.

Not quite junior, not quite senior:
what difference can I make?
No effort too small or meager;
it is important to be intentional with the steps I take.

Decision and consequence go hand-in-hand,
whether obvious or obscure.
One must consider all those unplanned
affected persons and the results they must endure.

So, add to the decision matrix another layer for people:
always question what is assumed.

For as we learned in class, if unrationalized, a mere sheeple,
is a red flag of an ideology presumed.

Little birdie in the sky,
teach me how to grow.
For years seeing hate, love, death, life—things that went straight and awry—
from your wisdom I will know.

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DESIGN & TECHNOLOGY

Three Lessons from the Holocaust for Young Technologists

BY SPENCER DOYLE, LEAH KAPLAN, AND EMMA PAN

We are three researchers in various fields of technology who had the privilege of participating in a two-week-long fellowship in Europe on the topic of professional ethics. This FASPE fellowship exposed us to the history of the Holocaust from the perspective of the perpetrators (especially the professional class of doctors, lawyers, and scientists) and asked us to reflect on ethics in our fields today.

From large language models to quantum computers, genome editing, autonomous vehicles, and virtual reality, we live in a time characterized by many and diverse innovations. While there exists potential for positive social outcomes, with complexity comes unpredictability. The unintended consequences stemming from our innovations may leave us wishing we had never invented such new technology in the first place.

History is filled with lessons for those willing to listen. By reckoning with the role of scientists and engineers in enabling the ultimate tragedy of our time at these historical sites we heard more than just lessons: a heartrending wail echoed through the camps, towns, and ruins. Although we will be reflecting on these cries for a lifetime, we feel the responsibility to share a condensed version of our collective experience in the form of in-progress lessons for modern technologists.

Lesson 1: Don't let the title “technologist” fool you—our jobs are just as social as they are technical.

As we design new hardware and software, so too we design new ways for people to interact with each other both digitally and physically. By way of social connections in the workplace, even the professional norms that we develop as we work through R&D impose themselves on future researchers and projects.

When studying the Holocaust, the inescapable connection between the technological and the social is visible in essentially every case study. One, however, stands out: the

company responsible for enabling the large-scale burning of bodies at concentration camps.

As cremation gained popularity in the early twentieth century, Topf and Sons depicted the development of crematoria as a means of bringing “dignity to death.”¹ When tasked by the Nazi regime in 1939 with providing ovens for their camps, the company went above and beyond. They offered redesigned crematoria capable of much more efficient operation, going so far as to provide unsolicited advice on how to improve the venting of the gas chambers to speed up the killing process.

This was the corporate culture of Topf and Sons, emphasizing innovation and technological perfection above all else. In a 1938 letter from the Topf Brothers to their employees (a year before the company would begin testing and installing crematoria in concentration camps), they highlighted this operating principle: “this corporation always puts invention, creativity and proficiency before capital.”² Indeed, this sentiment is clear from their collaboration with the SS: such contracts never accounted for more than 3% of the company’s income.³

The engineers were in it for the opportunity to innovate, taking on what philosopher Zygmunt Bauman describes as a technical, rather than a moral, responsibility.⁴

Bringing our moment back into focus: how different are we as engineers and technologists today?

Pessimistically, the so-called Silicon Valley model of innovation⁵ has encouraged an operating principle well summarized by one of its most successful proponents and benefactors, Mark Zuckerberg: “Move fast and break things.” Such a motto mirrors the rationale of companies like Topf and Sons in their choice to help realize the Nazi regime’s “Final Solution”: committing genocide against Jewish people.

Optimistically, we can learn from our recent history and reflect on further industrial and digital developments. With this in mind, we can see that moral and technological responsibilities are not interchangeable. If you find yourself working insistently on technical problems without considering social or ethical considerations, reflect on why this might be. Does it benefit your employer? Is it easier for you?

By understanding where this separation of responsibilities comes from, we can better modify our practices and institutions to move towards more socially cognizant innovation.

Lesson 2: Scale deliberately and iteratively to minimize harm.

Technologists often assert that a key contribution of their profession is improving scale and efficiency. The subtle implication is, of course, that scale and efficiency are inherently positive goals. At minimum, these do seem intimately tied to examples of modern technological achievement, such as skyscrapers, global communications networks, and highly automated assembly lines.

Recently, many have lauded large language models for their broad applicability, which promises widespread growth and more efficient task completion. In a world that seems to strive for bigger and faster everything, scale and efficiency have become key measures of performance.

Yet while we celebrate these achievements, we often seem to overlook the capacity of technology to enable large-scale harm also.

Technology did not create Nazi prejudice. But it did allow for atrocities at scales hitherto unfathomable.

On January 20, 1942 in a Berlin suburb, fifteen Nazi party officials discussed how to handle the approximately 11,000,000 Jews in Europe. This cold bit of calculation formed part of what is now referred to as the Wannsee Conference.⁶ Different officials in attendance raised concerns about the logistical difficulties of “evacuating” (a euphemism for murder) such a large number of people. The Nazis had a problem. Technology promised a “solution” in the form of gas chambers. While the Nazis were already committing mass murder prior to the Wannsee Conference, the subsequent scale of murder was made possible in large part due to new, fiendish technologies.

What, then, is good about scale and efficiency?

Moreover, these questions not only apply to how we might think about technology design but also to how we might reflect on our own individual roles as technologists. Raised on rhetoric about engineers saving the world, many of us set out to create large-scale change through our work. Indeed, we may even find ourselves motivated

by one of the National Academy of Engineering's 14 Grand Challenges (the promise of personal and professional grandeur embedded in even their name). From global pandemics to worsening climate change, we all feel a sense of urgency to create change—and fast!

Yet chasing such an impact often means ceding control of the shape our labor takes. The technologies we develop eventually leave the lab (or, more often now, an open-concept office space) and permeate society, entwining themselves in global problems and existing power structures. The larger the scale, the less we may be able to adjust and the more harm may come. We have our entire careers to work toward positive change. We should consider starting out by focusing on smaller-scale effects or slowing down to create change iteratively—and ideally collaboratively.

Lesson 3: Examine whose voices are left out of the design process and find ways to engage with them.

What we know about our impact as technologists depends on who we care about enough to talk to. For example, people who are not “users” of a product are often left out of user research studies, even if they are affected by the product. What's more, the diversity of those included in user-research studies can vary greatly based on how much time the study is given, who is contacted, and who can afford to participate. Unintended consequences arise when designers fail to consider the perspectives of people who are not “target users.” These consequences often disproportionately harm minority communities.

While studying the Holocaust, we were struck by the importance of knowing the impact of one's work. During this period, gas chambers were kept in remote locations, largely hidden from society. In these chambers, a chemically engineered pesticide named Zyklon B enabled Nazis to murder with speed and at scale. At the beginning of WWII, Degesch sold pesticide to concentration camps to prevent the spread of infections and disease. These chemicals eventually became means of mass extermination. Carl Wurster, the chairman of the Degesch board of directors, was acquitted of all charges in the Nuremberg Trials. The website of BASF, a company descended from Degesch, states that “the records still preserved and witness accounts give no indication that Carl Wurster knew of the misuse of pesticides for industrial mass extermination [...A]s the war progressed, more and more people were housed in camps so it was to be expected that the demand would rise for pediculicides and other special pesticides.”⁷

If Wurster truly did not know that his company's most profitable product was used for mass murder, would he have put an end to the production of Zyklon B if he had been aware? Would the engineers designing Zyklon B have chosen not to design a stronger pesticide if they had known what its intended use was? Regardless of whether they knew the true and horrifying impact of their product, both the leaders and the engineers of Degesch had the power to slow down, or even prevent, the development of Zyklon B. Such resistance would have had the potential to save countless lives.

By investing time and resources into learning about how technology can be used and who can be affected by it, we can acquire the knowledge needed to prevent harmful outcomes. By exploring the experiences of people who are directly and indirectly affected by an innovation, we can better understand the breadth of its impact. By listening to those who are historically excluded, we can predict and prevent unintended consequences.

It can take time and resources to collect a variety of experiences but designing for minority and excluded populations can improve outcomes for everyone. Curb cuts, for instance, were originally created to make sidewalks accessible to people with mobility devices like wheelchairs. They now, however, make it easier for everyone to move onto sidewalks, especially when toting suitcases, strollers, and other items with wheels.

We can improve the design process and prevent harm if we keep underrepresented peoples informed, interview them, and consult with them. Just talking to people, however, is not enough. Underrepresented opinions and experiences need to be taken seriously and translated into more inclusive products. By hiring people with relevant experiences, we can bring important perspectives to the decision-making table.

The above lessons are not silver bullets, nor are they a sufficient list of considerations an employee or organization might need to implement in order to be “good” innovators. They are, nevertheless, a good place to start.

We as technologists get to decide what we want our priorities to be. In an era of rapid innovation, we must choose to prioritize the impact of our work and the world we are a part of rather than innovation itself. Our future depends on it.

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Emma Pan was a 2023 FASPE Design and Technology Fellow. She is a software engineer, currently working at Microsoft on Seeing AI, an assistive app for people with visual impairments.

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Storytime: How Imagined Truths Become Reality

SARAH VERNOVSKY

I often think about the stories that shape our identities and worldviews. Stories can underlie mundane decisions (“sure, I’ll avoid some pesticides and buy organic berries”) or feel more meaningful (“I’ll be a good person and help this poor tourist figure out the Boston subway system.”) Some stories (“follow your dreams!”) clash with other stories (“build a comfortable life!”) and we find ourselves wavering between them. Whichever we choose, we orient ourselves with stories; they shape our conception, big and small, about the ways we and the world should be.

Storytelling makes humans who we are. As writer and historian Yuval Noah Harari notes, “All other animals use their communication system to describe reality. We use our communication system to create new realities.”¹ Stories of nations and destiny move militaries while tales of “true” faith prompt crusades and diasporas. Stories of rights support international access to asylum from persecution and danger. At the micro-scale, stories praising resilience pull people through brutal hardship, and prejudices ignite vicious conflict. Narratives bind and separate us, bring us together and tear us apart.

Of course, some stories have stronger bones than others. As we live them out, we feel their worth through our physical and internal senses. Take the story of dental hygiene, which I’m free to stop believing at any time. When I do, I will undoubtedly experience the gradual onset of painful tooth decay and gum disease. If you enjoy having and using teeth, the dental hygiene story is hard to argue against.

Others are murkier. We can examine a common truism: hurting people is bad.

What about when someone hurts those we love? How often do we choose compassion over vengeance? In a movie theater, we see how much people love to watch a villain squirm. We protest when they prevail and cheer when they surrender. Screenwriters craft villains’ downfalls into flashes of restitution for justice-hungry audiences. The

story becomes: “hurting people is bad, unless they deserve it.” How about when we learn the villain’s heart-wrenching backstory? Well...

Ultimately, “truth” is incredibly complex and often subjective. So, how do we ground ourselves? How do we assess the stories that shape our beliefs, and how do we know what we know? What is right, and what is wrong? Which signals do we use to discern them, and whose understanding wins out?

I slammed head-on into these questions on my first day with FASPE. During a Nazi Ethics session, we listened to a speech that Heinrich Himmler, leader of the SS, delivered to his troops in 1943. He solemnly acknowledges that, unlike most party members that trivialize Jewish extermination from their cushy offices, SS men will feel the sickening weight of “what it means when 100 bodies lie together, when there are 500, or when there are 1,000.”² Execution, he notes, is a deep, strenuous labor. What justifies this hellish task?

Himmler answers with German nationalism. Stay connected, he implores his men, to the link between your duty and German prosperity. Jews, as alleged “secret saboteurs, agitators and instigators,” contribute to the “putrefaction” of the decent, loving German people. Drawing on popular antisemitic tropes, he asserts his soldiers’ “moral right [...] To kill this people who will kill us.”²

Himmler’s command for soldiers to ignore signals giving them pause was especially sobering. Don’t believe your eyes, ears, or gut when your friends and family approach you with an upstanding Jew.² Suppress your visceral horror at the sight of mass graves. Complete the terrible task, he urges, not for the gory present, but for the utopic future. Your superhuman effort contributes to something beyond yourself; your allegiance reflects your strength of character. Ugly will be ugly, but it will not be wrong. What I call persecution and genocide, he called heroism and salvation.

After hearing Himmler’s speech, I spiraled through a string of unsettling questions. What can we delude ourselves into believing and doing? Is my sense of right and wrong, which I use to disparage Nazi ethics, not equally a story? What weight does my argument about human suffering carry when the opposing side rejects its victims’ humanity altogether? What could one soldier do, thinking differently, surrounded by gun-wielding comrades?

While wringing my hands and searching my brain, I wondered: did each perpetrator really need a rousing story? Not everyone shot a gun; some people organized identifying documents in offices or leveraged *Reichsmarks* to pursue business opportunities and technological advancement. How many people yawned through signing papers to authorize death sentences? How many were bored at work? Could Holocaust perpetrators be bland? For those removed from slaughter and anguish, which stories did they detach from and attach to?

Adolf Eichmann's 1961 trial (and reporting on it by Hannah Arendt) come to mind. She asserts that Eichmann dedicated himself above all to his professional ascent. Attaching himself to his rank while detaching from human suffering, he organized mass deportations of Jews to ghettos and killing centers with a sound mind. Eichmann's psychological impunity "enabled him to sit for months on end facing a German Jew" during his trial, not expressing remorse or acknowledging wrongdoing, but "pouring his heart to the man [...] that it had not been his fault that he was not promoted."³

To Eichmann, broader social consequences barely registered, if at all. Perhaps he rose on the (literal and figurative) backs of Jews, but the real tragedy was his boss's failure to recognize his potential. His motives appear entirely ordinary—to make the most efficient system possible, to land that promotion. It's no wonder Arendt coined the term "banality of evil" while reflecting on the trial.⁴ Eichmann was an unexciting bureaucrat.

Stepping out of these reflections, I felt jarred by the power that stories and storytellers hold. I so badly wanted Nazism to be humanity's upside-down doppelganger with simple villains to point out and shut down. I hated to see it as any other member in the marketplace of human ideologies. Watching sites of dehumanization, trauma, misery, and death warp into sites of justice and social progress through different storytelling lenses felt indescribably destabilizing.

I doubt I'll ever stop working through the Holocaust's place in my personal stories. What do historical events like these reflect about human beings? What does it take to inflict harm, and when does suffering escape our notice? What do I not see in the stories I attach myself to and detach myself from? How can we predict the extent of our impact in today's globalized, interconnected world?

The conversation cannot end with the unknown. It calls for a recalibration that begins internally.

Throughout the program, I came to align most strongly with the story of personal agency. Above all, my stories, actions, and focus are within my control. As resistance to helplessness, I choose to believe that I am as much an actor in the world as everyone else. I think less about “the way things are” and pivot to language reflecting “the way people shape the world.” I include myself within “people.”

I also look around me. Thank goodness for my cohort of fellows, and especially my Design & Technology peers and faculty. When I felt myself sinking into a questioning malaise, I looked up and saw physicists influencing science policy, designers crafting online hate speech policies, and technologists pushing to code less biased, more equitable algorithms. People can live out their ethical professional values. Will I influence the world, or will the world influence me? Maybe it’s not so binary. There’s a feedback loop woven in somewhere.

I believe that we shape life on earth through the stories we spread and embody. If history reflects glints of human nature, our actions expand the narrative. I come back to Harari, who says, “we study history not to know the future but to widen our horizons, to understand that our present situation is neither natural nor inevitable, and that we consequently have many more possibilities before us than we imagine.”⁵

I love this story. I’ll keep it.

Sarah Vernovsky was a 2023 FASPE Design and Technology Fellow. She recently completed a research assistantship in immune cell engineering at the Harvard Wyss Institute for Biologically Inspired Engineering.

Notes

1. Harari, Yuval Noah. “What explains the rise of humans?” TED, June 2015.
https://www.ted.com/talks/yuval_noah_harari_what_explains_the_rise_of_humans
2. Himmler, Heinrich. “Speech at Posen.” 1943.
3. Arendt, Hannah. “Postscript.” *Eichmann in Jerusalem: A Report on the Banality of Evil*, 1963, p. 290.
4. Arendt, Hannah. “Judgement, Appeal, and Execution.” *Eichmann in Jerusalem: A Report on the Banality of Evil*, 1963, p. 252.
5. Harari, Yuval Noah. “The Secret of Success.” *Sapiens: A Brief History of Humankind*, 2011, p. 241.

INTERDISCIPLINARY

Ethical Conversations: A FASPE Podcast Transcript

MONICA CHAN AND JEFFREY HO

Monica:¹ We're going to do our capstone through a non-text medium! And yeah, a new format. We'll see how this goes. Okay. Hi everyone. I'm Monica. I have Jeffrey here with me, and we're going to try introducing each other because we just met each other one month ago, just exactly one month ago.

So that's cool! All right, so Jeffrey just graduated from CMU Tepper Business School. He's going to start as a consultant at PWC in a few months. Before that, he was doing a food-tech startup for a while. He had a background in Biology, and... something fun about Jeffrey: Jeffrey's pretty good at foosball. I am impressed. Yeah.

Jeffrey: Thank you so much for that warm introduction. So, now it's my turn to sort of get my revenge. With Monica, she's pretty much always just been in school most of her life. She's currently working in Amazon, but a year ago she had finished her PhD at Columbia at the Teacher's College in education.

And before that she was at Stanford also, but not studying education, specifically engineering. But I think the fun fact that I have in mind was the fact that she's currently traveling Europe, still in a car, and it seems like it's been a blast in terms of the sites that she's seen, like the burning forests, burning piles of cars, but also the scenic lakes, the beautiful reflections. So, that is my fun fact for her.

Monica: Yeah, the nice and the not-so-nice scenes. Taking the road less traveled. Yeah, for sure. Okay, great. So today: talk about the top three things that stood out to us during our FASPE fellowship. backtracking a little, we forgot to say cohort each of us is in.

So, I was in the design & technology cohort, which is actually in its second year of running. So, it's a fairly new cohort and Jeffrey was in the business cohort, which is a little older, but yeah.

Jeffrey: We're just a little bit older, the business folks, just a little bit.

Monica: Yeah. And I think it was really fun that we also had law folks in our program and of course there are the medical and journalism and seminary fellows, uh, who are in the second half of this program. So, we didn't get to meet them, but um, hopefully we meet them online or in other alumni meetups.

So, top three things that stood out to us—we'll be reflecting on them. You go first.

Jeffrey: So, also on top of that, I think we want this podcast, sort of the audience to be directed, something for us to look back onto like in five to 10 years, hopefully a happy memory. That is sort of the purpose for having it in this medium. I think it relates to how we will be able just to show our age over the next five years and just to really reflect on this message, seeing how far we can carry it in the next five years.

With that in mind, I'll start with talking about the euthanasia center. For me, that was a relatively memorable experience because it started as the starting point for our journey in terms of thinking about the rationale, the logic, behind how certain events unfolded.

I was very, I was very surprised that like, I think as we drove into it, everything around it looked normal. And if someone didn't tell me that this was a memorial, it would be hard for me to believe it, because I think there's this saying where time makes us forget everything.

And I think having that in mind, how it has and hasn't changed has made people forget the significance of this place, right? The place that we walked into, the place that we were breathing in and experiencing.

Monica: I just also felt that it looked so normal. There were shop houses right across the street, which meant people were living there. People were just going about their lives like back then. So, just some context from Brandenburg Euthanasia Center, if this is the first-time people are hearing about it, it's where the Nazi doctors were murdering people who just they felt were not useful to society, people who were either mentally unsound or classified as mentally unsound.

Jeffrey: Or even physically dependent...

Monica: Yeah, yeah. Or just kids who were born with say a disease. And what really stuck out to me was that even like promiscuous women, so women who had multiple parties or just didn't act according to what society told them to be like 80 years ago. So, these were what they classified as people who were just not useful to society. And then there were experiments done on them. That was also the place where the Nazis first experimented with killing people using gas.

Jeffrey: Yeah.

Monic: So, a lot went on in this hospital. But on the outside people said something was off in that area, but they didn't really know either. What I think really stuck out to me was that the doctors could opt in, and they knew full well going on, that they were going to be murdering these people from these underprivileged or potentially marginalized communities.

Jeffrey: Mhmm. There was like a story during my time that the tour brought up that the basis for this operation—which we'll call as t4, just for simplicity...

Monica: Mhmm.

Jeffrey: And I'll go into that, was the fact that quoting from a letter in Paris, from a meeting in Paris back in the early 1930s or 1920s—I don't remember off the top of my head—but it quoted a conversation between doctors where one doctor had asked the other: would you choose to kill your child? Or provide them with I merciful death? And then taken into a broad context, the doctor had said “yes. I would rather give him or her, I merciful death because it's my child.” But then I think it was gross, that was a general prevailing theme, right? It was not isolated to Germany.

But then I think taken into a broader extreme that was applied to this Nazi ideology where if you were not able to work for the state, then you were considered as deviant or disabled or unacceptable to society. And it was surprising because I never thought... I've thought of Germany as a unique case like the Nazi party. But it was just the fact that the Nazis and Germany built a lot of their policies based off of what was prevailing, what people wanted to hear. And to be cognizant of that. I think a lot of that rhetoric is happening into the modern day.

Monica: Mhmm.

Jeffrey: We seek to blame someone else for our failures, we seek to blame others for what we are lacking in, rather than look inwards and really growing from that.

Backtracking a little bit, T4 was sort of the first official documentation that Hitler had...

Monica: Mhmm.

Jeffrey: Backdated to the start of the war, providing doctors, specifically his personal physician with the ability to execute this sort of broader euthanasia plan, and use that as a prototype for what was to come, what was so well known to the Nazi party at the concentration camps.

Monica: Mhmm. Yeah. Talking about concentration camps. We visited Stockton Housing. So, I'm going to move on to my top thing that stood out to me. Guess for you it was the first one, Brandenburg. For mine, it was Sachsenhausen concentration camp. So, what stood out to me there was the shoe-testing grounds, where I guess the camp laborers and prisoners of war were forced to test shoes and shoe designs, shoe materials from German shoe companies that were designing new shoes. That basically led to so many deaths of men because the SS guards would beat them up whenever they tripped or fell. And they would purposely give those camp laborers different shoe sizes or...

Jeffrey: Mhmm.

Monica: You know, just shoes that were too tight for them. Make them carry big loads in the middle of winter, which can be -10 or even lower degrees Celsius. And get them to walk on those different types of grounds. Right now, we can't really see the grounds very well, because there are actually different materials, there's overgrown grass on it...

Jeffrey: Yeah.

Monica: But I, that really stuck out to me because I'm a UX researcher and I was like, oh my goodness. That is literally user testing back in the 1930s. And it kind of draws parallels because for me as a UX researcher, I use a lot of vendors out there to recruit for participants or to sometimes even collect data with external participants to use a certain product. And I don't, at least in my role, I don't go into the depths of really

checking out every single regulation of policy. I trust the legal team to do that or the research operations team to complete that. And, you know, yeah, I don't know really what happens when I get the data, put out the data, or put out my ask and then get the data back. And then I trust the data that is about my product.

And I'm just wondering whether those shoe companies even knew that they were using this forced labor and that men were dying every day. I think from a research mindset or perspective, you would want the same person trying your different shoe to design also, and not like, "oh, someone died..."

Jeffrey: Yeah.

Monica: Use someone else. I'm very torn about that.

Jeffrey: I'm also wondering what kind of data they would be specifically getting, right. Because you can say like "these shoes, right? Hey, these people walked x amount of hours before the shoe broke." What was the point? To me, I felt like it was more construed as a torture device rather than like...

Monica: Mhmm.

Jeffrey: Because back then what was the data that you could get from this shoe? And I think, unfortunately, our group did not make it to that portion of the tour, but that would be one of my questions: what were some metrics that they were looking at, right?

Monica: Mhmm.

Jeffrey: Because that was of course being funded back into the German effort for the war. So, in a way, they're not bystanders; they're more, they're definitely victims, but they are helping the war effort in a way.

Monica: Mhmm.

Jeffrey: Indirectly.

Monica: And I'm also questioning: did they knowingly, collaborate with the Nazis and, and you know, to do this in a concentration camp? Or was it more of like, "oh, we, we

just didn't know that they were actually using forced labor. And we were like lied to in that sense.”

Jeffrey: Yeah.

Monica: And I guess it was very vague. No one really owned up. I actually shared this case with my team at Amazon. And just had a mini-discussion about it.

Jeffrey: Interesting.

Monica: I think it's so pertinent, especially for the UX researchers to know what's going on behind the scenes, to be aware of things, not take for granted these processes. Being in a large company, it's very easy to be like, “oh, these processes have been here for a long time, and they should be fine. Let's just go along with them and get things done.” They also appreciated that I spoke about it, and I showed them a picture of the shoe-testing grounds and all that.

Jeffrey (laughing): Or did you just want to show off your pictures? Just kidding.

Monica (laughing): No, I don't. Yeah. Okay.

Jeffrey: But I think this is a very good transition to sort of corporate involvement in terms of the Nazi effort.

Monica: Mhmm.

Jeffrey: This is more the main crux of what the business folks did, but definitely I think across the board it was something that we had seen, across the trees, sort of groups that I think Monica will help us break into. So yeah, take it away.

Monica: Yeah. And another one that really stood out to me was the Topf and Sons case. So, this was a humble family business. They just build crematoria to cremate bodies of loved ones, and usually this is just a one-person sort of oven. It's small. But it wasn't so popular like 80-100 years ago because in Germany more people would be burying their loved ones. But then they got a contract from the SS guards that they wanted crematoria.

Jeffrey: Yeah, RFPs. It's a request for proposal. It's still actually in use. During my time in consulting, we received one we were pitching. But it's interesting that some of these processes are still in place.

Monica: Of course. Yeah, so there was this contract with the SS guards to create crematoria and because they did so well with this first version—and the SS guards wanted to see more and more bodies because they were killing so many Jewish people—the challenge or the technical challenge to this engineering company was to build more efficient ovens that could fit more people and that could burn more quickly and clean up a mess sort of thing. I was very appalled because in my history studies, I have never heard of the Topf and Sons case. You know, it's a very big case that happened and they ended up supplying crematory ovens for also Auschwitz-Birkenau, which is the biggest extermination camp, and a few other extermination camps.

And that just drew me back to our rhetoric on business and pivoting, pivoting your business to meet the needs of the situation and the trends of the times. And I always hear on Y Combinator, startup incubators, “we gotta pivot, we gotta fail fast, and we gotta execute new prototypes.” And I thought those engineers were doing exactly that. It's not “did they know”? I'm sure they knew what it was for, because some of the engineers and technicians also went to the concentration camps to set it up and fix or maintain any technical faults that were at the site.

So, it's not really a question of did they knew. I they knew full well, but they treated it as a technical challenge. And they even tried to file a PA patent. I'm not sure whether that was successful actually, but they did try to file it, and they left many documents of the schematic, like drawings and sketches of what they were designing. So yeah, that one, that one hit me hard. Because I just felt like this still goes on today, like this sort of mindset and rhetoric. I'm not saying the mindset of failing fast is wrong necessarily, but it's more of we also need time to sort of take a step back and check or kind of have a, I don't know, sanity check, mental check on ourselves to make sure “hey, is this right? Am I taking on a technical challenge that is in line with my own ethical values?” So, I think that was important.

Jeffrey: Well, I think there's also a tendency that we tend to have within corporate settings, right? Going back to what you said earlier, was the fact that we're reliant on counting on other people to say what we're doing is objectively good or within the confines of law, right?

A government could be supporting these policies that are promoting, for example—we don't understand necessarily if electric cars are better, right? Like taking it into a more modern stance. How are we generating the electricity is important. How is that energy being delivered to your car? What are we supposed to do with the battery? We don't know the long-term effects of electric cars. Hopefully they are for the better, but... So going back, also the current trends for a company are very dependent on the policies that are outside perhaps our control. And how much can we blame, how much blame should we assign to the government versus ourselves, especially in a corporate environment? I think that line is, to me, is very difficult to tread.

Monica: Mhmm. Yeah. And what was the business case that you guys talked about?

Jeffrey: We talked about Coco Chanel. I'm sure everyone has heard about Coco Chanel. And especially unfortunately during my time coming back to Hong Kong, I've noticed a lot of their stores, like a lot of their stores: it's everywhere.

Monica: It's really popular around the world. Yeah. Chanel is super popular. Chanel you know, K-Pop and pop culture and everything. It's a very, very well-known brand.

Jeffrey: I always knew of the brand. I've also noticed the brand, but I think now that I've seen it so much, it has a more attached meaning from what I had thought before. I was like, “oh. Is the company today representative of what they were before? Right?” I think we keep hearing the fact that like our legacy is built on what we used to be or how we got there. But it doesn't really feel that way because in governments or in history, we cherry pick what we want to remember and we forget about the things we might not want to remember.

Monica: I feel like actually before you mentioned Coco Chanel—so for the design and tech cohort, we didn't read the business case about Chanel; we focused on Topf and Sons—but before you told me that Coco Chanel had antisemitic views and collaborated with the Nazis during her time in the forties, I had no idea that Chanel was even involved in any of that. If you guys have access to the Harvard Business case on Coco Chanel, you guys should read it. Although it's only a smallish section about Chanel's ties to the Nazis.

Jeffrey: The Harvard Business case: was it the case I sent you, or no?

Monica: Yeah, it's the one that you sent me.

Jeffrey: I should provide a brief recap. It basically talked a little bit about her history.

Monica: Mhmm.

Jeffrey: As she was growing up. I think she came from a very poor family. She did work herself and I think more than her designs, she was very good at marketing and was a very excellent entrepreneur. One thing that stood out to me was the fact that she was very good at leveraging networks regardless of whether for good or for better. And she was keeping with the sort of the times. She knew what was going to be coming up. She knew where to go to execute a strategy. So, for example during, I believe it was World War One, she had gone to a mainly bourgeois area where she was able to pitch her products to the appropriate clientele and that really spread like wildfire and really helped establish her brand. Eventually she got to the point where she got to pick her clients in terms of like, she could say no to people. It was not about the money. It was about who; it was also a matter of influence.

Obviously, those two went hand and hand. As the war sort of progressed into France, I believe it was her nephew that got captured toward the south of France. And she was offered a deal to do a small favor for one of the soldiers. And that was sort of her first foray into espionage. Slowly she was able to sort of rescue her nephew, but over time I think she was able to really participate more towards helping the Nazi with pointing out who were Nazis, who were Jewish, and also purchasing companies that were Jewish at discounted rate. For example, she wanted to buy out her collaborator for the Coco Chanel business, who was Jewish, but that family had chosen to sell to people that they had trusted earlier at a much fairer price. Over time, I think she also participated in trying to negotiate between Winston Churchill and a Nazi party member in sort of a ceasefire.

But that fell through. I don't know the specific details. But it was very interesting to me because it's going off what you had said earlier, right?

Monica: Mm-hmm.

Jeffrey: She's doing what a businessperson would do, like connections. Right? I got it. Like marketing, she's doing it, just creating sort of this overwhelming demand for her product. I think she was checking off all the boxes in terms of the entrepreneurship.

It's more suspect to say whether or not how she was doing it was the right way for sure. But was she able to sort of change that culture if she stood up? Probably not because the prevailing trend was against her anyway. If she did not participate in that espionage, would she have benefited? Would she have been able to change that culture? I definitely don't think so. But did she also expand sort of that German influence? For sure. So, to me, both past felt very difficult. But I think in keeping with her personality, with the fact that she was anti-Semitic, even before the rise of the Nazi party, that...

Monica: Mhmm.

Jeffrey: At least there was some sort of consistency you can follow in her logic. Not that I agree with it.

Monica: Mhmm. I'm curious, like when you were running your own business as an entrepreneur, have you been in any situation where you kind of really...like a fork in the road kind of thing?

Jeffrey: Yeah, I would say for sure. I think when we're negotiating and start figuring out our margins...We had relatively high margins in the food business, around 40%. But I think we were trying to figure out whether or not it was appropriate to charge both sides that price. For full context, I worked with both restaurants and our clients.

Monica: Mhmm.

Jeffrey: Not so much the client side, it's more actually on the restaurant side. Should we have been charging what we charge? And it didn't sit quite well with me. But then I could understand that if we took into account labor and what we were doing at that point in time, we had to charge that much. But if we were able to leverage technology a little bit more, that price could have been driven down, but we just didn't have the capital or the resources to invest in it. So, I think that was sort of my fork in the road: whether or not the margin that we had set was appropriate for what we were offering.

Monica: Mhmm.

Jeffrey: Obviously as a business you want higher margins. That is the crux. I've asked this to some of my FASPE classmates, and many of them don't see what I've done as

wrong. But to me, the fact that I'm bringing it up right now is that it's still...it doesn't sit well with me. Otherwise, I would not bring it up.

Monica: Mhmm.

Jeffrey: And I think also, as an entrepreneur, how you set the tone early in a company is important. And I wanted it to change towards them, but I felt like I was at a point where the company's prevailing culture was that what we were doing was appropriate. So, we never changed the post. So, I think that decision warranted a longer discussion within the team before we set the tone for it. I think I was very torn by that.

Monica: Mhmm. I see. Thank you. And that's personal, but I think these cases are good to read and reflect on so that you draw parallels to things you have experienced or things that will come up in the near future in your professional role.

Okay. Let's move on to Auschwitz, our visit to Auschwitz, which was very gut wrenching. I think it was your first time there. Was it?

Jeffrey: Yes, it was.

Monica: Yeah.

Jeffrey: That was my first time there, and I think it was well positioned within the FASPE trip...

Monica: Mhmm.

Jeffrey: Where it was in the second week, beginning of the second week. Because without the full context, especially I think it really helped paint the picture of extermination camps and how they fit into sort of the more general Nazi ideology, Nazi strategy. It was very logical. Like they didn't build the crematoria day one. They noticed that there were sanitary problems; there were smells; there were these other problems. Then they chose to solve them. I think it's unfortunately named the "Final Solution," right? To them it was sort of the accumulation of all their ideologies, all their goals.

So, I definitely saw that. But within Auschwitz itself, it was on day one that when we

went in...It was the hair; it was, for me, the hair memorial that really struck a nerve, because I can't imagine someone using other people's hair for a product to be sold to a general public.

Monica: Or just body parts in general.

Jeffrey: Yeah. especially when you're reading books like *Heart of Darkness*, right? There's connotations of cannibalism, all that, and it's looked down upon as something foreign to us, but...

Monica: Mhmm.

Jeffrey: Especially to the Western culture, but in the fact that they were so willing to resort to using that to make like carpets or products that they needed. I think that really struck a nerve. And also I don't know if it's the right word, but I found it very "appropriate" that they decided for that specific one that they were not going to use preservatives. And that they were just going to let it go, because there were obviously people who, who were still, I believe, who are still alive that don't want it to be viewed as such. But I do think it's also an interesting statement: why would you? It's not within our rights to look at someone's physical remains, even if it's for a memorial, in such a way.

So, that really stood out to me. Yes, the sheer amount was a lot. Also, I'm 100% sure that was not all of it, right? That was just a very small portion of what was collected, especially over the last couple of months of the war.

Monica: That was just what was left behind when the the allies found the camp.

Jeffrey: Exactly.

Monica: Yeah, so that also really stood out to me. It was my second time at Auschwitz actually, so I had visited it before as a teen more than ten years ago. And again, that hair memorial stood out to me similarly. That was what I remembered. Back when I was a teen, and now again I knew we were going into the hair memorial. I already knew how it looked. But I think the new reaction that I had now as a more mature adult who is working was that they used the hair for products. Basically, they used someone's body part, someone who probably has passed to make new products. And that could be considered as a new design, new technology. You know, we're innovating

and we're creating this, not wasting processing, like reducing waste in that sense, which is a lot of the rhetoric in the tech world at the moment where we are always creating new mechanisms, new processes. Just new products using recycled materials.

So, I think from that perspective, that that really caught me off guard. And again, it was just an “Oh my God” moment. I clearly remembered when I saw it as a teen.

Jeffrey: It was also very well located in terms of the exhibits and because of the fact that it was also placed with cooking utensils and...

Monica: Oh yeah. The luggage bags.

Jeffrey: Luggage bags. I think their prisoners...

Monica: Mhmm.

Jeffrey: Were expecting a life coming to Auschwitz...

Monica: Mhmm.

Jeffrey: Because our tour guide had mentioned they brought things like potato peelers. What is the purpose of a potato peeler? The purpose is one thing, which is to peel a potato, but you don't bring something without a purpose. If you were going to pass away... They thought they were going to live there long term. And I'm sure it was not the Jewish people that were going to live longer. It was the people who were non-Jewish that had a preferential treatment regardless of their status, which I thought was sort of astounding, the thought process, like people sort of still wanted to acknowledge that there was some semblance of humanity in other people, even though throughout this whole journey there were definitely signs they were not being treated as human.

Monica: Mhmm.

Jeffrey: All that sort of aspect...The fact that they still kept the shower heads, right? They installed shower heads that had no water to create the illusion that they were just walking in, sort of like it was just a sort of daily routine to clean them. But yeah. Moving on. I think within that building there was also an exhibit that really stood out to you.

Monica: Mhmm. Yeah, that was the Book of Names of the six million Jews who were murdered throughout Europe. And I think it's a newer exhibit because I did not remember that when I visited it more than ten years ago. Or maybe I missed it, but when I was told there was a book of names, I literally thought of a book that you flipped through that you could hold.

Jeffrey (jokingly): What?

Monica: But it's actually so much bigger.

Jeffrey: Yeah. It was pretty big.

Monica: But when I went there...What overwhelmed me was just the sheer size of it. I just kind of flipped her randomly at any spot where there wasn't someone standing at it. I was just amazed that there was the documentation of like: last name, first name, where the person was from, where the person died. And I think also how old that person was when they died. There was a date, you know? And I just thought of like, "wow, the Nazis must have documented a lot to be able to have all this information." Sure, it's pieced together and all that from various sources, but there was that information. But I think what stood out to me was other people's reaction to the same artifact. So, for me, and I guess for you also—we don't have Jewish ancestry—me, when saw it, I was like, "wow, it's a big book..."

Jeffrey: Yeah.

Monica: "Let me look at the contents inside the book." For another fellow who had Jewish ancestry, she made a beeline straight to her great-grandmother's name and found it and got closure that her great-grandmother died in Birkenau, which she wasn't sure about, didn't really know. And I thought that was shocking. That was a whole different reaction I didn't even think of: to find a last name or a first name that I would know of in that book. I'm really thankful that our fellows were super open to sharing these very personal stories, kind of like to see from their perspective how they reacted to that book.

Jeffrey: Yeah. And I think folks were very open about it and very welcoming for us into their world.

Monica: Mhmm.

Jeffrey: Even if it's definitely not the easiest thing for them...

Monica: Right.

Jeffrey: To have to face sort of the truth that this is where some of their families had ended up in the end result for what the final solution was. Going back to what you said, we don't have Jewish ancestry, so it's hard for us to relate until we see someone that we're close to or that we know experience those emotions.

Monica: Mhmm.

Jeffrey: So similarly, I didn't know some of my classmates within our tour group, which is different from yours. I knew that folks spent more time upstairs in the child sort of playground. Uh, not playground but childlike drawing exhibit rather than...

Monica: I saw those two.

Jeffrey: In the book. I think it was interesting that I wasn't really open to it until one of the fellows who I was traveling with later down the line had told me about her experiences.

Monica: Mhmm.

Jeffrey: She was like: "yeah, at least it was some closure." It was something she that was important that she could bring back to her own family or just people that she could care about as a representative. I was also very surprised by...I did not know it was organized in a specific manner because...

Monica: Yeah.

Jeffrey: To me they just felt like they were...

Monica: Alphabetical order, right?

Jeffrey: Alphabetical, but I didn't know that...it was still really hard to go straight to that specific area if you didn't know the details to what their first name, etc. was.

Monica: Mhmm.

Jeffrey: So, I did think that was interesting when you said that they beelined straight to it.

[Brief musical interlude]

Monica: So, I think throughout the whole fellowship I've been wrestling with this question of "being good" versus "being good at."—"being good" at something, "being good" at your professional role, your skills. I still don't have a clear answer, and I think this will be something that's evolving as I grow in my career or as I even potentially change careers down the road. But I'm curious what you think you can bring to your professional role at the moment though.

Jeffrey: Yeah. I think I want to slow down how fast sometimes we're making decisions.

Monica: Mhmm.

Jeffrey: I think one of the very interesting discussions I had back when I was at Tepper was with an alumni where they had mentioned that the firm I was going into that he worked at was using Chat GPT for their work. I think that's a very important issue because it's really hard to resist a technology that feels so helpful but without sort of considering the consequences of using it. Because as much as I believe that we're using it as a service, they're also using our information to create answers that are tailored specifically to our mindset rather than diversifying our mindset.

Monica: Mhmm.

Jeffrey: The discussion for use of certain technologies should be discussed and should be brought up as an area. And it can also be a personal choice, right?

Monica: Yeah.

Jeffrey: I might have to spend a longer time doing my work without using Chat GPT, but at least I'm more comfortable with the product or the service that I'm providing my clients. And yeah, it might suck to suck, so to speak, but I think that's one of the

first things I would do is sort of slow down the use of technology, certain kinds of technology, in what I'm providing my clients, even if I'm pro, especially when I'm providing a recommendation that I want to be proud of. And I'm sure I can. I'm just as good right now as an AI, so I just have to remain confident.

Monica (laughing): Very confident.

Jeffrey: Yeah, for now. But yeah, that's sort of what I hope to bring before I bring in higher level discussions because, as I'm starting my career at PWC, I'm not feeling perhaps the most comfortable bringing up...I believe I should start with my own actions before I move to a bigger sort of forum where I can discuss with other people.

Monica: Mhmm.

Jeffrey: So, that was just my initial take on it. I'm happy to hear yours.

Monica: It's hard. I've been like, thinking about it for a long time, the being good part. What entails...

Jeffrey: Hard.

Monica: What, what is "good"? What encompasses "good"? And then also being good at what skill I have. I was kind of trying to make a list of what skills do I have right now. In research or design or just...

Jeffrey (laughing): You're a great driver!

Monica (laughing): All right, yeah. But that's not really my professional skill. That's my hobby. I think the main one was always taking me back to like the Topf and Sons case actually, how whatever pivots I might make in the future, whether in my own role or in my work as a UX researcher, how can I be cognizant of, say, different stakeholders or just different perspectives to a situation before jumping right in. I think similarly along the lines of yours, slowing down, making sure you understand like the technology or know, really know, understand the pros and cons before making a recommendation to your client. But more being aware of that on my own also and being updated about all the new things that are happening. It could be news; it could be emerging technologies; it could be anything in society. I know it's hard. It's easier said than done. It's hard. It's difficult. Like you're not going to understand everything

to a very high degree, but at least be knowledgeable about certain processes that are in the scope or in the realm of my work. And that will probably evolve. I feel like my answer to this question will evolve. But ask me again in a year. It probably will have evolved.

Jeffrey (jokingly): Yeah. If I ask into your tomorrow maybe also...

Monica (laughing): When you mentioned *Heart of Darkness* just now, you know in the application questions for FASPE? That was what I talked about, that book. You know?

Jeffrey: It's a good book.

Monica: Yeah. I read it in high school for the first time in my English literature class, and I didn't get it at all, and I was like, "What's this book about?" And then I had to read it like three more times to really understand what the themes were behind it.

Jeffrey: That's a lot. That's four times.

Monica: Yeah. It opened my mind to how civilized people, people who think that they are civilized, can be so savage in the end. And that it was written so long ago, but it mapped really well to how the Nazi regime was, led and constructed by lawyers, doctors, researchers, basically privileged people who had a high degree of education. It was what was going on. And also even to now: governments led by certain people—we shall not name names—or leaders of big companies that are, you know, that have a very strong stance towards a certain area, which might not be the most popular opinion.

Thank you for sharing your thoughts with me again and thank you for a lot more really great conversations during our trip in person—in the morning, in the afternoon, in the bus ride, at night.

Jeffrey: No thank you!

Monica: And thank you for recounting all your business cases to me.

Jeffrey: I, I feel like I needed more perspective, so I really appreciate you just listening to me, boosting my foosball ego by letting me win. I think it was wonderful

to have found companionship, especially in terms of someone who's able to look at it from a different lens, which was the purpose, right, for FASPE?

Monica: Yeah.

Jeffrey: Was this multidisciplinary approach. So, I really appreciate it—and hopefully stay connected. Definitely.

Monica (laughing): And we'll revisit this podcast in five to 10 years, as you mentioned at the start.

Jeffrey: For sure. We'll do a follow-up recording.

Monica Chan *was a 2023 FASPE Design and Technology Fellow. She is a UX researcher at Amazon Alexa.*

Jeffrey Ho *was a 2023 FASPE Business Fellow. He currently works at PricewaterhouseCoopers (PwC) as a consultant.*

Notes

1. This transcript has been lightly edited for brevity and clarity. If you would like to listen to the podcast, please find it on Spotify at this link: <https://open.spotify.com/episode/2fSSO4bxf7P1auzyE5Rh31>.

What Tech Workers Talk about When They Talk about Collective Action

Anonymous,¹ Bao Kham Chau²

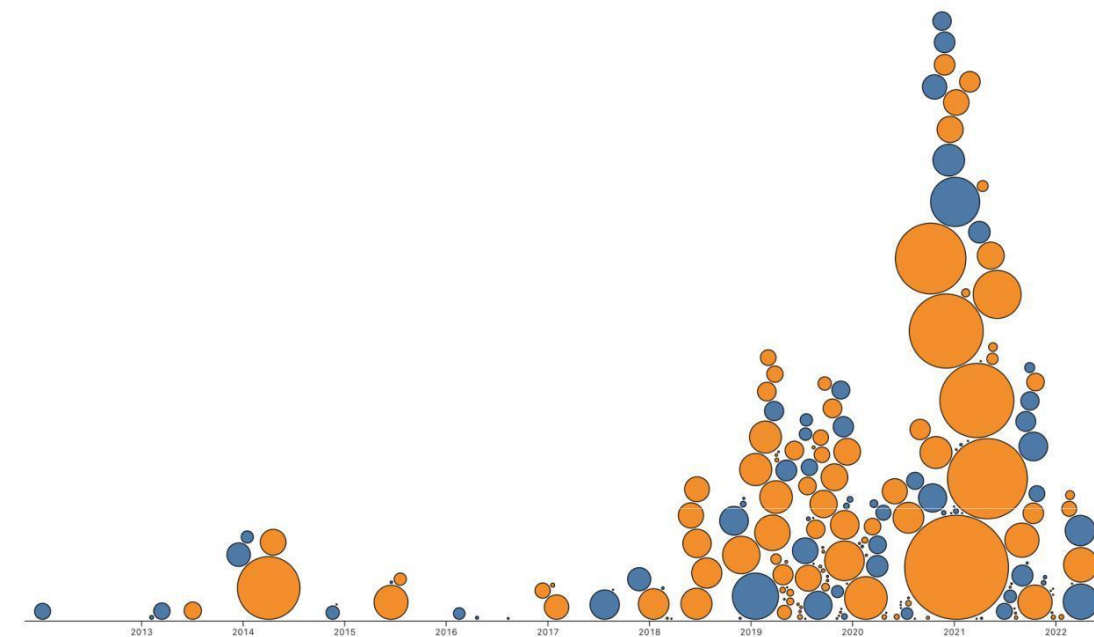


Figure 1: Chronology of documented collective actions in the tech sector.³ Each circle represents an action, the size denoting the number of comments a given action received on Hacker News (from 1 up to 6494). Actions that involve precarious workers are colored blue; those that do not are orange.

Abstract

Collective action is a key leverage point for technology professionals trying to make change in their industry. With this in mind, we investigate how technology professionals talk about various kinds of collective action (e.g., open letters and unionization efforts). Linking past instances of collective action to discussion threads on the popular social news website *Hacker News (HN)*, we find that *HN* users'

attention is not distributed equally. Actions carried out by white-collar tech workers at U.S. companies are the most actively discussed. Actions occurring outside the U.S. and those undertaken by precariously employed tech workers (e.g., rideshare, food delivery, and gig workers) tend to be discussed comparatively less often. We further identify common discussion themes, such as (1) complicity in the development of socially detrimental technology, (2) role morality, and (3) attitudes towards unionization.

Background and Methods

The Collective Action in Tech Archive⁴ documents instances of collective action from workers in the tech industry. For each such action, we matched discussion threads from the social news website *Hacker News* (HN)⁵ via the search engine Algolia.⁶ We did so manually by searching for discussion threads about each of the source URL fields of the collective archive record. Additionally, we made a best effort to search for keywords related to each action to further uncover related discussion threads.

What is *Hacker News*?

Hacker News is a news aggregator and discussion forum run by the startup accelerator Y Combinator.⁷ In 2020, it served approximately five million monthly active readers,⁸ a sizable audience in light of an estimated 4.4 million software engineers in the U.S. (and another 22.5 million abroad).⁹ HN users post, upvote, downvote, and comment on links across the web, especially those on technical topics and entrepreneurship.

Which kinds of collective action do Hacker News readers devote their attention to?

As a starting point for our inquiry, we sought to determine which collective actions have historically garnered attention on HN. To this end and as a proxy for attention, we ranked actions by the number of comments they received. Various causal mechanisms may explain differences in the number of comments on an action, for example:

Exposure to the Action

Some forms of collective actions garner more news coverage than others. We expected collective actions with more prominent news coverage to be more likely to be read by HN users who then choose to post links on the site.

HN Reader Interest in the Action

Given their technical, economic, and social prominence, large tech companies feature prominently in *HN* discussions. Some *HN* readers work at such companies. Hence, we expected collective actions at these firms to be disproportionately discussed and upvoted. *HN* is an English-language forum. As a result, we expected actions in Anglophone countries, and particularly the U.S., to be disproportionately discussed and upvoted.

HN users tend to be software engineers. We therefore expected collective actions that involve white-collar workers to attract disproportionate discussion compared to collective actions involving other more precariously employed tech workers.¹⁰

Platform dynamics

HN ranks posts based on recency and up/downvotes.¹¹ Being one of the thirty posts on the front page guarantees greater visibility and therefore more comments.

Submissions are moderated by a single person¹² according to a set of high-level guidelines.¹³ Politics is considered off-topic, and users have historically flagged posts relating to diversity and inclusion, leading to their downranking.¹⁴ Given collective action's political nature, moderating decisions may have reduced visibility of collective actions on the site (and thus reduced the number of comments on those actions).

The platform employs an automatic “flamewar detector,” which downranks threads that attract more comments than votes (unless manually overwritten by the moderation team). These mechanisms are not transparently documented,¹⁵ making it difficult to estimate the impact of moderation decisions on overall attention patterns.

Results

The Collective Action in Tech Archive contains 506 actions carried out by tech workers from 1969 to 2022. In the analysis below, we consider only those 477 actions that occurred from 2007 on, as *HN* went live that year.¹⁶ We matched 1,391 *HN* posts corresponding to these actions, containing 58,984 comments.

Actions with at least one matched post	272 (57%)
Actions with at least one matched comment	194 (41%)
Average # of posts created per action	2.92
Average # of comments per action	123.66

Table 1: Summary statistics of HN attention.

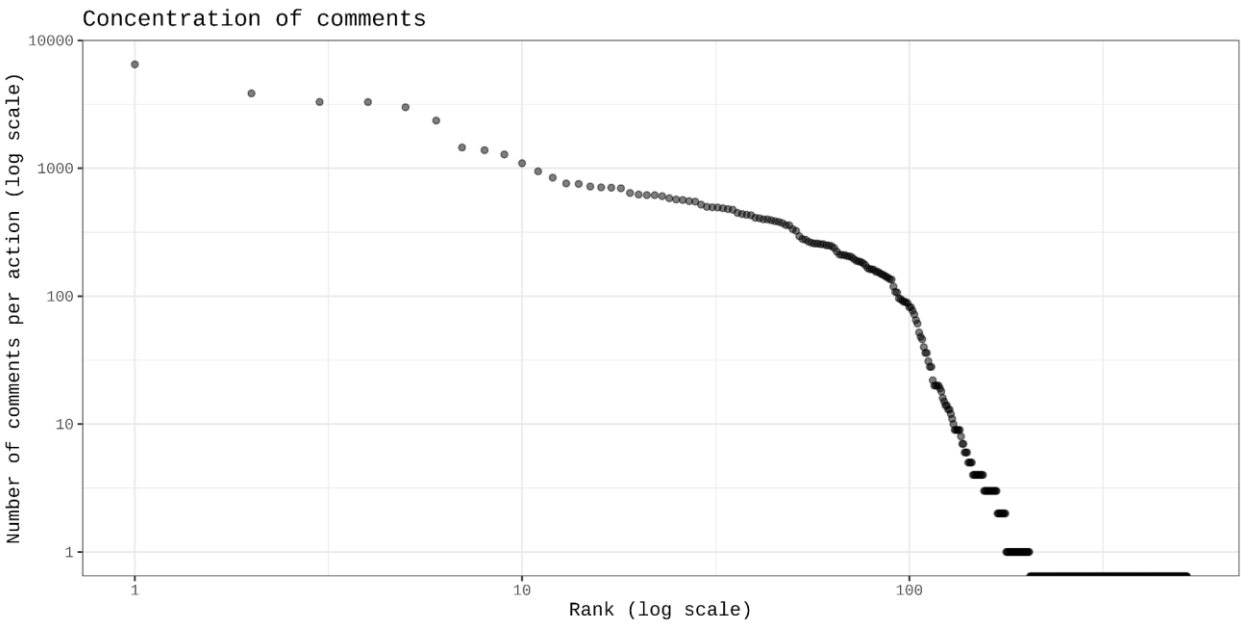


Figure 2: Number of comments by the rank of the action (ordered by the number of comments that the action received). Most actions received few or no comments (bottom right), but a few were heavily discussed (top left). The top ten actions accrued 47% of all comments.

Top Ten Actions

Date	Description	# of commen ts
2021-01-09	Following employee concerns, Amazon suspends social-networking app Parler amid Jan 6 riot	6494
2021-04-30	A third of Basecamp's employees resign amid "no-politics-at-work" rule	3853
2021-03-23	Open-source community calls the Free Software Foundation to sever ties with Richard Stallman	3300
2020-12-03	Google employees demand accountability following the firing of AI researcher Timnit Gebru	3294
2020-10-08	Coinbase employees resign amid "no-politics-at-work" rule	3002
2014-04-03	Mozilla employees and others call for CEO Brendan Eich to resign amid homophobic views	2361
2021-01-04	Google employees unionize	1454
2021-06-04	Apple employees argue against return to office	1386
2019-01-17	Instacart workers protest tipping policy	1284
2020-02-18	Kickstarter employees unionize	1095

Table 2: Top ten actions by the number of comments given.

Upon inspecting the top ten actions, a few patterns emerge:

All ten actions occurred in the U.S. The first non-U.S. action is ranked #23. It involved Indian blue-collar workers at an iPhone production facility protesting unpaid wages (606 comments).¹⁷ This pattern holds true in the overall data, with U.S. actions receiving 1.9x more comments than non-U.S. actions.

Nine actions involved predominantly white-collar workers. Only one action, the Instacart-tipping protest, involved primarily blue-collar workers.¹⁸ Overall, actions that do not involve blue-collar/contract/gig workers receive 4.5x as many comments as those that do.

Five actions involved open letters (1.4x as many comments as on actions that did not involve open letters).

Four actions involved Big Tech companies. Overall, there are 1.4x more comments on actions involving Google/Apple/Facebook/Amazon/Microsoft than on actions that do not involve Big Tech.

Two actions involved unionization efforts. This trend does not hold in the overall data, as there are many instances of unionization efforts involving precarious workers that received less attention.

Selection of Bottom Actions that Received No Comments

Date	Description
2020-06-26	Uber Black drivers in the Toronto area vote to unionize
2020-04-17	Delivery workers in Brazil, Spain, Argentina, and Ecuador strike, demanding safe working conditions
2020-05-05	Writers signed to China Literature, a subsidiary of Tencent, go on online strike
2021-11-26	German AI researchers oppose the use of autonomous weapon systems for the Bundeswehr
2018-07-24	Samsung factory employees in South Korea organize to call for safer working conditions

2019-09-26	Students at UC Berkeley lead protests and circulate petitions to stop Palantir from attending campus events
2016-10-05	Intel cafeteria workers unionize
2012-10-01	FoxConn workers in Zhengzhou hold walkouts on three separate days to protest working conditions
2021-07-01	Black TikTok content creators go on strike, protesting the platform's cultural appropriation of their creative content
2022-01-06	Facebook and WhatsApp moderators who didn't receive paychecks after a change in payroll providers write an open letter and threaten a work stoppage until they receive their paychecks

Table 3: Ten actions that received no comments (handpicked).

Broadly speaking, we found actions that received no comments to be:

More likely to be carried out by blue-collar workers.

More likely to be carried out by a small number of people in a local context.

More likely to be carried out outside the U.S.

Modeling *HN* Attention

Combining the above observations, we model the number of comments a given action will receive jointly as a function of the action's location, participants' precarity, and the company.

$$\log(\text{comments}) = \beta_0 + \beta_1 (\text{precarious}) + \beta_2 (\text{US}) + \beta_3 (\text{GAFAM})$$

Figure 3: Model specification

OLS Regression Results						
=====						
Dep. Variable:	log_num_comments	R-squared:	0.087			
Model:	OLS	Adj. R-squared:	0.082			
Method:	Least Squares	F-statistic:	15.62			
Date:	Mon, 17 Jul 2023	Prob (F-statistic):	1.03e-09			
Time:	01:21:16	Log-Likelihood:	-1101.2			
No. Observations:	493	AIC:	2210.			
Df Residuals:	489	BIC:	2227.			
Df Model:	3					
Covariance Type:	nonrobust					
=====						
	coef	std err	t	P> t	[0.025	0.975]

const	1.5804	0.241	6.566	0.000	1.107	2.053
location_is_usa	0.3156	0.231	1.367	0.172	-0.138	0.769
precarious	-1.0747	0.210	-5.117	0.000	-1.487	-0.662
is_gafam	0.7361	0.211	3.496	0.001	0.322	1.150
=====						
Omnibus:	71.550	Durbin-Watson:	1.873			
Prob(Omnibus):	0.000	Jarque-Bera (JB):	102.412			
Skew:	1.116	Prob(JB):	5.77e-23			
Kurtosis:	3.026	Cond. No.	4.65			
=====						

Notes:

[1] Standard Errors assume that the covariance matrix of the errors is correctly specified.

Figure 3: OLS Regression coefficients.

The resulting regression coefficients are in line with our univariate insights. Precarity has, all else being equal, a strong negative association with attention on *HN*. U.S. location has a slightly positive association. Big Tech has a strongly positive association.

Common Themes

While we were not able to systematically analyze the content of the different discussions, a few themes emerged throughout.

Complicity

HN readers' views varied greatly regarding the responsibility to do no harm. This set of differences manifested, for example, in the context of neveragain.tech,¹⁹ "an online petition by information technology workers pledging to work against a U.S. government database identifying people by race, religion, or national origin, specifically in response to the Trump presidential campaign[s] statements about creating a Muslim registry and deporting millions of illegal immigrants."²⁰ Amongst other historical references, the petition invoked IBM's involvement in the Holocaust.

Some commenters reacted with cynicism to the signatories, accusing them of "virtue signaling and keyboard heroism"²¹ and pointing out the irony that their very profession had recently played a key role in enabling mass surveillance by national governments.²² Others took a stronger view of their responsibilities and expertise:

We're not bystanders; our industry is the most important facilitator of this problem[,] and we understand the causes, implications and solutions far better than anyone. We have a serious responsibility to our fellow citizens, just as the food industry has a responsibility not to poison everyone.²³

The pledge inspired another thread in which a tech worker asked their colleagues what type of software they would refuse to develop for ethical reasons, with answers ranging from surveillance tools to weapons to technologies that further addiction.²⁴

Role Morality

To what extent should tech companies be responsive to, and reflect the values of, their employees? This issue may be the most prevalent and consistently controversial discussion topic relating to collective action, going back at least to 2014 when Mozilla employees called on CEO Brendan Eich to resign after it was disclosed that he had

“donated \$1,000 in 2008 to support California's Proposition 8, legislation that would have made gay marriage illegal in the state.”²⁵

Some *HN* users argued for a separation of personal and professional spheres:

Personally, I'm so sick of everyone being so damn sensitive about everything nowadays. Guess what? Business is business[,] and 99.99% of the time CEO's [sic] are appointed on their business acumen and not their personal beliefs. *If Eich is a professional* he'll keep the two separate.” (emphasis ours)²⁶

In the same vein, other users interpreted Mozilla's employees' actions as “bullying,” a “witch hunt,” and downright “fascism.” Other commenters, however, highlighted Mozilla's stated purpose of “safeguarding and advancing civil rights,”²⁷ which in their view conflicted with Eich's appointment.

In the wake of the Black Lives Matter movement in 2020, leaders of Coinbase and Basecamp asked employees who they considered to have participated in social activism in the workplace to leave their companies, offering severance packages.^{28,29} A majority of *HN* commenters praised CEO Brian Armstrong's emphasis on Coinbase's being “laser focused on achieving its mission”³⁰ instead of becoming “distracted internally by racial justice issues.”³¹ Others pointed out that “the mission of the company is not disjoint from the society it is embedded in,”³² accusing commenters who were dismissive of employees' political claims to co-determination of exhibiting a “feudal mentality.”³³

Unionization

HN users' attitudes towards unionization in the tech sector skewed toward curiousness and favorability, at least in discussions about such efforts at Kickstarter³⁴ and Google.³⁵ Many commenters congratulated those who were involved and highlighted the prospect of addressing power imbalances in the workplace³⁶ and having more of a say in company culture (such as, for example, combating ageism or advocating for equal pay).³⁷

Considering the professional-managerial nature of software engineering,³⁸ however, some readers questioned whether tech workers were truly workers:

While unionizing for backbreaking work like the manufacturing industry makes sense, in tech it is a nightmare. Let's see where Kickstarter finds itself in the next

recession and see how things work out when executives can no longer make quick decisions but are forced to do everything by committee.³⁹

In response, discussants pointed out analogies to other high-earning fields with unions, namely Hollywood actors and professional athletes.⁴⁰

Future Work

Much more stands to be gleaned from the *HN* collective action dataset. Future directions could include:

Using qualitative coding methods and natural language processing methods to arrive at a thicker, more systematic account of the discussion themes.

Making some version of this analysis, perhaps an interactive visualization, available online and sharing it on *Hacker News* to generate an opportunity for the community to reflect.

Contributing 100+ improvements to the Collective Action in Tech Archive, enhancing data quality and adding additional news sources.

Anonymous was a 2023 FASPE Fellow. They work for a technology firm.

Bao Kham Chau was a 2023 FASPE Law Fellow. He is a visiting fellow at CornellTech, an affiliate at the Harvard Berkman Klein Center for Internet and Society and an intellectual property attorney at Fish & Richardson.

Notes

1. This author works for a Silicon Valley technology company. They scraped and analyzed the data as well as wrote the paper.
2. Contributed to the overall design of the project.
3. Inspired by <https://observablehq.com/@mbostock/bank-failures>
4. <https://collectiveaction.tech/>
5. <https://news.ycombinator.com/>
6. <https://hn.algolia.com/>
7. <https://news.ycombinator.com/newsfaq.html>
8. <https://news.ycombinator.com/item?id=23808787>
9. <https://qubit-labs.com/how-many-programmers-in-the-world/>
10. The Collective Action in Tech Archive allows for each action to be taxonomized by employment type, namely “knowledge workers”, “white collar workers”, “blue collar workers”, “contract workers”, “in-house workers”, “gig workers”, “other”, “open source community”, “interns”, “content creators”, and “retail worker” (allowing more than one employment type per action). For our purposes, we operationalize precarious workers as “blue collar workers”, “contract workers”, and “gig workers.”, building on prior work in <https://github.com/collective-action/tech/blob/master/analysis/2020-analysis.ipynb>.
11. <https://news.ycombinator.com/newsfaq.html>
12. Daniel Gackle (dang), who was until 2019 supported by Scott Bell (sctb), see <https://news.ycombinator.com/item?id=25055115>. For a longer discussion of *HN*’s moderation, see <https://www.newyorker.com/news/letter-from-silicon-valley/the-lonely-work-of-moderating-hacker-news>.

13. <https://news.ycombinator.com/newsguidelines.html>
14. <https://github.com/minimaxir/hacker-news-undocumented/blob/master/README.md#implicit-downranking-of-politics>
15. <https://news.ycombinator.com/item?id=36444020>
16. https://en.wikipedia.org/wiki/Hacker_News#History
17. <https://data.collectiveaction.tech/action/360>
18. <https://data.collectiveaction.tech/action/113>
19. <https://neveragain.tech/>
20. <https://data.collectiveaction.tech/action/62> (6th most discussed action in the dataset)
21. <https://news.ycombinator.com/item?id=13169891>
22. <https://news.ycombinator.com/item?id=13170812>
23. <https://news.ycombinator.com/item?id=12995809>
24. <https://news.ycombinator.com/item?id=14320082>
25. <https://data.collectiveaction.tech/action/37>
26. <https://news.ycombinator.com/item?id=7475067>
27. <https://news.ycombinator.com/item?id=7526848>
28. <https://data.collectiveaction.tech/action/341>
29. <https://data.collectiveaction.tech/action/435>
30. <https://www.coinbase.com/blog/coinbase-is-a-mission-focused-company>
31. <https://news.ycombinator.com/item?id=25233832>
32. <https://news.ycombinator.com/item?id=24723120>
33. <https://news.ycombinator.com/item?id=24727739>
34. <https://data.collectiveaction.tech/action/232>
35. <https://data.collectiveaction.tech/action/378>
36. <https://news.ycombinator.com/item?id=22360413>
37. <https://news.ycombinator.com/item?id=22360712>
38. <https://news.ycombinator.com/item?id=22360308>
39. <https://news.ycombinator.com/item?id=22364925>
40. <https://news.ycombinator.com/item?id=22359090>

Food for Thought: An Interactive Exercise in Ethical Decision-Making

LEAH KAPLAN, ELODIE O. CURRIER, MOHAMMED OMAR, AND ORNELLA TCHOUMIE

Food for Thought is a simulation game designed to show participants how ethical challenges might arise and quickly escalate in their professional work.

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Introduction

Simulation games, sometimes referred to as wargaming exercises, are commonly used to understand how decisions might lead to various consequences. They are particularly useful for exploring decision-making under uncertain or complex conditions. The purpose of the Food for Thought simulation game is to show participants the ways in which ethical challenges might arise as part of their professional work. In the game, participants collaboratively develop solutions to address an ethical challenge facing a hypothetical food-manufacturing company. Participants experience how problems may quickly escalate and push them into increasingly challenging situations. This game is suitable for use as an interactive exercise during a FASPE interdisciplinary session or as a follow-up activity with FASPE alumni. The game could also be used to stimulate discussions about ethical decision-making in other academic or professional settings.

- The game takes **2-3 hours** to play (see timing section for shorter vs. longer versions. The longer timing allows for more discussion as well as a final reflection).
- The game is designed for **business, law, and design & technology professionals and students**.
- The game is suitable for any number of people, though ideally each professional cohort within the game will be made up of at least two players.

Participants

This game explores complex interactions among business, legal, and technical issues. As a result, it is most appropriate for individuals studying or working in the fields of business, law, and design & technology. No domain-specific knowledge is required, however, so individuals outside these three groups are also encouraged to participate. The game is suitable for any number of people, though a minimum of six players is ideal, allowing for at least two people per cohort.

Agenda

<i>Activity</i>	<i>Description</i>	<i>Shorter Version</i>	<i>Longer Version</i>
Introduction	The game organizer briefly explains the game format, introduces the main scenario and answers any questions that may arise from the group. Participants are split up into interdisciplinary groups of 6-7, if they haven't already been split up.	10 min	10 min
Break into interdisciplinary groups	Within each interdisciplinary group, participants further break up into their individual disciplines (i.e., in a group of six with two of each cohort, the law, business, and tech pairs would each meet).	5 min	5 min
Discussion Round 1: discipline-specific	Within each discipline-specific duo or trio, attendees read their discipline-specific position paper* (see position papers below) and work to identify different actions that they could take as a professional working at the hypothetical company. *Note: To save time, the position papers could also be assigned as pre-reading.	20 min	25 min
Rejoin interdisciplinary groups	Participants rejoin their interdisciplinary groups.	5 min	5 min
Discussion Round 2: interdisciplinary	Interdisciplinary groups now work to develop a proposed solution to present to the company executives.	30 min	30 min
Die roll and further discussion	Each group rolls a die, which introduces a new element of complexity (see die roll section). Groups will discuss this new consideration and determine whether and how they might choose to revise their plan based on the new information.	30 min	30 min
Coin flip	Each group flips a coin, which introduces a secondary element of complexity (see coin flip section). Groups then discuss how this	-	30 min

and further discussion [Long Version only]	new consideration might shape their initial plan and how they might choose to revise their individual plans based on the new information.		
Final report and reflection	Groups report on their initial and final solutions. If time allows, groups are then encouraged to reflect on overall takeaways from the game-simulation experience.	20 min	45 min
<i>Total time</i>		2 hours	3 hours

Scenario

There are increasing calls from activists to improve food safety regulation in the United States. Your company, *Schmeatpackers*, is one of the largest global meatpacking companies and has had a few problems with minor food contamination in the past, including one costly product recall. In the past few years, however, the company hasn't noticed any major outbreaks and you have achieved record sales this past year. Despite these successes, there are concerns that current testing protocols might not catch mutating bacterial strains that could threaten human health.

Your company was recently notified that the U.S. government is considering revising current food safety guidelines. At this early stage, you have the potential to help shape what these new guidelines might look like. Prepare for a meeting with senior leadership to advise on how (or if) the company should engage with the safety guideline development process.

Position Papers

The following position papers highlight some of the specific ethical considerations each sort of professional might face given the presented scenario. They also include some potential ideas for approaches to solutions. Participants are encouraged to draw on their own professional experiences and ethical frameworks to develop and consider additional solution pathways.

Business Position Paper

You are a seasoned business executive of *Schmeatpackers* with 20 years of experience in sales, marketing, and operations. As you think through the decision of whether and how to participate in refreshing food- safety guidelines with the government, your mind swirls with possibilities, faced with the great variety of issues to account for.

You have an “old friend” in the government, who casually mentioned during a golfing session at *Karelogo* that the new guidelines the government is considering would require significant investment in new pathogen detection technology. This technology investment would impact not only your bottom line but your EPS (earnings per share). “Analysts from *Batman Sachs* are going to eat me alive on the next earnings call,” you think and shudder.

But the situation is worse than that; the technology investment would require you to close a plant in Kansas, and 1,000 US-based employees would be made redundant. Repositioning those employees within the organization would be impossible. You’d likely have to offshore those operations.

“So how should I engage the government?” you wonder. You know that having a seat at the table may allow you to shape the guidelines in a way that is laxer and might mitigate how much technology you would have to invest in. This would allow you to optimize for:

- Shareholders, given you can mitigate the impact of the regulations on your bottom line and your EPS.
- Your own employees in Kansas, where you can still make a case to keep most of them if you drive down costs far enough.

- Your market position, as you create advantages over your main competitors (e.g., by urging the government to require packaging compounds that match those in your current supply chain).

However, if you are part of the taskforce that drafts more lax guidelines and they result in an outbreak, *Schmeatpackers* could face both legal and reputational risk. You sigh, knowing you may face reputational risk for refusing to participate at all.

As you stare out at the sunset and feel the summer breeze, you think it's time to schedule a call with your technological and legal advisors. You need to achieve consensus on three questions before you advise senior leadership on how to engage with the government.

- Does *Schmeatpackers* partner with the government at all in reshaping food safety guidelines?
- What is the ideal model for engaging with the government?
- What is your stance on how stringent the guidelines should be?

Having your team on the same page will be critical; the government will want to hear from your tech experts and lawyers as well.

Design & Technology Position Paper

You are a mid-career professional with a Ph.D. in Biotechnology from the University of Cambridge. You have recently been appointed head of research and development (R&D) at *Schmeatpackers*, a large food processing company. You have been aware of minor food contamination issues at the company for some time. Nonetheless, the company has always met FDA food safety requirements.

Building on your doctoral research, your R&D team recently developed a new food testing technology that is better at detecting a new type of pathogen, *FASPE-coli*, in food. With this improved detection capacity, you're now noticing that some *Schmeatpackers* products contain this new pathogen. There's currently no scientific consensus about the effects of *FASPE-coli* on human health, with some studies finding minimal impact while others suggest there could be serious, even deadly, repercussions. There have not been any significant outbreaks, so you have chosen to stay quiet. This is your first executive role, and you want to make a good impression on the company's board of directors. Any decision you make will have a significant impact on your career.

At a recent food safety research conference, you learn about new efforts within the FDA to revise food safety guidelines. This could be a good opportunity to mandate testing for *FASPE-coli* in food production facilities and implement your new testing technology—technology you could even potentially patent. Rolling out the tech across *Schmeatpackers*' plants, however, would likely be very expensive. You've also noticed that while your new testing technology is good at detecting *FASPE-coli*, which could be deadly, it performs slightly worse at detecting other types of pathogens that can cause minor illness, ones that are currently covered by FDA regulations.

You consider coming clean to the FDA about the *FASPE-coli* contamination at your plant, though you know this could have severe consequences for the company. If *FASPE-coli* is added to new FDA regulations, regulators could shut down the plant, and the company could be sued for millions of dollars. You could also lose your job.

As you stare out the windows of your large, corner office, you mull over some of your different options:

- **Collaborate with the government in improving food safety guidelines and encourage adding mandatory testing for and regulation of *FASPE-coli*.** This is

a good option if you believe the current food safety guidelines are inadequate and that, despite existing scientific uncertainty, *FASPE-coli* does present a serious threat to human health. By working with the government, you could develop new approaches to make food safer for everyone.

- **Advocate for implementation of your new pathogen detection technology in *Schmeatpackers'* plants and convince the FDA regulators to use your technology.** This is a good option if you believe the current methods for detecting harmful pathogens are ineffective. By implementing your new technology, you could ensure that harmful pathogens are identified before they cause harm to consumers. Implementing your technology as it is now, however, comes with the risk of missing detection of certain less harmful (but still currently regulated) pathogens. Widespread adoption of your technology in collaboration with the FDA could also discourage potential development of other solutions for detecting *FASPE-coli*.
- **Focus your research on an emerging market (slaughter-free meat) and advocate for food safety guidelines to be defined more broadly.** This would be a risky option, but focusing on slaughter-free meat could be a way for the company to get ahead of the competition. The slaughter-free meat market is growing rapidly, and consumers are becoming more interested in sustainable and humane food options. You could pivot your research efforts to focus on developing these technologies and push for a broader shift in thinking about meat both within your company and within the FDA. On the other hand, focusing your time and efforts on this area of research could set you behind your other R&D colleagues whose work may more directly relate to the company's immediate bottom line. Also, if the company is found to be violating food safety guidelines while trying to develop these new meat substitutes, it could face serious consequences.
- **Another option is to resign from your position.** This would allow you to advocate for revisions to food safety guidelines in whatever manner you feel is best but also means giving up your job and career. For now, you need to prepare for an upcoming call with your law and business colleagues to discuss whether and how to engage with the government.

Law Position Paper

One year ago, you moved from practice as a regulatory attorney at a large firm to *Schmeatpacker's* government affairs unit within the office of the general counsel. You are one of the more junior members of the department—most attorneys have been in-house for at least five years and are fiercely loyal to the company and its “way of doing business.”

The office of the general counsel is very well-staffed and rarely outsources non-litigation work. As a result, you’ve been able to hear about some of the legal challenges facing the company in departmental meetings. Most recently, there have been:

- Proposals to aggressively pursue intellectual property rights to force competitors to license *Schmeatpackers* machinery, processes, or tests. Patenting new technology and offering it as a business-to-business service could open new lines of profit and improve *Schmeatpackers*’ competitive position, but it could also limit the adoption of any novel safety equipment developed by *Schmeatpackers*. Some have proposed using the government regulatory process to advocate for standards which could only be satisfied with *Schmeatpackers* equipment or tests.
- Stress about an upcoming negotiation window with *Schmeatpackers*’ employee union. The union has previously accepted a lower wage in return for heightened safety guarantees, but many local unions at *Schmeatpackers* plants have voiced complaints about *Schmeatpackers*’ compliance with health and safety standards, including some instances of operators voicing concerns about issues with food contamination. Some attorneys in the HR department are worried that a significant safety incident or a potential whistleblower complaint could lead to litigation with the union over the existing contract or give the union a stronger negotiating position as regards a new contract.
- Concerns over regulatory risk if new safety regulations introduce enhanced liability or create a liability floor or statutory cause of action. If the FDA guidelines—or other regulations from Federal or State government—impose new requirements or standards, it could create more opportunities for litigation to be brought against *Schmeatpackers*.

- Concerns over disclosure of any of *Schmeatpackers*' food safety practices. Given public sensitivity to the realities of the work of meatpacking, avoiding disclosure of *Schmeatpackers*' practices when possible tends to be prudent. However, this must be balanced with the need to be transparent with various parties, such as courts, business partners, and regulators.

There is quite a bit of pressure on the government affairs department to ensure that the new FDA guidelines don't make any of these issues worse. As a bit of new arrival hazing, your department head has tasked you with presenting to the board about whether and how to engage with the guideline-drafting process—your first significant presentation for the department.

The presentation should consider three main questions:

- **Does *Schmeatpackers* partner with the government at all in reshaping food safety guidelines?** Partnering with the government could allow *Schmeatpackers* to take the lead on creating guidelines (or even draft guidelines that would give them a competitive advantage) but would likely require more transparency.
- **What are the legal benefits and drawbacks of varying approaches to regulatory posture? What is the most beneficial approach to guideline development?** Rigid guidelines requiring the use of *Schmeatpackers*' new *FASPE*-*coli* testing products could shut competitors out of the market or force them to license *Schmeatpackers*' own products. It would also, however, lock *Schmeatpackers* into adopting the technology itself. Looser guidelines would give *Schmeatpackers* fewer fears about liability and could assist in preserving employee relations, especially in Kansas.
- **How can engaging with the guideline development process assist in resolving other legal questions for *Schmeatpackers*?** Beyond the potential PR benefits of being a "leader" on new safety guidelines, working with regulators could prevent these developments from evolving in ways that would actively harm *Schmeatpackers*' legal positions elsewhere. Further, working "behind-the-scenes" could allow for information sharing with regulators without full transparency to the public. *Schmeatpackers*' office of General Counsel works closely with the business and technology departments: as a newcomer, it's vital that you consider their stances as well.

Introduced Complexities

Die Roll Scenarios

1: One day, a whistleblower exposes that the company has identified the presence of *FASPE-coli*, an emergent pathogen, in some of its products. There is currently no scientific consensus about the effects of *FASPE-coli* on human health. Some studies have found minimal impact on human health, while others suggest it could be quite dangerous or even deadly. Despite this scientific uncertainty, the company is now facing a public relations nightmare as food safety advocates launch a public attack campaign suggesting that *Schmeatpackers'* food is unsafe. An internal memo from the company's board of directors states that everyone should deny the accusations from the whistleblower, and anyone who does not will be sued for defamation.

2: Factory workers in Kansas hear about the discussions related to implementing new testing technology and the potential for their plant to shut down as a result. In response, the workers begin a strike demanding that food safety guidelines remain the same and that no new testing technologies are introduced. Your company is losing millions of dollars as a result of the strike.

3: A new scientific study published by a top-tier university finds that small quantities of *FASPE-coli*, an emergent pathogen, can lead to hospitalization and death amongst children and the elderly. Prior to this study, there was no scientific consensus about the effects of *FASPE-coli* on human health, but this new study raises new and more serious questions. *Schmeatpackers'* leadership knows that *FASPE-coli* is present in some of its products.

4: One of your direct competitors announces that they are in the process of developing industry-leading testing for their own meatpacking facilities, including the development of new tests for "emerging pathogens" that they hope will someday become industry standard. Bringing *Schmeatpackers'* test for *FASPE-coli* to market could allow you to preempt them as an industry leader. The technology, however, has not been tested at scale.

5: Outbreaks of *FASPE-coli* shut down three *Schmeatpackers'* plants. There is currently no scientific consensus about the effects of *FASPE-coli* on human health. Some studies have found minimal impacts on human health, whereas others suggest it could be quite dangerous or even deadly. While no workers have died, over 40% of each plant has called out sick with

severe gastrointestinal symptoms and fever. The shutdown not only costs hundreds of thousands of dollars a day in productivity loss but also has potentially massive PR and HR risks.

6: The Department of Justice brings charges against two plant managers from a directly competing firm in Kansas for bribing FDA inspectors to overlook safety violations, including contamination of products with *FASPE*-*coli*. Before meeting with attorneys, one of the plant managers posted a long message to their Facebook page stating that “every plant in Kansas bribes the FDA. That’s the cost of doing business.” Doing an internal investigation could help clear *Schmeatpackers*’ name, or it could reveal wrongdoing by our own plant managers. Beyond the PR and legal risks, evidence of bribery would make it very difficult for *Schmeatpackers* to be involved with the guideline development process.

Coin Flip Scenarios

1: Congressional Investigation: Following the events of [Die-Roll 1 Outcome], Congress has launched an investigation into the standards and practices of the entire meatpacking industry and has subpoenaed *Schmeatpackers*’ CEO and key officials to testify. The board has requested the advice of each of your departments not only on whether to comply with the subpoena but also on how to frame their testimony and the broader image of the company.

2: Preparation for IPO: *Schmeatpackers*’ CEO has decided that the market is ripe for an (ill-advised) initial public offering of *Schmeatpackers*’ stock. As you prepare for the IPO, decisions will have to be made about how to position the company in the media, in reports to the SEC, and in investor diligence documents. The CEO and the rest of *Schmeatpackers*’ board want to extract the highest possible initial price. A stock option will certainly be part of your total compensation in the event of a successful IPO.

Potential Reflection Questions

Depending on the audience, these questions may be a helpful jumping-off point for working through some of the ethical issues raised by the crisis simulation. Facilitators may wish to provide more scaffolding for younger participants or those participating as an introduction to professional ethical issues.

1. How did the “crisis” introduced by the die roll change the ways you thought about the road forward?
 - a. How do crises stress your sense of ethics? Do time pressures and heightened risk reduce opportunities for ethical decision-making? Should they?
 - b. What elements of crisis response were missing from this simulation? What pressures would you face in a real crisis scenario? Would they change your decisions?
2. How did your role influence your decision-making and the way you interacted with your peers?
 - a. If you had been making these decisions without the input of other disciplines, how would that have changed things?

- b. What role does communication between disciplines play? What information did you learn from other industries that changed your approach?
 - c. How did you balance your personal interests (e.g., career advancement, job security, stock options) with public interests?
 - d. Do some crises give greater influence to one discipline over another? What is your duty to others when your discipline takes the lead?
- 3. How did you weigh public interest (e.g., preserving public health for the sake of public health) with business interest (e.g., avoiding *FASPE*-*coli* to avoid PR issues)?
 - a. How do the actions of competitors influence these kinds of decisions? What are the additional costs of being the “ethics leader” of your industry? Are there benefits?
 - b. How does consumer pressure factor into ethical decision-making? What about employee pressure? How does this differ from rules imposed by the government?
- 4. [3-Hour Version only] How did the decisions you made in the first crisis shape your approach to the second crisis?
 - a. If the order of crises were reversed, how would that have changed your decision-making?
 - b. What would it take for you to resign? Is resigning an ethical decision during crises? Is it an effective way to protest decisions you don’t agree with?
- 5. [3-Hour Version only] How did publicity (either through disclosures as part of an IPO or through Congressional inquiry) factor into decision-making?

- a. How does transparency (or lack of transparency) influence ethical decision-making?
- b. How do pressures to “spin” or “market” a company's approach as “ethical” change decision-making? Do these pressures lead to decision-making changes that go beyond initial, surface-level approaches?

Leah Kaplan was a 2023 FASPE Design and Technology Fellow. She is a PhD candidate in systems engineering at George Washington University.

Elodie O. Currier was a 2023 FASPE Law Fellow. She is a 2023 graduate of Vanderbilt Law School now working for the Federal Judiciary.

Mohammed Omar was a 2023 FASPE Business Fellow. He is a project leader at the Boston Consulting Group (BCG).

Ornella Tchoumie was a 2023 FASPE Design and Technology Fellow. She is a product manager on the privacy and compliance team at Workday.

Notes

Food for Thought was developed by Leah Kaplan, Elodie Currier, Mohammed Omar, and Ornella Tchoumie based on ethics discussions and simulations during the 2023 FASPE Business, Law, and Design and Technology Fellowship trip. The simulation's structure is inspired in part by the *Mercury Game*, a sustainability role playing exercise developed by Henrick Sellin and Noelle Eckley Sellin in conjunction with the Harvard University Program on Negotiation, and is influenced by THIMUN and North American international relations simulations.

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JOURNALISM

When to Call It Quits

NEJRA KRAVIĆ

Omar Radi walked into the Center for Cross Cultural Learning in Rabat, Morocco with a smile and an effervescence that never really left him, even when discussion turned serious. He spoke to a group of twelve study abroad students about his work as an investigative journalist, discussing the widespread land-grabbing efforts impacting tribal communities in Morocco. Radi previously worked for *Le Desk*, an independent news media website, and freelanced for various international publications, often investigating corruption and land rights issues. In February 2020, he was brought on board as a lecturer for a journalism study abroad program in Rabat, where we first met. The world shut down soon after. Not much later, Omar was arrested and imprisoned, and my program was suspended for good. I returned home with an unwavering uneasiness that never quite went away.

I left my life in a quintessentially post-Communist in Sarajevo, where embattled, labyrinthine history oozed out of the city's every corner, for the suburban streets of a small town in Southern California. As I looked to put my theory-heavy academic studies to practical use, a program with a focus in journalistic fieldwork seemed ideal. I soon found myself basking in the midday sun, bumping into strangers in Rabat's medina, practicing Moroccan Arabic, or *Darija*, with small business owners along the promenade, and learning about the craft from lectures of veteran reporters. Moved by their commitment to bringing critical issues to light, I imagined myself doing the same in Bosnia and Herzegovina.

Omar Radi wore a light brown leather jacket. I remember thinking how much he reminded me of my uncle, roughly his age with the same boyish smile and a knack for lightening the mood. He drew a map of the Moroccan coast with a green whiteboard marker, carefully denoting each city and village along the coast. His latest project involved investigating lucrative expropriations, particularly of tribal lands, causing large-scale displacement and dispossession of the nation's poorest, often agricultural, communities. The once communal lands were now becoming golf courses for the ultra-wealthy, with prominent government officials acquiring land at a fraction of the market value. Investigating the link between business and state property acquisition was no easy task, especially as the North African nation ramped up its crackdown on press freedom. It was only a matter of time before Radi felt this pressure.

In December 2019, the police arrested Radi in Casablanca. He faced jail time for insulting via tweet a judge that he deemed unfair towards Moroccan activists. In March 2020 after intense international protests and media scrutiny, he was handed a suspended sentence and a fine. Our group wanted to accompany him to the hearing, but the program strongly discouraged any kind of direct involvement.

“Are you not afraid?” a classmate asked shyly, referring to the upcoming hearing.

I distinctly remember the question but not Radi’s answer. I trace my steps that day but can only think of his smile, which lingered before he answered. Radi’s cheerfulness only marginally dissipated. I did, however, see fear in the ever so slight shaking of his right hand, the sweat-soaked lock of hair on his forehead, and a newly present distance that suddenly formed between us.

In June 2020, Amnesty International reported that Radi’s cellphone was infected with Pegasus spyware, a software used by governments to spy on their citizens, often prominent human rights activists, journalists, and lawyers. It is a seamless piece of technology that easily harvests all one’s data, including text messages, photos, and calls, and can even directly film and record users. In July 2020, Omar Radi was charged with espionage. After a long and arduous legal process, he is currently serving a six-year prison sentence in isolation. He has been denied the right to write or pursue further studies.

While organizations such as Amnesty International, Reporters Without Borders, Human Rights Watch, and the Committee to Protect Journalists released statements in support of Radi, Moroccan media outlets rallied behind the government. This situation is likely the byproduct of an increasingly oppressive media landscape, where the last few independent media organizations have shut down due to financial challenges and judicial harassment. Subjects remain off limits for Moroccan reporters, particularly matters regarding Western Sahara and the monarchy. Most practice self-censorship.

Despite the strained environment for local reporters, foreign reporters and correspondents remain in the country and face virtually no repercussions. Huddled in a rectangular one-time bedroom, now classroom at the Center for Cross Cultural Learning, located in a building in a beautiful Moroccan riad nestled in the back streets of Rabat’s medina, young journalists faced their first ethical challenge. Although some of us have already written about others’ communities and the difficulties this entailed, the fact that the only independent perspectives in a nation of 38 million people would have to come from a handful of foreign reporters seemed absurd.

When I reflect on this reality, I think about the great deal of reading I have done on the politics of the “other’s” representation in Western news media. Mass media has played an immense role in what Mohammed Hirchi calls the “framework of a binary oppositional dynamics where the Middle East is classified as an undesired space of barbarism and tyranny.”¹ Considering that most of our work catered to American media and audiences (never mind the restrictions that local reporters face), I became increasingly uncomfortable with the precarious position we found ourselves in. Still, if not us, then who else?

After almost three years of #FreeOmarRadi, countless opinion pieces, calls for actions, and reports by international organizations, Radi remains in prison. His colleagues have either faced a similar fate, were forced to flee, or have succumbed to the pressures. I go back to the FASPE newsroom exercise, in which our cohort simulated an editorial meeting as staff of the *Munich Post* on the day after Adolf Hitler became chancellor. As we debated our fate as one of the last critically minded papers in Nazi Germany, at first the idea of quitting seemed distant, but it slowly crept up as I grasped the severity of the conditions. I thought about what could have been going through Radi’s head during the critical moments before his first arrest. Was quitting even an option? Is the ability to quit a benefit, not a right? When is quitting a matter of self-preservation? And when is it irresponsible?

I have not yet found answers to these questions. I worry more often than I do not. I think regularly about the immense pain, suffering, and loss in the world and how I can overcome these feelings of hopelessness, inadequacy, and grief. I worry about my friends and family, my community, the world, and the climate. I do, however, now have a community of journalists and fellows that face similar challenges, a group of people that is adamant about recognizing and confronting their roles as professionals. While I am still apprehensive, I do not feel isolated.

Nejra Kravić was a 2023 FASPE Journalism Fellow. She is a freelance journalist based in Sarajevo, Bosnia and Herzegovina.

Notes

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To Tell the Truth

NICK McMILLAN

The life and decisions of Daniel Schorr offer a compelling look into the ethical demands of journalism. Schorr's life shows us that our ethical framework may evolve throughout our careers as we see the impacts of our choices reverberate throughout the world.

Born in the vibrant heart of New York City on August 31, 1916 to Jewish immigrants Schorr's first encounter with journalism occurred at the tender age of 12 when he tipped off a local newspaper about a woman who had fallen from his apartment building. He received \$5 (today about \$140) for his trouble.¹

Schorr began his career as a foreign correspondent in 1946. He wrote about postwar reconstruction, the Marshall Plan, and NATO for the *Christian Science Monitor* and the *New York Times*. Schorr's talent attracted the attention of none other than Edward R. Murrow, leading to a job with CBS in 1953.²

During his time at CBS, Schorr made a name for himself as a journalist unafraid to challenge authority. As Moscow bureau chief, Schorr secured a groundbreaking interview with Soviet Premier Nikita Khrushchev, the first time the leader had ever appeared in a television interview.³

Schorr deeply believed that "a journalist has an obligation to report newsworthy information ascertained to be accurate."⁴ His commitment was so strong that he ignored the Soviet's strict censorship laws during his reporting and eventually was barred from reentry after taking holiday leave.

During the early 1970s, Schorr's indomitable spirit resurfaced when he reported extensively on the Watergate Scandal. His reporting earned him three Emmys.⁵ He was relentless, famously reading aloud President Nixon's "enemies list" and discovering his own name at number 17.

In a similar way, Schorr's commitment to source protection highlights his commitment to journalistic ethics in the face of pressure. It also reveals that our choices can have side effects. In 1976, armed with a leaked intelligence committee draft report, he faced a conundrum. While CBS was leaning toward not publishing the document, Schorr believed in the people's right to know and mailed the report anonymously to the *Village Voice*. As CBS tried to figure out who at the company was responsible, Schorr allowed the blame to fall on his colleague Lesley Stahl for a short time, who the bureau chief suspected because she was in a relationship with a writer from the *Village Voice*.

This moment distills much about our profession. As journalists, our careers are built on our trustworthiness and ethical commitment. In this case, a lie by omission is still a lie and Schorr's decision to not come forward immediately when Stahl was implicated was unethical. Later, Schorr said that he delayed admitting that he had given the documents because he was figuring out how to best protect his anonymous source.⁷

The use of anonymous sources in journalism constitutes a tightrope-walk between ethical commitments and potential consequences. Michael Farrell, a member of the Society of Professional Journalist (SPJ)'s Ethics Committee, encapsulates the dilemma, emphasizing the fine line between honoring promises and facing legal repercussions. "Keep your promise not to identify a source of information and it's possible to find yourself facing a grand jury, a judge, and a jail cell," Farrell writes. "On the other hand, break your promise of confidentiality to that source and it's just possible you might find yourself on the receiving end of a lawsuit."⁸

Schorr's predicament underscores this delicate balance. In fact, today in many newsrooms the use of anonymous sources is viewed as a last resort. Not only for the above-stated reasons but because the public deserves as much information about the sources' reliability as possible.⁹

Testifying in front of the House Ethics Committee, under threat of being charged with contempt for Congress, Schorr laid his cards on the table, "For a journalist, the most crucial kind of confidence is the identity of a source of information. To betray a confidential source would mean to dry up many future sources for many future reporters. The reporter and the news organization would be the immediate loser. I would submit to you that the ultimate losers would be the American people and their free institutions. But, beyond all that, to betray a source would be to betray myself,

my career, and my life. I cannot do it. To say I refuse to do it is not saying it right. I cannot do it."¹⁰

On the one hand, this decision to risk jail time shows Schorr to be a journalist willing to stand up for his ethics. On the other, in the quest to protect his source, he also harmed his colleague by initially letting her take the blame. While our promises are important, so is minimizing harm. The fact that even a veteran journalist like Schorr struggled with this balance shows how important it is to consider the consequences of our actions. .

In a 1992 article in the *Washington Post* called "See It Not,"¹¹ Schorr reflects on the specific ethical situations that broadcast journalism presents.

In broadcast journalism, often there is only one camera filming an interview. In order to edit for television, you need things like close-up reactions and a wide shot to establish the scene of the interviewer and interviewee talking. It's a common thing to film these "small deceptions", as Schorr called them in his *Washington Post* piece, out of order or without the other person there.

Schorr admits that these reverse shorts are not "exactly honest, but a conventional tool for re-creating a semblance of reality in a journalistic form whose heart is in Hollywood." Schorr adds, "Reality is a relative thing in television, but it has always been my belief that journalists should do their best to guard it."

In 1989, a broadcast segment that aired on ABC News troubled Schorr. In it, ABC simulated a briefcase handoff between diplomat Felix Bloch and a Russian agent without clearly identifying that it was a recreation. When does a "small deception" cross the line and become unethical? These reaction shots and recreations are still common today. Reflecting on this fact has made me consider how they have been misused in the past. The 1942 German unfinished propaganda film "Das Ghetto," shows the Warsaw Ghetto two months before the massacre of its inhabitants. When the film was found, historians used the footage as a primary source of the daily life of those living in the Warsaw Ghetto.¹²

Another reel, however, showed the truth behind the footage. Nazi filmmakers staged many scenes, implying the footage was to be used as a propaganda tool. Is this not an even more dire problem now? With visual journalism, especially in today's world of

generative AI, journalists need to be supremely careful about the work they produce and cite in their stories.

In the *Washington Post* piece, Schorr provides insight into the symbiotic relationship between broadcast journalism and violence. It offers a chilling reflection on the media's responsibility and includes his admission of his own role in sensationalism. In these ways, he reveals the moral tightrope journalists tread to secure viewership: "In the mid-1960s, covering urban unrest for CBS, I perceived that television placed a premium on violence and the threat of violence. I found that I was more likely to get on the 'CBS Evening News' with a black militant talking the language of 'Burn, baby, burn!' than with moderates appealing for a Marshall Plan for the ghetto."¹³

Schorr then reveals his own contribution to TV's relationship with violence. In February 1968, Martin Luther King Jr. was in Washington D.C. to announce the Poor People's March. King faced immense pressure, and some members of the civil rights community wanted to break away from King's policy of non-violence.

Schorr said that he came to the news conference to "Do what TV reporters do—get the most threatening sound bite I could in order to ensure a place on the evening news lineup. I succeeded in eliciting from him phrases on the possibility of 'disruptive protest' directed at the Johnson administration and Congress."

After the conference, Schorr saw King looking sad, approached him, and asked "why"?

"Because of you," King said, "and because of your colleagues in television. You try to provoke me to threaten violence and, if I don't, then you will put on television those who do. And by putting them on television, you will elect them our leaders. And if there is violence, will you think of your part in bringing it about?"¹⁴

While shaken, Schorr still put out the clip on the evening news.

In today's world, where sensationalism reigns, Schorr's actions serve as an unsettling reminder of the media's power to shape narratives.

Schorr's story, however, offers a complication. A few years before this, Schorr decided to withhold a story from the public.

In 1957 while working on a documentary for the series "See It Now," Schorr came across a caravan of Jewish people on the Polish/Soviet border who were fleeing to

Vienna and Israel. Shorr filmed and interviewed them for the documentary. Before sending the footage off to New York, he asked an Israeli minister to explain how the group was immigrating (at the time Jewish immigration from Eastern Europe to Israel was officially banned). The minister explained that thousands of Jews were stuck in a Polish territory that had been taken by the Soviet Union and a secret negotiation between the Soviets, Poles, and Israelis allowed passage to Israel through Poland.

If anything about the program came to light, however, the Soviets said they would end it.

At that moment Shorr had a decision. Would he follow the credo not to suppress information, the one that had guided his journalistic career? Or would he hold onto the film and potentially save many lives?

Shorr ended up not sending the film, killing the story.

Schorr's life serves as a testament to the power of principled decisions, the tumultuous difficulty in making ethical considerations, and the eternal quest to minimize harm while holding steadfast to the pursuit of truth.

Shorr writes in his *Washington Post* piece, "I have learned, I think, that one is not only a journalist, but a part of other human circles, and that there are other values than journalistic ethics to be observed."

Shorr finished his career at NPR as a senior news analyst and was on the air up until he passed away in 2010. In reflecting on the life of Daniel Schorr, we are reminded that journalism involves a delicate balance between principles and practicality. Schorr's legacy challenges us to continually examine our own roles and responsibilities as journalists who cover stories that shape the world.

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The Orwell Method: Journalistic Advocacy as a Response to Political Extremism

MALONE MULLIN

As battle broke out in Madrid on an evening just before Christmas 1936, English author Eric Arthur Blair—better known by his pseudonym, George Orwell—packed a bag and headed for the continent. "I had come to Spain with some notion of writing newspaper articles, but I had joined the militia almost immediately, because at that time and in that atmosphere it seemed the only conceivable thing to do," Orwell writes in his 1938 memoir, *Homage to Catalonia*.¹ He would end up fighting alongside one of Spain's communist militias, embodying perhaps the strongest journalistic bias possible: picking up arms, choosing a side, and going to war.

By today's standards, the Orwell case is an extreme example of how journalists can, and perhaps even should, become advocates and maintain a bias in their reporting. We hear regularly about the need for objectivity in reporting. There is truth to this notion, of course.

In Orwell's story and experiences during the Spanish Civil War, we see, however, a more pertinent need: an alternative set of ethical principles of journalistic bias suited to the mores of the 21st century.

The Principle of Objectivity

By the time he left England for Spain, Orwell had written two novels and one work of reportage. He was not yet known as a journalist but said he had every intention of becoming one by reporting on the Nationalist leader Francisco Franco's coup against the Spanish Republicans. In his day, European newspapers weren't expected to cater to all ideologies; they were often bankrolled by specific political parties, and their reporters wrote with obvious slants. Today, while it wouldn't be far-fetched to say that *The Guardian* is a leftist publication, the *New York Times* centrist, and Fox News defined by a special brand of American neoconservatism, these outlets don't outright brand themselves by their political leanings. Their journalists are largely expected to

abide by a long-held principle of ideological neutrality. Take this rule outlined in the Canadian Broadcasting Corporation's Journalistic Standards and Practices as one example of the status quo: "We are guided by the principle of impartiality [...] CBC journalists do not express their own personal opinion because it affects the perception of impartiality and could affect an open and honest exploration of an issue."² In its own code of conduct, the *New York Times* propounds a similar line: "No newsroom or opinion employee may do anything that damages *The Times's* reputation for strict neutrality in reporting on politics and government."³

Objectivity in journalism had its birth in the early 1900s. By 1911, Charles G. Ross says, "News writing is objective to the last degree in the sense that the writer is not allowed to 'editorialize.'"⁴ The rule hung around for a few decades as an ideal that all reporters should strive for: removing themselves from the story, covering without bias or opinion merely what occurs and is said. This view gripped the media world for good reason. The function of impartiality is integrity, after all. If an outlet presents facts instead of arguments, the reader is left to decide for themselves what they make of what's happening around them. It arose, argues Stephen Ward in *The Invention of Journalism Ethics: The Path to Objectivity and Beyond*, as a response to yellow journalism and accusations of unprofessionalism within the trade and quickly became part of journalistic doctrine. "To 'editorialize' was the reporter's mortal sin [...] The ideal was complete detachment from events,"⁵ he notes. "Soon after 1900, when journalists sought evidence of their professionalism, they did not turn to the norms of subjectivity that governed opinion-making—wit, satire, and persuasive rhetoric. They pointed to forms of journalism that embodied the objective norms of fairness, balance, impartiality, and verified facts."

That norm, even though it remains a standard, accepted rule for how journalism is done, is often challenged, sometimes within the same pages that boldly espouse it. That conflict demands our attention. Perhaps, then, aiming for impartiality might be the wrong way to go about reporting after all.

The Missed Ideal

In September 2016, the *New York Times* ran a stark editorial pleading with American voters. "Why Donald Trump Should Not Be President" took a decisive stand against the man who would later lead the country for four years.⁶ It's not the only time the paper has rejected impartiality; on the contrary, it's a regular occurrence for the *Times's* editorial board, which has vocally backed the presidential candidate of their choosing for every election dating back to 1860.⁷

That habit raises a question: why chase the ideal of neutrality and objectivity at all if editors and journalists espouse their political endorsements openly? Further, it's clear journalists exercise their biases, whether purposefully or not, in any given story; framing, quote selection, which sources one chases, which statistics are relevant enough to publish, and even the structure of the piece all constitute subjective, partial decisions. All these actions influence what the audience learns and which opinions they might form. Isn't it more honest, less manipulative, to outwardly advocate, to plainly state rather than write between the lines?

In *Homage to Catalonia*, Orwell argues foreign journalists kept getting things wrong because they weren't embedded in the war like he was. By contrast, he was able to observe events as they happened without relying on questionable sources. "Foreign journalists in Spain were hopelessly at the mercy of the Ministry of Propaganda, though one would think that the very name of this ministry would be a sufficient warning," Orwell writes. "Nearly all the newspaper accounts published at the time were manufactured by journalists at a distance and were not only inaccurate in their facts but intentionally misleading. As usual, only one side of the question has been allowed to get to the wider public [...] I saw only what was happening in my immediate neighbourhood, but I saw and heard quite enough to be able to contradict many of the lies that have been circulated."

Throughout his book, Orwell remains critical of everything around him even as he is frank about his politics. If the goal is truth, then the ethical decision by this standard is to embed oneself in the war, to live the life of a soldier fighting fascism. In his case, the result of such a bold decision is a book that still maintains independence. It's clearly not propaganda, and indeed it speaks critically against politically motivated misdirection. Fighting against Franco and speaking truthfully were not, it seems, at odds.

Embracing Non-Objectivity

Modern journalism must contend with the logical inconsistency at the very core of its ethics. On the one hand, we chase an ideal of producing factual reports devoid of opinion or personal bias. On the other, news outlets and reporters intentionally take political positions, whether overtly or by writing between the lines.

With this in mind, it's worth looking at another of Orwell's works to figure out how we can resolve that conflict. In his 1946 essay "Politics and the English Language," he

examines the role of language as a propaganda tool, particularly as it pertains to obfuscation and euphemism. “Things like the continuance of British rule in India, the Russian purges and deportations, the dropping of the atom bombs on Japan, can indeed be defended, but only by arguments which are too brutal for most people to face, and which do not square with the professed aims of political parties,”⁸ he writes. “Thus political language has to consist largely of euphemism, question-begging and sheer cloudy vagueness.”

Orwell offers us a solution to the problem of objectivity within his own oeuvre. He takes a side but clearly and boldly indicates when he does so. He observes but tells the reader about the limitations of his knowledge. He cites his sources and tells us when he may doubt them. His reporting is subjective but honest, a reflection of the world as he saw it rather than an attempt to define an event by removing himself from the work. Throughout *Homage to Catalonia*, his commentary stands out, demarcated from his observations and sourcing. Because we know about his political leanings (since he’s been so clear about it from the start) we are also free to judge how his observations may be filtered through and influenced by his biases.

There’s another point I’d like to make: aside from the practical benefits of Orwell’s brand of non-objectivity, the application of this ethic could also be useful for reporters who wish to uphold humanistic values in their work. Orwell’s advocacy against fascism meant he wasn’t beholden to fascist regimes for information that he then disseminated to the public. He took a side, but that effectively gave him independence, the freedom to report from the ground rather than repeat what Franco’s party wanted the media to say. In such extreme environments, it may be more useful—and perhaps moral—for journalists to reject the doctrine of objectivity, to pick a side, and to be frank about it.

That leaves us with a revised principle: Rather than striving to avoid bias at all costs, journalists can, and indeed sometimes should, make arguments for specific causes within their reporting, if and only if they can 1) base their arguments on fact and 2) be transparent that they’re advocating for a particular cause. At a time when neo-Nazism is rising in the West, and when far-right ideas are gaining strongholds in democracies around the world, perhaps it’s time we take a note from Orwell, embracing our biases rather than obscuring them.

Malone Mullin was a 2023 FASPE Journalism Fellow. She is a reporter with CBC Newfoundland and Labrador.

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Slinging Words at the World's Goliaths

JUAN PABLO PÉREZ-BURGOS

Laura Ardila made me fall for journalism. In the two years we worked together in Barranquilla (a city of over a million, the most populous on Colombia's Caribbean coast), she showed me that real-life stories could hold beauty just like fiction or poetry. She opened my eyes to a world bigger than thorough interviewing, lede-crafting, alternating short and long sentences, and killing reiterative conclusions. Above all, she taught me that to tell the meaningful stories of a country as hostile to scrutiny as Colombia, I had to overcome my own fears and insecurities. And so, I learned to call without hesitating, hitchhike through the Caribbean, bargain with every taxi driver, let go of every insult, and not yield to anyone, no matter who they are: the Vice-President, congresspeople, corrupt politicians, civil advocates, journalists, ex-guerrillas, ex-paramilitaries. Always ask the relevant questions. Never yield. Never fear. And a month ago, a couple of days after our fellowship in Berlin and Krakow ended, Laura offered me a final lesson.

As she's one of my closest friends (she gave a speech at my wedding!), we have been in touch regularly since I moved to Berkeley. We always come back to her first book, based on the reporting she has done for the last eight years in Barranquilla. After three years of writing and reporting, the book was scheduled to be published at the end of June. I was to fly to Berlin then. Naturally, I asked my wife to buy the book so I could read it once I came back. But on July 9, when I was still in Krakow, I received a shocking text from Laura.

It was a link to her weekly op-ed in *El Espectador*, one of Colombia's leading newspapers, about how her book had been censored. Planeta, the publisher with whom she was working (one of the biggest in the Spanish-speaking world), decided at the last minute that her book would not be published. A few days earlier, she had been called to an unexpected meeting at Planeta where "in a conversation that lasted half an hour,"¹ Mariana Marczuk, editorial director of Planeta for the Andean region,

notified her that the corporation decided not to publish her book. She told Laura that the company "didn't "want to run the legal risk of a possible lawsuit."² After three years of working with an editor who only complimented her, after an independent group of lawyers read the book and recommended it go forward, after Marczuk herself called the book a "jewel of investigative journalism," after a team of designers created the cover, after a photographer took Laura's professional photos, and even after possible release dates were scheduled—after all that, Planeta's heads in Spain simply decided that her work wouldn't see the light of day.

There was no precedent for this in Colombia.

Why had the book's publication been canceled? Why did Planeta express this concern after three years of hard work not just by Laura but also by their own employees? Could there be someone who convinced Planeta to pivot at the last minute?

Most of these questions remain unanswered. What I can tell you, however, is what the book is about. For nearly a decade, Laura has systematically covered the Char family. With a fortune of around \$400 million³ they stand among Colombia's wealthiest and most powerful cliques. They influence almost every aspect of life in Barranquilla. They own the largest supermarket chain in the region, the most popular radio station in the country, the local soccer team, and a bank; like almost every rich family in Colombia, of course, they have ventured into politics. The Chars have unanimously controlled Barranquilla's city council for over fifteen years, even electing the last two governors of Atlántico (the department, the Colombian equivalent of a state, to which Barranquilla belongs). Their influence has surpassed the Caribbean and reached national politics. Fuad Char (the family's patriarch) has a group of six congresspersons that follow his orders; his son, Arturo, was president of the Congress three years ago; his other son, Alejandro, better known as Álex, mayor of Barranquilla for eight years, is running again for another four-year term. Last year, he ran for president.

Laura's book, as she puts it, "tries to explain the lights and shadows of this group that holds so much power."⁴ No one has a problem with the lights: the Char family has no problem when reporters celebrate their successes. It's speaking about the shadows that brings trouble. It's reporting on the corruption scandals or the problematic contractual system the family has established in Barranquilla, one which allows a considerable chunk of the city's budget to end up in the hands of their supporters, that causes problems. At bottom, they make public scrutiny almost impossible and

impossibly dangerous. In these eight years of reporting, Laura has had her notes stolen by gunmen and received multiple threatening messages. I have seen this with my own two eyes while covering Barranquilla's politics with her. One time, I was even assaulted when, on election day, I took a photo of some of their allies buying votes in Sincelejo, a small sweltering city on the Caribbean coast.

Planeta censoring Laura's book was shocking, but, in the end, it was no surprise. It was just another chapter in what has proven a long story about Caribbean corruption.

"I publish this story [about her book not being published] because I think it is not just regrettable, but of public interest that a relevant journalistic investigation cannot see the light. Citizens lose when they can't access information. I consider, too, that it is a strong message that can inhibit colleagues from thinking of similar projects,"⁵ Laura writes.

Fortunately, those who wanted to kill the book didn't get away with it. Justice, even if only in small ways, does sometimes prevail. After Laura wrote her op-ed, a wave of solidarity swept over the Colombian journalistic and editorial milieu. Journalists, the Colombian Foundation for Freedom of Speech, and writers, supported her. She was interviewed by almost every news outlet in Colombia (except, of course, the ones that never publish pieces that find the Char's disfavor). She was even a guest on *El Hilo*, a podcast by Radio Ambulante Estudios, the most popular podcast network in Latin America. Juan David Correa, Planeta's editorial director, left his position after five years in charge. "In light of the corporate decision to cancel this serious and solid journalistic investigation, my possibilities and legitimacy have been decimated. An editor needs, without doubt, the support and the liberty to think and decide what conversations they propose to a society,"⁶ he wrote in his resignation letter.

Fun fact: After his resignation, Correa was named by President Gustavo Petro, a fierce opponent of the Char family, as minister of culture. I joked with Laura about how she had managed to move the strings of Colombian politics.

Less than two weeks after the scandal, Laura found a new publisher, one willing to take the risk of putting out her book. Quickly and unexpectedly, it's now a bestseller! As Laura told me in a phone call, her debut book sold over 1,000 copies in presale, an unprecedented number in Colombia. *La Costa Nostra*—a wordplay using the Spanish word "*Costa*" (coast) and the Italian term "*cosa nostra*" (our thing), an allusion to the

Sicilian mafia—was finally released on August 26. After only two weeks, it had sold over 10,000 copies, and it's already in its second edition.

Divine justice, some might say.

I prefer to frame it as a hard-won battle in the ongoing war against silence in Colombia. For decades, journalists in the country have been kidnapped, tortured, exiled, and killed. Although there are still a couple of murders per year, things are thankfully not as violent as they were 20 or 30 years ago. But those in power still use the tools at their disposal to enforce silence: mounting frivolous lawsuits, accusing journalists of political militancy, libeling them, pressuring their editors, insulting them, and, in the most extreme cases, threatening them with physical harm. The methods might have changed, but the goal is still the same: adjusting the truth to fit their ambitions, to preserve the status quo.

"I resist any censorship and burying or taming of truths. The weapons to do so are the only ones pedigree journalists have: courage and words," Laura Ardila writes.

"Sometimes, or almost always, these are just David's sling, but it doesn't matter. Because silence is never an option."⁷

This was Laura's last journalistic lesson for me. Societies can't flourish in silence. If a community wants to acknowledge, as democracy implies, that every human being has the same, inalienable rights, it needs to allow, even nurture, public conversations about the truth; even if these are uncomfortable, the truth is worth it. This is where journalism and journalists come in.

From Nazi Germany to Putin's Russia, to the Trumpist U.S., and even boiling-over Latin America, journalists have known that there can be no real democracy if silence reigns. Authoritarianism rears its head when there is no space for public discussion. Our weapons for this battle seem weak; courage and words feel like a tiny sling compared to the money, the lawyers, and the guns readily available to the enemies of truth. Sometimes, writing about the powerful feels like shooting pebbles at a giant. At times, it all seems pointless. But, when this bleakness looms, it's worth remembering that, just as Laura taught me, words are slings. Indeed, they are. But, despite their tininess, they are the slings that threaten our modern-day Goliaths.

Juan Pablo Pérez-Burgos was a 2023 FASPE Journalism Fellow. He is currently pursuing a master's degree at the UC Berkeley Graduate School of Journalism.

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Searching for Sky

ZAK VESCERA

“I don’t even know what we’re talking about anymore.”

Jean-Luc Mélenchon has been speaking with this other voice for nearly five hours now. It is the small hours of the morning in the heat of a presidential election cycle that could bring Mélenchon to the Elysée. They talk about the campaign trail, his climate policy and his fear of a burning world. He lands on a tangent about a little cottage he owns in the French countryside and his little garden in front. Suddenly, he loses his place in the conversation. He’s tired. But the voice has more questions.

“It’s 1:30 in the morning,” Mélenchon remarks.

“Nonsense,” the other responds. “It’s only 1:17.”

This faceless voice is one of France’s most influential podcasters. The man known only as “Sky” has secured interviews with some of the most powerful people in the country. He racks up millions of views on his YouTube channel, *Thinkerview*, and millions more via livestreams on Facebook and other platforms.

Through it all, Sky has stayed anonymous. His guests answer questions from a plain, grey chair, the interviewer hidden outside the frame. When they attempt to allude to his identity, he cuts them off. He rarely responds to media requests, once telling a journalist that he usually grants them only to students completing research projects (he did not respond to mine). When Sky does speak to reporters, he does so under strict conditions: no photos, no comments that might identify him, no asking about his past.

We know a few things: Sky lives in Paris, is a former computer hacker, and wants to transform media as we know it. “In France today, the news has become counter-productive,” he told *Les Inrockuptibles*. Sky sees declining trust in journalism as a result of reporting that is incurious, lazy, and partisan. His solution is a channel that rebukes most modern journalistic conventions, including the notions that journalists should be identifiable and their work attributable.

To his supporters, Sky's channel is a radical experiment, one that is invigorating engagement in longform media at a time when trust in the conventional press is collapsing. But Sky's popularity despite his decision to stay hidden raises key ethical questions for journalism in the digital age. Journalists have chosen to hide their identities for centuries, though typically only under oppressive regimes that criminalized critical reporting. Sky's case is different; his anonymity appears to be a preference. In seeking to repair the media, Sky may in fact be part of a movement of people fundamentally altering its norms, changing the public view of what journalism can and can't be (or should and shouldn't be).

Thinkerview began in 2013 but rose to prominence five years later amid social turmoil in France. That was the beginning of the *gilets jaunes* or "Yellow Vest" Movement in France, protests against fuel taxes that became a massive, grassroots push for democratic reform in Emmanuel Macron's government. *Thinkerview* proved to be an attractive outlet for the movement's supporters, who include a broad coalition of activists from both extremes of the political spectrum. *Le Monde* reported the number of subscribers grew from 200,000 to 310,000 in that year; today, there are more than 1.1 million. *Thinkerview* began securing interviews with more prestigious guests, some of whom were directly affiliated with the Yellow Vests.

But Sky's guests were not limited to popular protesters. There was also the famed media analyst Daniel Schneidermann, Artem Studennikov, an aide to the Russian embassy in Paris, and eventually Mélenchon, then the leader of the far-left party La France Insoumise. Other *Thinkerview* guests have included physicists, former spies, bankers—experts, almost invariably, in their given fields.

In some ways, *Thinkerview's* appeal is its intentional refutation of most media publications' business models. While other outlets make TikTok accounts, Sky publishes interviews that are about two hours long on average. They are loose, flowing conversations that touch on everything from the media to espionage to climate change to European financial policy. Sky does not have a formal journalistic background, and his discussions with guests are often meandering, giving experts time to walk through their thoughts uninterrupted. This structureless approach curates a sense of intimacy and intellectual curiosity. François Boulo, a spokesman for the Yellow Vest Movement, for example, said on *Thinkerview* that the channel, in some ways, realized French philosopher and social scientist Pierre Bourdieu's dream: a democratization of education and information.¹

That loose format, however, also constitutes the channel's biggest liability. Sky rarely cuts off his guests, and the channel does not support any form of live fact-checking.

Some observers, like Clement Parot of the French publication *France Info*, argue this approach gives the veneer of credibility to views that don't deserve it. Many of his guests, however, are esteemed, respected academics and officials.

But others, like the far-left activist Étienne Chouard, have a long history of spouting conspiracy theories. Michel Collon, a Belgian essayist, used his 2016 appearance on *Thinkerview* to claim the CIA was training European followers of the Islamic State in camps financed by Saudi Arabia (he offered no proof of his claims, nor was he pressed for any). Since 2018, *Thinkerview* has used a crowd-source fact-checking application on its website, inviting users to flag content they believe is false or misleading. It does not, however, appear for a normal listener tuning in through YouTube, Facebook, or Apple Podcasts. So much, then, for its helpfulness.

In 2019, the Pew Research Centre found that only 28% of surveyed French adults believed the media was “very important” to the functioning of democracy, the lowest out of eight European countries studied in the poll. Notably, younger adults were more likely than their older counterparts to believe journalism matters but were more critical of existing news media; only 66% of surveyed adults aged 18-29 believed the news did a “somewhat” or “very good” job. As Sky has at times suggested, disillusioned, young French people search for alternative sources of information, they come to trust a person who stands outside the norm.

An obvious comparison with Sky is Joe Rogan, whose podcast has now become among the most popular in the English-speaking world. Like Sky, Rogan has come under fire for his inability or unwillingness to challenge guests making outlandish claims. The crucial difference, of course, is that we know who Joe Rogan is. People can challenge his views in an open, face-to-face way. They know how and by whom his work is funded. We journalists can search public records to see if his personal or political affiliations colour his work. All these are norms born of an expectation, as the Society of Professional Journalists puts it, that journalists should hold themselves to the same standard of transparency that they expect from others.²

That's not to say *Thinkerview* is completely opaque. The channel lists an editorial board and maintains public websites and Facebook pages. It claims that its only regular source of revenue is donations from listeners (according to public records, it once also received a €50,000 grant from France's national cultural service).

It's just that the mystery surrounding Sky's identity has fed questions about the channel's operations and whether it has a political agenda or direction beyond its stated goals. Sky has described himself as “apolitical,”³ saying that he intentionally

spoils his ballots rather than voting for a given candidate. *Le Monde*, in 2019, deemed Sky's ideology "unclassifiable."⁴ But the channel has since offered airplay to several guests associated with Vladimir Putin's Russia, including a spokesman for the state outlet *Sputnik* and the head of the French branch of *Russia Today* (both interviews precede the Russian invasion of Ukraine).

Some commentators have argued that Sky has a right to conceal his identity.

Fabrice Epelboin, a professor at Sciences Po Paris, told the magazine *Marianne* he had known Sky for years but had never asked for his last name. "It's a typical hacker's habit," Epelboin told the publication, "to not put anyone else in danger."⁵ He is far from the only commentator or journalist who publishes anonymously. During the French Revolution, different groups and authors published their own newspapers, usually under pseudonyms. They took this step to protect writers against reprisal. Today, journalists who take such steps often operate under hostile, anti-democratic regimes where state laws mean that gathering news poses real, tangible risks to their safety and the safety of their families. But France, to most people, is not the kind of country where such secrecy is necessary. Its own revolutionary history offers an example of the dangers of widespread anonymous publishing. These anonymous publications operating during the revolution frequently published fabricated or wildly misleading information in a bid to advance political agendas.

Despite these reservations about Sky, we should not think that France is a model for press freedom. In 2019, Reporters Without Borders demanded the government respect the freedom of reporters covering the Yellow Vests protests; the organization said more than 80 reporters had been the victims of police violence since the actions began. In July of this year in response to a series of riots across the country after a young boy was killed by police, French president Emmanuel Macron considered passing a law allowing him to block social media and tap into cell phones. While there is no agreed-upon limit to the violence or fear a reporter should face before they must go underground, these events indicate a future in which more may follow Sky's lead. In these circumstances, anonymity becomes an attractive, if flawed, alternative to repression and harassment.

Howsoever you choose to judge Sky, his popularity raises fundamental questions about where journalism is and where it is going. His choice to remain anonymous and the efforts he takes to conceal his identity open the door to a world where journalists are not expected to be transparent about how they conduct their work and who pays them to do so. The lack of rigour he takes in interviewing some of his guests highlights the material harm this approach can cause by amplifying misinformation,

omitting context, or otherwise distorting how listeners understand the world around them.

That leads to an even more complicated ethical question: should Sky be unmasked? If he has made the choice to remain anonymous, do others have a right to reveal that identity? Does that meet standards of public interest and trust that journalists should hold themselves to?

In 2019, the French non-profit Conspiracy Watch published a photo of a Paris dinner hosted by Sergey Lavrov, Russia's minister of foreign affairs. Conspiracy Watch claimed that one of the attendees was Sky, something the podcaster has never confirmed or denied (he accused Conspiracy Watch of promoting "guilt by association" and said that if he were there, it was to convince Lavrov to appear on his program). The man who might be Sky wore only black. He's tall, his light brown hair combed to one side. Conspiracy Watch also published what they believe is his name. I, however, will not repeat it here.

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Notes

1. https://www.youtube.com/watch?v=tRl9_q2ytI8
2. <https://www.spj.org/ethicscode.asp>
3. https://www.francetvinfo.fr/economie/transports/gilets-jaunes/qui-se-cache-derriere-thinkerview-la-chaine-youtube-qui-surfe-sur-le-mouvement-des-gilets-jaunes_3441317.html
4. https://www.lemonde.fr/m-le-mag/article/2019/03/22/thinkerview-la-chaine-youtube-qui-veut-hacker-les-medias_5439850_4500055.html
5. <https://www.marianne.net/medias/le-phenomene-thinkerview-ou-le-triomphe-de-l-info-non-formatee>

LAW

Legal Syzygy

ELODIE O. CURRIER

In the Auschwitz-Birkenau Memorial and Museum, Auschwitz I's Block 20 houses a French national exhibition in remembrance of Jews deported from France to Auschwitz between 1942 and 1943. Seeking to memorialize victims, the exhibit displays dozens of brief summaries of lives cut short. In a room full of pathos, one example is particularly striking.

Per Plaque D24, Anja Schaul was born in Paris to a German mother—a refugee and children's book author.¹ Like many other children memorialized in the exhibit,² the plaque describes how Anja “*est déportée*”—was deported. However, unlike others, the plaque includes two odd sentences: that Anja and her mother “*on tête arrêtées*” (had been arrested) on July 15 and that on January 27, and “*la Gestapo vient arrêter l'enfant de 6 ans à l'école*” (the Gestapo went to arrest the six-year-old child at school).

Reading Anja's plaque, I was sure my French had gone from rusty to hopelessly corroded,³ or that, as can be the case in memorialization,⁴ the sharp language was more for effect than accuracy. Surely even under these circumstances, the seizure of a six-year-old by security police could not be a legal arrest.⁵ However, a hand-scrawled note at the bottom of a memo written by the Commissioner of Police of the French Village of Saumur confirms just that.⁶ The Commissioner of the Police “has the honor of letting [the Minister of the Interior] know” that along with Savinien Schermann and Madeline Mabileau, “Annia Schaul” was arrested on the morning of January 27th.⁷ In case their cause of arrest was not clear, the Commissioner notes that “*ces deux personnes* [Schermann and Maileau] *étaient de confession Israelite*”—these two people were Jewish.⁸

In the two weeks prior to visiting Auschwitz-Birkenau with FASPE, I had seen plenty of examples of the ways Nazi Germany had incorporated euphemisms and legal fictions into its genocidal campaigns. From the T-4 “euthanasia” program to the “protective custody” that brought political dissenters to Sachsenhausen, Nazi lawyers and policymakers' fixation on hiding their wrongdoing in plain sight—or in plain language—was obvious. What made Anja's “arrest” so jarring was the tension

between the language used to describe a legal action and the profound cruelty of that action. And how familiar that tension is in modern legal practice.

Precise language is an essential part of lawyering. Millions of dollars are spent in accumulated fees negotiating and litigating individual sentences, words, and commas.⁹ Unfortunately, that precision can easily disguise euphemism and distance decisionmakers from the cruelty of their actions. Take, for example, the shift from U.S. officials' use of the term "War on Terror" to "Struggle Against Violent Extremism." In 2005, the Bush Administration shifted to the latter term for their efforts against al Qaeda, the Taliban, and associated forces.¹⁰ While spokespersons for the Department of Defense justified the language shift as being more precise in the face of a changing strategy,¹¹ commentators saw an effort by the administration to distance themselves from a "war" they were perceived to be losing.¹² The linguistic change, which continued into the Obama administration,¹³ suggested a downshift from a strategy of all-out combat to a more pacifist, diplomatic approach. In reality, the opposite was true: after the transition to "struggle against violent extremism," troop levels intensified,¹⁴ and drone strikes increased by a factor of ten.¹⁵

These linguistic sleights of hand extend beyond the military into corporate and legislative practice. Definitional questions can transform seemingly clear contract or legislative language into a thicket of diffuse meanings. Casebooks are full of disputes over their results: Is a "chicken" any bird of a specific genus, or does it only mean a young chicken suitable for broiling or frying?¹⁶ Does "harming" a species include only direct application of force or also destruction of their environment leading to death?¹⁷

But aren't lawyers and judges there to ensure people say what they mean and are held to account? In the abstract, yes. When language becomes too distant from reality, however, dangers arise for more than just the parties to a case. Legal fictions—when judges incorporate assumptions of fact to reach a legal conclusion often at odds with the truth—can reduce confidence in the judicial systems and mislead citizens.¹⁸ When the tension between truth and language goes further, beyond mere euphemism or legal fiction into a sort of doublespeak, these dangers become even more pressing.

In Jungian psychology, the term *syzygy* denotes a union of opposites.¹⁹ Legal syzygy, then, would be the unification through judicial decree or legislation of two terms with otherwise opposite meanings. Legal syzygy goes beyond mere legal fiction. It arises when the use of hidden or counterintuitive definitions allows statements presented to the public to have opposite or near-opposite meanings. Here, we approach perhaps the

most dangerous form of euphemism, the sort that can see the “arrest” of a six-year-old for the “crime” of Judaism.

Take certification standards for environmental, social, and governance efforts. The Roundtable for Sustainable Palm Oil states that its stamp of approval “is a globally recognized ecolabel that signals the use of RSPO certified sustainable palm oil.”²⁰ The label guarantees that products use “certified sustainable palm oil,” which, per the Roundtable “allows companies to demonstrate that they are responsibly protecting the environment, improving social and labour practices on oil palm plantations, and positively assisting with wildlife conservation.”²¹ In truth, the standard only prohibits deforestation of the most threatened areas, what it describes as “High Conservation Value” areas where, *inter alia*, ecosystems and endangered species “are [at] significant [risk] at global, regional, or national levels,” or “High Forest Cover Landscape,” where landscapes have more than 80% forest cover, with “landscapes” defined by a malleable definitional tool.²² By narrowing the definitions of areas deserving of protection, the certification standard becomes near-meaningless. Over the past 30 years, RSPO-certified firms deforested more acreage than non-certified firms.²³ In other words, while consumers may feel better buying RSPO eco-labelled products, legal syzygy allows a sort of willful blindness to the reality that their purchases were more likely to directly contribute to deforestation.

Even by its own certification standards, RSPO’s definitions further distort matters by incorporating syzygy into its “no child labour” policy. RSPO’s Principles and Criteria for the Production of Sustainable Palm Oil clearly state that part of the certification process is “no child labour.”²⁴ However, outside of a “formal policy [...] including prohibition of child labour” being in place through the supply chain, the criteria walk back the “no child labour policy,” allowing “young persons [to be] employed only for non-hazardous work.”²⁵ The definitions section further erodes the standard, allowing work by minors so long as it is not one of “the worst forms of child labour,” the child is not under 12, and those 12-14 are only engaged in “light work.”²⁶ Again, legal syzygy allows “no child labour” to mean “some child labour.” While there may be legitimate policy reasons to add nuance to an otherwise all-or-nothing requirement, burying these nuances through syzygy misleads consumers and presents certification as a panacea rather than opening up discussion about the ways it is tailored.

These issues are not limited to certification regimes. Syzygy allows Facebook and Google to simultaneously not sell location data and “lead in location-based advertising.”²⁷ It allowed the United States to claim that the U.S. would not be

engaged in torture so long as the torture it was engaging in took place in a special jurisdictional zone and the torturer did not *intend* to inflict “prolonged mental harm.”²⁸

If euphemism allows the transmission of unpleasant truths without the negative consequences of disclosure,²⁹ syzygy allows willful blindness. Mischa Maschman, a member of the Nazi Party, described her complicity in the Holocaust as enabled in part by the doublespeak used by the Nazi Party.³⁰ So too, syzygy risks allowing decisionmakers to carry out unethical conduct without fear of detection or removal. Even for those that are looking for the truth of the matter, syzygy erects barriers for people as they consider what to buy, what to advocate for, and how to vote.

In many cases, attorneys generate syzygy. Burying meaning in obfuscation and circularity has advantages in the arms race between corporate players and in the battles over legislative drafting, but it comes at a cost. When the public is misled by a legal meaning that stands in opposition to factual practice, it can not only legitimize wrongdoing but also delegitimize the legal system itself. The arrest of Anja Schaul was a kidnapping, but through the operation of law, it was given legitimacy and allowed those complicit an internal justification.

This is not to say euphemisms are not useful linguistic tools: they can spare feelings³¹ and avoid unnecessary conflict.³² Careful use of language can also serve as a protective measure for victims of crime or violence to discuss their ordeals while avoiding re-traumatization.³³ As agents of the law and as guarantors of due diligence, however, attorneys must shine a light on syzygy’s uses and the purposes they serve. To avoid erosion of American confidence in rule of law, it is vital to investigate where syzygy exists, how it is used as a tool, and what methods are available to bring it to light.

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Notes

1. Anya Schaul’s plaque reads, in full, as follows:

“Anja Schaul, était née le 16 mai 1937 à Paris ou sa mère, Ruth, allemande, auteur de livres pour enfants, s’était réfugiée. Le père, Hans, après avoir connu le camp du Vernet, fut interne par Vichy dans un camp de travail en Afrique du Nord. Ruth et Anja on tête arrêtées à Rosier-sur-Loire (Maine-et-Loire) le 15 juillet. Ruth est déportée par le convoi et va à l’école. Le 27 janvier la Gestapo vient arrêter l’enfant de 6 ans à l’école même et la transfère à Drancy d’où

elle est déportée le 10 février 1944 par le convoi n. 68. Il ne reste d'elle que cette photo et une carte envoyée à son père en octobre 1942."

An extensive record of the Schaul family's history, along with primary sources, is available at <https://shoahpresquile.com/2019/01/03/ruth-schaul-148/>. While some sources serve to underline the legalization of cruelty in Vichy France (for example, a memo from the Office of the Prefect in response to a family hoping to house Anja states that « *l'hébergement d'enfants juifs dans des familles françaises est considérée comme non désirable [...] et n'est autorisé en aucun cas.* » - the housing of Jewish children in French families is considered undesirable and is not authorized in any case.

<https://shoahpresquile.files.wordpress.com/2020/01/15schauladla1694w26correspondancekommandantur.jpg>), it also underlines the deep concern that many French people felt for their Jewish neighbors. See SCHAUL, Ruth, Anja, [Hans] [148], *The Shoah in the District of Saint-Nazaire* (FC iref, SHOAHPRESQUILE.COM (Jan. 3, 2019), <https://shoahpresquile.com/2019/01/03/ruth-schaul-148/>). A brief history of Anja's life was also prepared in 2021 by a primary school in Rosier-sur-Loire which now bears her name. See Commune de Gennes-Val-de-Loire Commission Communication, ANJA SCHAUL ECOLE PRIMAIRE PUBLIQUE LES ROSIERS-SUR-LOIRE (2021), avail. at <https://www.gennesvaldeloire.fr/medias/2021/09/Livret-Anja-BAT.pdf>.

2. For example, Plaque F19, one of the shortest, remembers Jeanine Cahen, who at one year old, was deported with her mother and grandmother. "*Jeanine Cahen avait 1 an. Elle était née le 1er Janvier 1943 à Marseille ou elle vivait 9, rue Lafayette. Elle a été déportée avec sa mère, son père, et sa grand-mère par le convoi n. 74 du 20 mai 1944.*" (Jeanine Cahen was one year old. She was born on Jan. 1st 1943 in Marseille where she lived at 9 Lafayette Street. She was deported with her mother, father, and grandmother on convoy 74 of May 20, 1944.)

3. The French for "arrest" (*arreter*) also translates to "to stop," though the context here suggests that it denotes the legal principle.

4. Memorialization of the Holocaust, and other tragedies, is sometimes alleged to be used for political purposes, even when the usage is at odds with fact. See, e.g., Joanna Kakissis, *Controversy Surrounds Planned Hungarian Holocaust Museum*, NPR (Feb. 6, 2019),

<https://www.npr.org/2019/02/06/69190937/controversy-surrounds-planned-hungarian-holocaust-museum> (Hungarian memorialization of the Holocaust); Paresh Dave, *Solider who may have shot Pat Tillman haunted by remorse*, LOS ANGELES TIMES, <https://www.latimes.com/nation/la-xpm-2014-apr-20-la-na-nn-pat-tillman-soldier-10-years-remorse-20140420-story.html> (discussing the U.S. military's attempts to retroactively paint a friendly fire incident as a heroic death against combat forces).

5. Cf., Cheryl Corley, *In Some States, Your 6-Year-Old Child Can Be Arrested. Advocates Want that Changed*, NPR (May 2, 2022), <https://www.npr.org/2022/05/02/1093313589/states-juvenile-minimum-age-arrested-advocates-change>.

6. Image available at:

<https://shoahpresquile.files.wordpress.com/2020/11/03locauxjuifsvacantsadml97w40.jpg>.

7. *Id.*

8. *Id.*

9. See, e.g., O'Connor v. Oakhurst Dairy, 851 F.3d 69 (2017) (Circuit Judge Baron writing, in approving a settlement in a dispute in which the critical issue was interpretation of an oxford comma, "for want of a comma, we have this case.").

10. Bruce Ching, *Echoes of 9/11: Rhetorical Analysis of Presidential Statements in the "War on Terror"* 51 SETON HALL L. REV. 431, 442 (2020).

11. *Id.* ("Chairman of the Joint Chiefs of Staff Richard Myers justified [the shift] by positing that going forward, the effort of the U.S. and its allies would be 'more diplomatic, more economic, more political than it is military.'") (citing Eric Schmitt & Thom Shanker, *U.S. Officials Retool Slogan for Terror War*, N.Y. TIMES (July 26, 2005), <https://www.nytimes.com/2005/07/26/politics/us-officials-retool-slogan-for-terror-war.html>).

12. *Id.* at 442-443 (suggesting that the Bush Administration shifted away from the more powerfully all-consuming war footing because the new phrase "would not highlight 'the failure of the president's war policy'—in contrast to 'the war frame [that] includes an end to the war—winning the war, mission accomplished!'").

13. Ari Shapiro, *Obama Team Stops Saying 'Global War on Terror' But Doesn't Stop Waging It*, NPR (Mar. 11, 2013), <https://www.npr.org/sections/itsallpolitics/2013/03/11/174034634/obama-team-stops-saying-global-war-on-terror-but-doesnt-stop-waging-it>.

14. Average monthly boots on the ground in Afghanistan and Iraq increased every year from FY2003 to FY2008, with the exception of a 1% annual decrease in FY2006, and peaked in FY2008 at 187,900. *See* Amy Belasco, *Troop Levels in the Afghan and Iraq Wars, FY2001-FY2012: Cost and Other Potential Issues*, CONGRESSIONAL RESEARCH SERVICE, at 9 (July 2, 2009), avail. at <https://sgp.fas.org/crs/natsec/R40682.pdf>.
15. Jessica Purkiss & Jack Serle, *Obama's Covert Drone War in Numbers: Ten Times More Strikes Than Bush*, BUR. OF INVEST. J. (Jan. 17, 2017), <https://www.thebureauinvestigates.com/stories/2017-01-17/obamas-covert-drone-war-in-numbers-ten-times-more-strikes-than-bush>. *See generally* Elodie O. Currier, *After Action: The U.S. Drone Program's Expansion of International Law Justification for Use of Force Against Imminent Threats*, 76 VAND. L. REV. 259, 287-282 (2023) (discussing shifts in drone policy between the Bush, Obama, Trump, and Biden Administrations).
16. *Frigalment Importing Co. v. B.N.S. International Sales Corp.*, 190 F. Supp. 116 (1960).
17. *Sweet Home Chapter of Communities for a Great Oregon v. Babbitt*, 17 F.3d 1463, 1465 (D.C. Cir. 1994), *rev'd*, 115 S. Ct. 2407 (1995).
18. *See generally*, Elodie O. Currier, *Myth of Anonymity: De-Identified Data As Legal Fiction*, 54 N.M. L. REV., *17-*30 (forthcoming 2024).
19. Carl Jung uses “syzygy” to denote two opposing traits that are “yoked together” or unified. *See, e.g.*, C.G. Jung, *The Syzygy: Anima & Animus*, in COLLECTED WORKS OF C.G. JUNG, VOL. 9 (PT. 2) (Princeton, 1969).
20. RSPO, *RSPO Trademark Ranks Among Top 12 Food Ecolabels*, RSPO (May 24, 2022), <https://rspo.org/rspo-trademark-ranks-among-top-12-food-ecolabels/>.
21. RSPO, *Our Trademark*, RSPO (last visited July 9, 2023), <https://rspo.org/as-an-organisation/our-trademark/>.
22. RSPO, 2018 PRINCIPLES AND CRITERIA FOR THE PRODUCTION OF SUSTAINABLE PALM OIL (2018), at 14.
23. Roberto Cazzolla Gatti & Alena Velichevskaya, *Certified “Sustainable” Palm Oil Took the Place of Endangered Bornean and Sumatran Large Mammals Habitat and Tropical Forests in the Last 30 Years*, 742 SCIENCE OF THE TOTAL ENVIRONMENT 140712 (2020).
24. *Id.* at 71 (“The size of a landscape may be determined by identifying the watershed or the geographical land unit containing a cluster of interacting ecosystems; (b) selecting a unit size that encompasses the plantation concession *and a buffer of the surrounding area* (e.g. 50,000 ha or 100,000 ha); or (c) using a radius of 5 km from the area of interest (for instance, the planned concession.”)
25. *Id.* at 46-47.
26. *Id.* at 65.
27. Jennifer Valentino-DeVries, Natasha Singere, Michael H. Keller & Aaron Krolik, *Your Apps Know Where You Were Last Night, And They're Not Keeping it Secret*, N.Y. TIMES (Dec. 10, 2018) <https://www.nytimes.com/interactive/2018/12/10/business/location-data-privacy-apps.html?smid=tw-nytimes&smtyp=cur>. While Facebook and Google's claims that they do not sell location data may be legally accurate, compliance with those claims do not prevent the platforms from using location data to create a more detailed (and more valuable) profile of your habits, nor do they preclude internal use to track ad performance. *Id.*
28. John Yoo, MEMORANDUM FOR WILLIAM HAYES II, GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (Mar. 14, 2003), avail at <https://www.aclu.org/documents/memo-regarding-torture-and-military-interrogation-alien-unlawful-combatants-held-outside> at 41 (among other claims, writing that “Because the presence of good faith would negate the specific intent element of torture [a good faith claim that the inflictor did not intend to cause prolonged mental suffering] is a complete defense to such a charge.”)
29. A 2021 study published in the journal *Cognition* shows that use of euphemistic language improves public approval for unpopular actions while avoiding perceptions that the speaker is being dishonest. *See* Alexander C. Walker, Martin Harry Turpin, Ethan A. Meyers, Jennifer A. Stolz, Jonathan A. Fugelsang, & Derek J. Koehler, *Controlling the Narrative: Euphemistic Language Affects Judgements of Actions While Avoiding Perceptions of Dishonesty*, 211 *Cognition* 104633, *9-*11 <https://doi.org/10.1016/j.cognition.2021.104633>.
30. *Maschmann* at 59 (“I did not read the Nuremberg Laws [...] until I had to give a course on them at a Labour Service camp. Previously I had been satisfied with a very imprecise knowledge of their contents. Doubtless this is because I did not want to know exactly what they contained. I did not want to be obliged to think about it.”); *Id.* at 105 (Here, as there, a different attitude could perhaps have lead to suicidal consequences. If I had inquired further, I would have become inextricably entangled in conflicts which

would have caused the total collapse of my ‘world.’ Clearly our subconscious energies and I can speak here for many of my companions were fully concentrated on protecting us from such crises.”)

31. Theda C. Snyder, *How Euphemisms Improve Your Lawyering*, ATTORNEY AT WORK (May 30, 2022), <https://www.attorneyatwork.com/how-euphemisms-improve-your-lawyering/> (“The sister [in a eulogy] said that [decendent] maintained an “air of innocence” throughout her life . . . In fact, [decendent] was a total airhead.”).

32. *Id.* (cautioning that non-euphemistic phrases like “lied” are “guaranteed to antagonize opposing counsel.”)

33. The line between euphemism and trauma-informed language is somewhat blurry: even guides on journalistic coverage and social work seem to blend the two. *See, e.g.*, Isobel Thompson, *Dart Center Style Guide for Trauma-Informed Journalism*, DART CTR. FOR JOURNALISM & TRAUMA (last visited Jul. 7, 2023), <https://dartcenter.org/resources/dart-center-style-guide>; *Screening and Assessment in TRAUMA-INFORMED CARE IN BEHAVIORAL HEALTH SERVICES* (Center for Substance Abuse Treatment 2014), avail. at <https://www.ncbi.nlm.nih.gov/books/NBK207188/>.

An Ethical Vision for Lawyers in the 21st Century

KEVIN FRAZIER

INTRODUCTION

The American Bar Associations¹ (ABA)'s *Model Rules of Professional Conduct* (*MRPC*) have become an ethical scapegoat. Many legal practitioners—as instructed by *MRPC*—act “with zeal in advocacy upon the client's behalf”² and justify any ethically questionable results as unfortunate byproducts of their adherence to the rules. A profession-wide re-examination of the ethical rules and principles that govern and guide lawyers is overdue.

FORGOTTEN VIRTUE AND THE RISE OF THE LAWYER-ADVOCATE

Previous versions of legal ethics codes expressly sought to balance lawyers' roles (by, for example, limiting a lawyer's duties to their clients vis-à-vis other societal roles). Over time, the order of these duties has flipped. Amendments to the *MRPC* over the course of several decades have incrementally but substantially deprioritized a lawyer's responsibility to the general administration of law. Caused in part by zealous representation of their client, today *MRPC*-compliant lawyers can “ethically” remain indifferent to injustices visited on society. A brief historical overview, however, shows that this client-advocacy-focused approach is something of an aberration.

Before 1836, when David Hoffman published his *Fifty Resolutions on Professional Deportment*,³ little if any work had been done to govern and guide American lawyers.⁴ Hoffman's *Resolutions* emerged in an age of increasing individualism and de-professionalization of the Bar.⁵ In response to those trends, Hoffman identified an aspirational set of rules that have influenced every subsequent iteration of generally applicable ethical rules and principles for the profession in the US.⁶

Several of these resolutions pertain to questions of balance in advocacy. Resolution I directed lawyers not to allow “professional zeal . . . [to] carry [them] beyond the limits of sobriety and decorum.”⁷ Next, Resolution XI urged lawyers not to become

“partner[s] in [their clients’] knavery.”⁸ And, perhaps most importantly, Resolution XXXIII stated that “[w]hat is morally wrong, cannot be professionally right, however it may be sanctioned by time or custom.”⁹ Considered as a whole, these Resolutions reflect Hoffman’s belief that a lawyer “should do nothing to advance injustice,” as paraphrased by Professor Stephen Kalish.¹⁰

Judge George Sharswood’s *An Essay on Professional Ethics* (1854)¹¹ attempted to carry Hoffman’s work into a future in which the de-professionalization wave had crested, bringing about the creation of legal institutions and practices still extant today.¹² One of the central questions for the increasingly formal profession was to what extent lawyers should serve merely as agents of their clients’ interests.¹³ Despite the substantial economic, political, and cultural changes that transpired between Hoffman and Sharswood’s respective ethical works, Sharswood perpetuated the prioritization of a lawyer’s societal obligations and provided a conception of legal ethics that conflicts with the contemporary consensus.¹⁴

Sharswood did not deny the existence of an adversarial system, nor the need for a lawyer to zealously advocate for clients; he made clear, however, that “a lawyer’s first obligation [...] is to the common good.”¹⁵ Only once that obligation had been satisfied did Sharswood think a lawyer had to zealously represent their client.¹⁶ Both Hoffman and Sharswood advance a republican ideal of lawyering, one that spread in the post-revolutionary era.¹⁷ This broad-role conception of lawyering reflected a general republican belief that lawyers—by virtue of their “public prominence and professional skill”—had a responsibility to foster a “culture of respect for and compliance with the purposes of the laws.”¹⁸

In 1908, the general prioritization of professional duties manifested yet again: this time in the first national code, the American Bar Association’s *Canons of Ethics*.¹⁹ The *Canons* relied extensively on the work done by Hoffman and Sharswood. Twenty-five of the 32 *Canons* embodied principles originally set forth by Sharswood.²⁰ Given this extensive reliance on Sharswood, it is unsurprising that the *Canons* echoed his emphasis on a paramount duty to society, specifically in Canon 32, which instructs that regardless of the importance of any client, a lawyer “will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.”²¹

This emphasis on lawyers’ republican duties was in direct response to the state of the profession at that time. As noted by Professor Russel Pearce, the drafters of the

Canons sought to "reverse what they perceived as the decline of law from its professional role to the status of a business."²² Despite the efforts of the Canon drafters, though, the profession's move toward the "status of a business" continued in the following decades.

Since 1908, serial emendations to national legal ethics codes have pushed lawyers closer to their clients and pulled them further from the broader community. By 1970 when the ABA published its *Model Code of Professional Responsibility (MCPR)*, the transition from a profession that aspired to a lofty social role to a business oriented around its clients had reached its zenith. In doing so, it had infected legal ethics. Pearce stands among few others (if not alone) who argue that the *MCPR* and subsequent ethics codes contain more strands of republican virtue than is typically acknowledged; most commentators advance a different interpretation.²³ Pearce recognizes that "most commentators view legal ethics as having its origins in the lawyer's obligation to the client, with the object being maximization of the client's goals within the limits of the law."²⁴

The majority view finds ample support in the text and interpretation of the ABA's *MRPC*. Published in 1983 and regularly revised since then, the *MRPC* highlights a lawyer's obligation to zealously defend their client. Lawyers and courts alike have interpreted the *MRPC* as a shortcut, bypassing concerns about having to grapple with the ethical qualms inherent in such advocacy.²⁵ For instance, Judge Frederick Martone of the Superior Court of Arizona admitted that the role of a lawyer as "an officer of the court has become a metaphor with little substance."²⁶ Under this interpretation, lawyers have become free to ignore how their zealous advocacy may exacerbate collective action problems and mar the public perception of legal institutions and practitioners.²⁷

What's more, whatever the *MRPC* possesses in terms of specific ethical rules, it lacks in guiding principles. This absence of vision has left lawyers without a "clear sense of what the legal profession 'is,'" per Professor George Hazard.²⁸ Generally though, Hazard reports that lawyers now perceive themselves as "partisan agent[s] acting with the sanction of the Constitution to defend a private party against the government."²⁹

HOW OVERZEALOUS ADVOCACY BURDENS THE LEGAL PROFESSION

Amid a swing in legal ethics from republican virtue to client advocacy, the public's own expectations of lawyers have not wavered—they expect more from lawyers than simply being advocates in an adversarial system.³⁰ Though lawyers may cite the *MRPC* to justify seeking out loopholes and technicalities in the name of winning, the public holds lawyers to a different, higher standard. This mismatch has fostered public distrust in lawyers and, by extension, the legal system.

This suspicion manifests in several ways: fewer lawyers have been elected to legislative offices at the state and federal level, more private parties opt to resolve their disputes outside the formal civil system, and a lack of faith in the courts and law enforcement has spread.³¹ The shortcomings of the *MRPC* do not account for all that distrust. Many argue that the necessary reforms to restore trust in the legal system cut to the core of the legal profession itself. For instance, Rebecca Kourlis, executive director of the Institute for the Advancement in the American Legal System at the University of Denver, insists that the entire legal system requires rebuilding and a reorientation around “open[ness], transparen[cy], and accessib[ility].”³² Kourlis admits that incremental and marginal change will not achieve that goal, which means lawyers must “invite disruption into [their] midst” and learn to “tell a [better] story” about their profession.³³

The story undergirding legal ethics is where the *MRPC* does play a role. Akin to the setting in any other story, the *MRPC* provides the background for the story the legal profession tells itself. Though Model Rule 1.16 permits lawyers to withdraw from representation for “good cause,”³⁴ the Rules on the whole contribute to “[t]he image of lawyers engaged in advocacy divorced from the moral quality of the client's cause or case.”³⁵ Effectively unchallenged by the *MPRC*, adversarialism has been accepted by the profession as an “uncontestable ‘good’, a pragmatic means to justice.”³⁶ This divorce from morality in turn fuels a narrative that lawyers can zealously defend any client and, in doing so, actually promote justice!

Professor James Elkins and others maintain that any enduring change to the profession must include changing the stories lawyers tell themselves. Stories work in an “infinitely subtle process.”³⁷ In the context of the legal profession, a story in which zealous advocates no longer play the part of heroes could “shap[e] [lawyers’ collective] imagination and anchor [...them] against the undertow of an unbounded adversarial zeal that teaches that [lawyers] need not care for others.”³⁸ Unless the story of the

legal profession changes, lawyers will continue to lean on the adversarial ethic as a "guise for amorality, relativism, and self-deception."³⁹

Given the tall order of the suggested reforms, Kourlis thankfully provides the profession with a starting point: "focus on the people using the system."⁴⁰ What is clear is that the public disdains the win-at-all-costs story that pervades the legal profession.⁴¹ The public has become aware that "legal ethics" may constitute an oxymoron.⁴² Lawyerly insistence on adversarial ethics has in turn gotten the profession into a "mess."⁴³ Despite popular discontent with the profession's ethical code (or lack thereof), lawyers remain obstinate in their belief in adversarialism, even as that approach chips away at the legitimacy of the legal system as a whole.⁴⁴

CHANGING THE NARRATIVE: THE FIRST STEP TO A NEW STORY ABOUT THE LEGAL PROFESSION

A new story about the legal profession must restore its reputation. To persuade the public, this story will have to catch on in law school classrooms, law firm boardrooms, and wherever lawyers hold themselves out as representatives of the profession. A revised preamble of the *MRPC* should provide the entire legal community with a starting point for a different, public-oriented narrative.

The first section of the current preamble does little to inspire public confidence in lawyers and even less to dispel public doubts about the priorities of the profession. Read it yourself: "[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice."⁴⁵

A skeptical member of the public could easily find support for their doubts about lawyers by referring to this section. For one, as a professional, the lawyer bears no responsibility to society writ large—only when a lawyer removes their legal hat and becomes a "public citizen" must they accept a "special responsibility for the quality of justice." Relatedly, when lawyers act in their professional capacity, the preamble stresses their obligation to their fellow attorneys, their clients, and, lastly, the courts. This ordering aligns with the public's perception that lawyers pay exorbitant attention to one another and to their clients. Perhaps worst of all, this role conception refrains from imposing any explicit affirmative duty on lawyers to seek justice or, at a minimum, attempt to limit injustice.

The revised preamble corrects these faults and sets lawyers up to tell a story about themselves that has the potential to earn the public's trust:

Revised Preamble

[1] A lawyer, as a member of the community first and legal professional second, has a primary duty to serve the interests of society by furthering the rule of law, maintaining public confidence in the legal system, and preventing injustice. The performance of all legal services must comport with that primary duty and be done in a way that upholds the integrity of the profession and public confidence in the administration of law.

A lawyer who strives to practice pursuant to this revised preamble does not embrace indifference. Indeed, this draft preamble directs lawyers to act as guardians of the law. In practice, this looks like supporting the various functions of the law as well as those intended to benefit most from the protections of the law. In other words, if lawyers complied with this revised preamble, they would begin to more fully meet the public's expectations. In turn, a virtuous cycle would take hold: lawyers would defend the law, the public would benefit from the protection of the law, and lawyers would consequently earn the respect and trust of the public.

This lofty conception of the legal profession may seem overly ambitious. Skeptics could make a strong argument that lawyers have grown too accustomed to their current duties to embrace any other role. But not every lawyer has to see themselves in the revised preamble for a different story to take hold in the profession. So, here's to a few good storytellers reviving the dignity and integrity of lawyers.

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Notes

1. A version of this article will appear in Volume 45 of the *University of La Verne Law Review*.
2. Comment 1 to Rule 1.3, MODEL RULES OF PROFESSIONAL CONDUCT (1983) [hereinafter MODEL RULES].
3. David Hoffman, *A Course of Legal Study Addressed to Students and the Professions Generally* (2d ed. 1836).
4. Russell G. Pearce, *Rediscovering the Republican Origins of the Legal Ethics Codes*, 6 Geo. J. Legal Ethics 241, 250 n.60 (1993).
5. Stephen Kalish, *David Hoffman's Essay on Professional Deportment and the Current Legal Ethics Debate*, 61 Neb. L. Rev. 54, 61 (1982).
6. *Id.*
7. Hoffman, *supra* note 2, Resolution I.
8. *Id.*, Resolution XI, at 754.

9. *Id.* Resolution XXXIII, 765.
10. Kalish, *supra* note 4, at 67.
11. George Sharswood, *An Essay on Professional Ethics*, 32 A.B.A. REP. 1 (5th ed. 1907).
12. Pearce, *supra* note 3, at 249.
13. *Id.*
14. *See id.* at 241; cf Sharswood, *supra* note 10, at 78-79 (discussing a lawyer's obligation to be entirely devoted to the interest of their client).
15. *See* Pearce, *supra* note 3, at 250.
16. *See id.* at 250.
17. *See id.* at 254.
18. Robert W. Gordon, *The Independence of Lawyers*, 68 B.U. L. REV. 1, 14 (1988). Sharswood was not alone among his contemporaries in advancing this broad role. Chief Justice Gibson of the Pennsylvania Supreme Court stated that it was a "popular but gross mistake to suppose that a lawyer owes no fidelity to anyone except his client." Justice Gibson advocated against a role conception that required a lawyer to adhere to the "biddings of his client against the dictates of his conscience." Sharswood, *supra* note 3, at 96-97 (quoting various opinions by the Pennsylvania Supreme Court).
19. CANONS OF ETHICS, 33 A.B.A. REP. 575 (1908) [hereinafter CANONS].
20. Pearce, *supra* note 3, at 243.
21. CANONS, *supra* note 18, at Canon 32.
22. Pearce, *supra* note 3, at 267 (internal citation omitted).
23. *See id.* at 276.
24. *Id.*
25. *See generally* Forest J. Bowman, *The Proposed Model Rules of Professional Conduct: What Hath the ABA Wrought?*, 13 Pac. L. J. 273 (1982); Robin West, *Review: The Zealous Advocacy of Justice in a Less Than Ideal Legal World*, 51 Stan. L. Rev. 973 (1999).
26. Frederick J. Martone, *Adversary Adjudication on Trial*, 21 Ariz. St. L. J. 227, 228 (1989).
27. *See generally* James Elkins, *The Moral Labyrinth of Zealous Advocacy*, 20 Cap. Univ. L. Rev. 735, 735 (1992).
28. Geoffrey C. Hazard, Jr., *The Future of Legal Ethics*, 100 YALE L.J. 1239, 1242 (1991).
29. *Id.* at 1244; *see also* Kalish, *supra* note 4, at 54 (stating that the current ethical codes define "the attorney's role primarily [as] an advocate in an adversarial setting," and that whatever limits on that role exist, "in balance the tone [of the ethical codes] is adversarial").
30. *See, e.g.*, William Rochelle & Harvey Payne, *The Struggle of Public Understanding*, 25 Texas B.J. 109, 159 (1962); Elkins, *supra* note 26, at 737; Matthew Kim, *For Appearance's Sake: An Empirical Study of Public Perceptions of Ethical Dilemmas in the Legal Profession*, 83 Ohio St. L. Rev. 530, 532 (2022).
31. Rebecca Kourlis, Public Trust and Confidence in the Legal System: The Way Forward (Sept. 13, 2019), <https://iaals.du.edu/blog/public-trust-and-confidence-legal-system-way-forward>
32. *Id.*
33. *Id.*
34. Rule 1.16, MODEL RULES, *supra* note 1.
35. Elkins, *supra* note 26, at 752; *see, e.g.*, Comments to Rule 1.2, MODEL RULES, *supra* note 1 (insisting that representing a client in no way means the lawyer approves of the client's positions).
36. Elkins, *supra* note 26, at 737.
37. *Id.* at 764.
38. *Id.*
39. *See id.* at 738.
39. Kourlis, *supra* note 30.
41. *See, e.g.*, Elkins, *supra* note 26, at 735-37.
42. *Id.* at 737.
43. *Id.*; *see generally* Liwen Mah, *The Legal Profession Faces New Faces: How Lawyers' Professional Norms Should Change to Serve a Changing American Population*, 93 Cal. L. Rev. 1721 (2005). Note that Americans are not alone in distrusting lawyers. *See, e.g.*, Melissa Coade, Why don't people trust lawyers?, LSJ (Dec. 1, 2018), <https://lsj.com.au/articles/a-matter-of-trust/> (reporting a lack of trust in lawyers among the Australian public).

44. *See* Elkins, *supra* note 26, at 737.; Susan Fiske and Cydney Dupree, *Gaining trust as well as respect in communicating to motivated audiences about science topics*, PNAS (Sept. 15, 2014), <https://www.pnas.org/doi/abs/10.1073/pnas.1317505111>
45. Preamble, MODEL RULES, *supra* note 33.

MEDICAL

Challenging Contemporary Physicians' Disability Bias: Understanding and Applying Lessons from *Krankenmorde*

SIMRUN BAL

It is a sunny day in Brandenburg, Germany, and we are visiting the Memorial to the Victims of Euthanasia Murders (Gedenkstätte Opfer der Euthanasie-Morde). The memorial is the site of a former gas chamber where more than 9,000 ill and disabled patients were murdered with poison gas as part of the Aktion T4 (Operation T4) beginning in 1939. Despite the sunshine that surrounds us, it feels stark and empty here. The wind blows and a haunting feeling comes over us.

As we look around at the site of this former gas chamber, we note the many suburban homes all around parts of the town, where residents walk and go about their daily lives. There is a hospital around the corner. What did passerby notice? How did physicians become complicit in this euthanasia center, one that nurtured killing techniques later used in death camps? What can contemporary physicians caring for patients with disabilities learn from this unfortunate legacy?

Studies of contemporary physicians demonstrate that many doctors hold biased perceptions of patients with disabilities, with one recent survey in *Health Affairs* suggesting that among 714 American physicians, 82.4% felt that individuals with significant disabilities have worse quality of life compared to that of nondisabled individuals.^{1,2} Only about half, or 56.5%, of physicians in the same study “strongly agreed” that they welcomed patients with disabilities into their practice.^{1,2} When comparing surveys about different occupations in the US, however, the public considers physicians highly trustworthy, noting that doctors care for patients’ best interests and provide fair and accurate information.³ Bias by physicians against individuals with disabilities may create and further propagate healthcare inequities, and it is thus crucial to reflect on lessons learned from the Holocaust, specifically in

a group of criminal actions conducted by the Nazi regime collectively known as *Krankenmorde* (Sick-murders), in understanding the potential risks of physician bias.

Between 1933 and 1945, the National Socialist regime murdered an estimated 300,000 individuals and sterilized approximately 360,000 people. This collection of crimes against those with physical and psychiatric disabilities, as well as the ill more broadly, constitutes the *Krankenmorde*, the murder of the sick and disabled.⁴

Many may be surprised to know that in the 1920s and 1930s, interest in “eugenic science” flourished both in the United States and Germany. American leaders used eugenicist ideas to justify racist immigration policies and sterilizations. These efforts had a long legacy, ranging from 1907, when Indiana passed the world’s first compulsory sterilization law, to the 1960s. In the U.S. Supreme Court case *Buck v. Bell*, which focused on the forced sterilization of patients in mental institutions, Chief Justice Oliver Wendell Holmes wrote in the majority opinion that “three generations of imbeciles are enough.”⁵

German thinkers were influenced by these trends in the US. After World War I, many German politicians felt that the best “genetic stock” had perished in the war and that Germany faced a concerning future, given its recent defeat and the need to pay war indemnities.⁶ This way of thinking reinforced the myth that Jews had contributed to the defeat of Germany.

Theorizing in this context, in 1920 Karl Binding (a respected jurist in Germany) and Alfred Hoche (a psychiatrist) published a document called *Die Freigabe der Vernichtung lebensunwerten Lebens* (*Allowing the Destruction of Life Unworthy of Living*). In this document, they argued that “the value of an ill or disabled individual was diminished if his or her social contribution to the nation was outweighed by the expense of caring for them”; their work described such individuals as “useless eaters,” a phrase later picked up by German films and other propaganda.⁷

The 1933 *Gesetz zur Verbütung erbkranken Nachwuchses* (Law for the Prevention of Genetically Diseased Offspring) drew inspiration from sterilization laws in the United States. It declared that there were eight “hereditary” illnesses: intellectual disability, schizophrenia, epilepsy, manic-depressive disorder, severe alcoholism, and two physical disorders. This law involved compulsory sterilization. Each

decision regarding state-enforced sterilization involved hereditary health courts (which were composed of physicians and a judge). About 90% of cases referred to the courts proceeded to state-enforced sterilization.⁸ What's more, these laws further justified the compulsory sterilization of individuals on a racial basis, such as Sinti, Roma, Jewish, and mixed-race children of German women and French troops from West Africa (so-called "Rhineland Bastards").⁹

This valorization of murder did not end there. In October 1939, Adolf Hitler provided a short, backdated directive (dated September 1939, the date of Germany's invasion of Poland) to Philipp Bouhler and Karl Brandt, authorizing certain physicians to provide a "mercy death" to those "persons, who, according to human judgment, are incurable"¹⁰ Thus began the *Krankenmorde*.¹¹

After Hitler's directive, the Ministry of the Interior sent registration forms to hospitals and nursing homes around Germany and described which patients were to be "reported" by their treating physician. It even laid out particular data that required reporting (certain medical conditions, duration of stay in the facility, criminal history, employment history, work capacity, Jewish status, etc.).¹² The forms were then returned to Tiergartenstrasse 4; this "headquarters" led to the codename Aktion T4. There was a T4 medical committee, comprised of respected physicians and jurists, who then made assessments about life or death based on the registration form. They did not even examine the victims in person.¹³

A "mercy death" involved transport from the medical facility (such as a nursing home) to a killing center. The transport's purpose remained hidden through a fake organization called Gemeinnützige Krankentransport GmbH (Charitable Ambulance), which organized buses (painted grey) to transport victims.¹⁴ Victims then arrived through these "ambulances" to the killing centers, where they were locked inside a gas chamber and died through the inhalation of carbon monoxide. Their family later received a "death notice" with a false reason for their passing.¹⁵ It is estimated that in total during the *Krankenmorde* more than 300,000 individuals were killed.

These actions lay the groundwork for the Holocaust.¹⁶ In the words of Leo Alexander, an American psychiatrist and neurologist who wrote the Nuremberg Code after World War II:

"[*Krankenmorde* were...] merely the entering wedge for exterminations of

far greater scope in the political program for genocide of conquered nations and the racially unwanted. The methods used and personnel trained in the killing centers for the chronically sick became the nucleus of much larger centers in the East, where the plan was to kill all Jews and Poles and to cut down the Russian population by 30,000,000.”¹⁷

Did anyone resist? Who, if any, stood against this state-endorsed euthanasia program? Perhaps the most well-known example was the Bishop of Münster, Clemens von Galen, who gave three sermons in the summer of 1941 that condemned the Nazi regime. One sermon directly described the T4 killings; he inspired the Scholl siblings and many others. The bishop, unlike many others, did not experience Nazi retribution. Other such figures include Karsten Jaspersen (a physician and clinical director of an asylum in Germany), Karl Bonhoeffer, and Ernst Arlt. Jaspersen refused to cooperate with local authorities and encouraged colleagues not to participate or change their patient records (to prevent “mercy killings”). Bonhoeffer was a professor of psychiatry and the father of Dietrich Bonhoeffer. He initially supported sterilization but later resisted the T4 program and advised his son to also try to save patients. Arlt was an Austrian psychiatrist who opposed the murder of patients; he contended that many great German individuals (such as Nietzsche) would not have survived, and that “incurability” changed with medical advancements. He resisted by contacting patients’ families, exhorting them to take their at-risk family members home.¹⁸

How should the program and those who fought against it inform the current landscape of physician bias against a vulnerable group, those who have what we consider “disabilities”? In reflecting on my experience as a participant in FASPE, there are many ways I have come to believe this legacy and resistance can inform and illuminate our current landscape; in the interest of space and clarity, I have summarized these thoughts in three main themes for others to consider:

1. It is crucial to question the intricacies of power and professionalism.
2. We must not focus on the “utility” of each patient but rather on the provision of “care” for each patient, who deserves healthcare as a human right regardless of their ability to “contribute to society.”
3. Promotion of humanization of the “other” is key in addressing exclusion and persecution.

Power and Professionalism

As a medical professional myself, it is sobering to reflect on the collusion of “colleagues” in these euthanasia programs. Medical professionals abused their power in a society in which physicians were trusted, seen as benevolent and reputable. They colluded with other systems of authority that were well-regarded in Germany too, such as the legal apparatus (e.g., hereditary health courts), the economic system (e.g., propaganda bragged about the money saved by “mercy killings”), and others. In reflecting on this aspect of Aktion T4, we must thus consider how we conceptualize power and what the value of power is among “professionals.” It is crucial for us not to be led astray by power and to question those with such authority, such as our colleagues in medicine, the law, and economics. By the same token, power can be part of resistance, and it is key for physicians, as professionals, to realize their potential, to accept resistance as a core duty.

Healthcare as a Right for All

Underlying much of Aktion T4 is rhetoric about the utility of each patient: what can each person contribute? What is their work capacity? Is the patient a “useless eater”? Physicians must remember that at the heart of medicine lies healthcare for the *individual* patient, regardless of what they can contribute or their potential usefulness. Medical professionals must attempt to prioritize the person in front of us, illuminated by compassion and non-maleficence.

Humanizing the “Other”

Throughout Aktion T4 and other phases of the Holocaust, the Nazi regime focused on persecuting and eliminating the “other.” What does it mean to be “other”? This is the question we must continuously reflect upon. Our instinct may be to be suspicious or scared of what we consider to be different, but by opening ourselves to the possibility of a shared humanity among others, we realize that we cannot justify persecution or exclusion. We realize that the human being in front of us has sisters, brothers, parents, hobbies, a story, and much more.

Without a basis of shared humanity and compassion, it is easy to see the “small

beginnings” that Leo Alexander describes as the root of the crimes discussed here. In his words, “it is important to realize that the infinitely small wedged-in lever from which this entire trend of mind received its impetus was the attitude toward the nonrehabitable sick.”¹⁹

I would like to end this reflection with a poem. This piece is a reminder that we today must learn the lessons of history by understanding the legacy of *Krankenmorde*. We must personally and collectively ensure that we question power and professionalism, that we prioritize the individual patient in front of us while challenging exclusion and persecution. We must, at bottom, emphasize humanism in our healing.

“Dog Fox Field” by Les Murray²⁰

The test for feeble-mindedness was, they had to make up a sentence using the words *dog*, *fox* and *field*.

- *Judgment at Nuremberg*

These were no leaders, but they
were first into the dark on Dog
Fox Field:

Anna who rocked her head,
and Paul who grew big and
yet giggled small,

Irma who looked Chinese, and Hans
who knew his world as a fox knows a field.

Hunted with needles, exposed, unfed,
this time in their thousands they bore sad cuts

for having gazed, and shuffled,
and failed to field the lore of
prey and hound

they then had to thump and cry
in the vans that ran while
stopped in Dog Fox Field.

Our sentries, whose holocaust does
not end, they show us when we cross
into Dog Fox Field.



Image: Birches near the House of the Wannsee Conference (picture credit: Simrun Bal)
*I chose this image as the ending to this paper because of the birch groves that I saw in Auschwitz and Birkenau and all that they represent. In the words of Barbara Zaiac, the Auschwitz-Birkenau Museum and Memorial Vegetation Conservation Specialist, "[the trees were] silent witnesses to Nazi crimes."*²¹

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Notes

1. Lagu, et al. 2022. "I am not the doctor for you: physicians' attitudes about caring for people with disabilities." *Health Affairs* 41(10). <https://doi.org/10.1377/hlthaff.2022.00475>
2. Iezzoni, et al. 2021. "Physicians' perceptions of people with disability and their healthcare." *Health Affairs* 40(2). <https://doi.org/10.1377/hlthaff.2020.01452>
3. <https://www.pewresearch.org/science/2019/08/02/findings-at-a-glance-medical-doctors/>
4. Light E, Robertson M, Lipworth W, Walter G, Little M. *Bioethics and the Krankenmorde: Disability and Diversity*. The International Library of Bioethics. 8 July 2022.
5. Buck v. Bell, 274 U.S. 200 (1927)
6. Robertson M, Ley A, Light E. 2019. *The First Into the Dark: The Nazi Persecution of the Disabled*. UTS ePress. <https://www.jstor.org/stable/j.ctv1w36p9p>
7. Ibid, p. 25
8. Ibid, p. 32
9. Ibid, p. 32
10. Ibid, p. 25; notes from visit to the memorial
11. Ibid, p. 25
12. Ibid, p. 25
13. Ibid, p. 40
14. Ibid, p. 41-42
15. Notes from visit to the memorial.
16. Robertson M, Ley A, Light E. 2019. *The First Into the Dark: The Nazi Persecution of the Disabled*. UTS ePress. Page 43. <https://www.jstor.org/stable/j.ctv1w36p9p>

17. Leo Alexander (1949), "Medical Science Under Dictatorship," NEJM 241. Qtd also in *The First Into the Dark*, p. 145-146.
18. Robertson M, Ley A, Light E. 2019. *The First Into the Dark: The Nazi Persecution of the Disabled*. UTS ePress. Page 51-53. <https://www.jstor.org/stable/j.ctv1w36p9p>
19. Leo Alexander (1949), "Medical Science Under Dictatorship," NEJM 241. Qtd also in *The First Into the Dark*, p. 145-146.
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21. <https://www.auschwitz.org/en/museum/news/the-death-of-silent-witnesses-to-history,466.html>

20th Century Eugenics and the Risks of Modern Genetic Interventions

MICHAELA B. REINHART

The vast strides in the field of medical genetics since the Human Genome Project have created unparalleled opportunities to prevent and address disabling genetic diseases. The potential for misuse of genetic therapies necessitates remembrance and recognition of atrocities committed against people with disabilities by the eugenics movement of the early 20th century. Past perpetrators' motivations and methods warn of the risk of misappropriating these rapidly advancing technologies. Within the field of genetics, the still-limited knowledge of the complexity should protect against similar crimes in the future.

The interest in hereditary traits in the late 19th and early 20th centuries gave way to eugenics, the desire to manipulate the population's gene pool. Nazi Germany conflated genetic principles with racial differences, promoting "racial hygiene" for the superior "Aryan race." In 1929, many German physicians formed the National Socialist German Medical Association within the Nazi Party to define the scientific foundation of Nazi health policy. To form a "purer" and "healthier" German body, they initially targeted those with medical differences such as psychiatric disorders, genetic malformations, epilepsy, and congenital blindness. Their operation would expand to target Jewish, Roma and Sinti, and Afro-German populations, among others, deemed inferior to the "Aryan race." Starting in the early 1930s, they used pseudoscience to justify forced sterilizations of vulnerable populations. With Adolf Hitler's appointment to chancellor in 1933, these efforts became official policy, the Law for Prevention of Hereditarily Diseased Offspring. Under Nazi direction, this law led to forced sterilization of about 400,000 people.¹

Forced sterilization set the foundation for mass murder through the institution of "euthanasia" programs to purge the population. In 1939, after receiving a request from a German man for permission to kill his deformed son, Hitler appointed his personal physician Dr. Karl Brandt and head of staff Philipp Bouhler to develop a program to kill children with "lives unworthy of living." The subsequently formed

Reich Committee for the Scientific Registration of Serious Hereditary and Congenitally Based Illnesses required midwives and doctors to report children with deformities. Forms describing the children were then judged by three officials (two physicians and one judge from the Nazi party) who would determine if each child would live or die. They sent 5,000 children to clinics where the victims either starved to death or died from lethal injections.^{1,2}

This program of mass murder extended to adults under the T-4 Program, named after the Berlin headquarters address Tiergartenstrasse 4, that targeted individuals with psychiatric disorders and disabilities. Hitler wrote an informal directive empowering Brandt and Bouhler to allow “those suffering from illnesses deemed to be incurable may be granted a mercy death.”¹ He further backdated the note to the date of Germany’s invasion of Poland to correlate this initiative with that of the war.¹ The program had a similar method of evaluating institutionalized patients and sending them to killing centers. There, they experimented with methods of mass murder to improve efficiency, notably establishing the use of carbon monoxide gas for asphyxiation en masse. Those in the program would then send letters to families stating false causes of death. The program killed approximately 200,000-300,000 people deemed an excessive burden to the Reich and its desired growth.^{1,2}

Having seen how systematized eugenics can decimate multiple populations in Nazi Germany, the role of eugenics takes a more personal approach today, though it continues to operate within the healthcare system. The use of *in vitro* fertilization (IVF) allows for selection of embryos without pathogenic genetic variants harbored by their parents, and progress in pre-implantation gene editing makes the option of customizing progeny evermore real. While the use of this technology has allowed couples to avoid having children suffer from devastating illnesses such as Tay Sachs disease, the question of the modern definition of “lives unworthy of living,” if it exists at all, arises. The most glaringly obvious difference in this approach as opposed to that of Nazi Germany, of course, is intention: preventing occurrence of disease rather than extermination of those with disease. Limitations of scientific knowledge in the use of these technologies, both to prevent and treat disease, help curb the implications of these values for now. However, the risk of “designer babies” who undergo extensive gene editing for socially desirable traits—beyond avoiding pathology—still exists. As many children will continue to have these diseases, whether they harbor new pathogenic variants or their parents opt to naturally conceive, clinicians have a duty to preserve respect for persons with disease and disability, actively avoiding their devaluation.

Recognition of the place of IVF and gene editing within the healthcare system is essential in safeguarding their ethical implementation. Nazi efforts to exterminate children and adults with undesirable traits succeeded within a governmental framework supported by many German physicians. The current systematic approach to modern reproductive options for those carrying pathogenic genetic variants is vulnerable to analogous prejudices. Standard care for couples identified as carriers of genetic disease is to offer counseling on IVF as a future reproductive option. Gene editing may become standard, as well, as the technology develops and becomes part of routine care for disease. Patients should know all of their options, and clinicians should help them to make the best decisions for themselves and their reproductive plans. Throughout prenatal counseling, clinicians should remain aware that they have a responsibility to ensure that their personal preferences and biases do not influence their patients. Clinicians should remain cognizant of the requests and guidance of governing bodies, healthcare institutions, professional organizations, and other stakeholders to avoid systemic prejudices that may harm vulnerable groups. Society's attributing a diminished quality of life to people with disabilities lays at the root of stigma around disease and disability. Within Nazi Germany, a person's worth was tied to their ability to contribute to the Reich. Those with genetic disorders, especially ones with neurodevelopmental delays or malformations, were targeted for extermination. A review of victims' files shows people with Down syndrome and features reminiscent of many other genetic syndromes such as Fragile X syndrome, 22q11.12 microdeletion syndrome, and Noonan syndrome. Cases also described birth injuries that likely led to hypoxic ischemic encephalopathy or cerebral palsy.³ Nazis decided these individuals had "lives unworthy of living" and failed to recognize their inherent value as people.

Stigmatization of disability remains today—both in the public and among healthcare professionals. These biases devalue individuals with diseases or disabilities, best explained by the disability paradox. This paradox serves as the basis of a social model of disability by describing the gap between a disabled person's experience and public perception of their experience: people with disabilities, in comparison to those without disability, consistently have more positive attitudes regarding their own quality of life and those of other persons with disabilities. Having meaningful relationships with family and friends, as well as the ability to work, largely contributes to this positive view.⁴ The majority of family members with disabled children also rate their own quality of life highly despite the unique challenges that come with raising children with disabilities.^{5,6,7} Through this review of positive experiences among people with disabilities, this social model of disability then holds that the disabling of impaired

people comes from society's view of them. Despite having a functional limitation (impairment), a significant component of disability comes from limited opportunities to participate equally.⁸ Thus society places "disability" onto impaired people by not making reasonable accommodations and viewing them as limited. This ableist mindset leads to the view that disabled people have a poorer quality of life than most disabled perceive in their own experience. Subsequently, systematized barriers arise from this bias.

The disability paradox highlights the risk of introducing generalized assumptions into protocols or even law regarding genetic-based interventions. The U.S. Supreme Court case *Buck v. Bell* (1927) illustrates the impact of this subjectivity in Justice Oliver Wendell Holmes, Jr. statement that "Three generations of imbeciles are enough," justifying forced sterilization of "feeble-minded and socially inadequate" people to prevent further offspring.⁹ This case followed a wave of interest in eugenics in the United States, as well as multiple European countries, at the beginning of the 20th century.² The push for removing the "feeble-minded" stemmed from a lack of appreciation for their inherent value, as well as a desire to erase those who acted outside of the social norm. These biases remain today. Iezzoni, et al. (2021) assessed in a survey of 714 practicing physicians that 82.4% of them thought people with significant disability have worse quality of life and many expressed concern about their ability to care for them.¹⁰ By placing patients within the physician's value system, then, the physicians feed into the disability paradox. However, some of these negative views appear to stem more from fear of or anxiety about not providing adequate care for patients with disabilities rather than a judgment of the patients themselves.^{10,11} These statistics are worrying as they suggest implicit and explicit biases in the care of people with disabilities. Despite these social limitations, expanded medical genetics knowledge, in some cases, has likely had a protective effect for people with disabilities as better understanding of the etiology of disease contributes to better treatments and approaches to support their needs.

The rudimentary understanding of genetic disorders in the early to mid-20th century led to the nonsensical pseudoscience of "feeble-mindedness." A.H. Estabrook's testimony in *Buck v. Bell* attempted to use Mendelian genetics to explain intellectual disability:

Where feeble-mindedness is found in two strains, the two strains meeting, feeble-mindedness will show up in one-fourth of the children. Where feeble-mindedness is found in one parent, that is, and only in the strain – that is, the other parent being normal but coming from a strain where there is feeble-mindedness, one-half of the

children will be feeble-minded.⁹

Estabrook describes Mendelian autosomal recessive inheritance of intellectual disability, and, while some disorders associated with intellectual disabilities are inherited as a recessive trait traceable through generations, his methodology fails to address the many disorders with complex inheritance. A pathogenic variant in a gene, including those of Mendelian inheritance, may have variability in its expression (extent of disease) and variability of penetrance among family members (whether the same change in a gene will cause disease at all in different people). For example, X-linked adrenoleukodystrophy, a disease classically associated with progressive neurologic deficits in childhood, may present in childhood, adolescence, or adulthood with different physical findings among family members.¹² The resulting diversity of presentation makes prediction of outcome based on the variant of the gene alone impossible. Expression of genes is now known to have many modifiers too, including epigenetic alterations that affect how a gene is expressed (if at all), environmental effects, and the influence of other genes on the expression of one gene (polygenic traits), among others. The complexity of inheritance and expression makes manipulation of the genome more difficult than appreciated in earlier generations, which serves as a protective factor in misusing gene editing for whichever traits society may deem desirable at a given time.

A further complicating factor in attempting to remove genetic disease within the eugenic context of a healthier population is the ongoing mutation rate of DNA replication in the process of gamete (egg and sperm) formation. The estimated mutation rate in DNA replication is 10^{-4} - 10^{-6} per gene in each generation, translating to a rate of nucleotide substitution of 1 in 10^8 per generation, or 30 nucleotide mutations in each gamete.¹³ Typically, substitutions are not in clinically meaningful locations, but some of these substitutions occur within gene coding regions or regions that affect gene expression and can cause disease. Unless the entire genome is sequenced in an embryo—and every pathogenic variant to exist in the population is known (which is not the case)—genetic disease cannot be completely avoided. Moreover, mutations can occur shortly after fertilization in a subset of cells, which leads to only some bodily tissues being affected by disease – a concept known as mosaicism. Currently, it is impossible to know the DNA sequence of every cell in every tissue, so mosaicism can be difficult to detect, depending on which tissues are affected. Combine these factors with the principles of variable expressivity and penetrance, as well as modifiers of gene expression, and the eugenic objective of removing any source of genetic disease is futile.

Because genetic diseases will persist despite early interventions, it is necessary for the clinician to appreciate the value of the individual with a genetic disorder. An examination of the Nazi extermination of disabled people, or the US and European history of forced sterilization, within a legal context shows the extreme of risk of assigning value to another's lived experience. While the emergence of genetic technologies can reduce the burden of devastating disease on future children and families, the necessity remains to draw a line between therapeutic intervention and interventions for socially desirable traits. Clinicians must balance their duty and ability to prevent disease with humility regarding their own social biases and still-limited knowledge of genetics.

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SEMINARY

Questioning Our Ethics

DEVIN AMES

On a walking tour through Auschwitz,¹ I noticed my normally talkative group had gone stone silent, not asking our guide even a single question. At a few points on the tour, I felt an urge to pray, to pray while standing on the ground where countless atrocities occurred not even a lifetime ago. I found myself saying “O God” and then unable to proceed. This was the only prayerful utterance I could muster. In this space and time, I couldn’t help but focus on the horrendous cruelty and brutality that occurred at Auschwitz. I felt the weight of the truth that this place was not a remote location run by a few fanatics but rather a site made possible through the widespread complicity, complacency, and indifference of millions.

It’s important to remember that Auschwitz didn’t just appear out of thin air. It took the decisions and indifference of millions of people to lay the path to what would become the location of so much death. And while people from the nearby town were expelled when Auschwitz was built, other camps were very much connected to citizens’ daily lives. There were not just a few camps but, as I learned from a map at the German Resistance Memorial Center in Berlin, over 44,000, ranging from work camps near factories to camps for political prisoners to camps like Auschwitz-Birkenau, which functioned as both a work and extermination camp. They were all over. At that same museum, I learned the stories of many people who worked to oppose Nazi policies and programs, many of whom were executed for their efforts. Everywhere we traveled, I was constantly reminded of the people who said nothing and of the people who spoke and worked in favor of genocide.

As a Seminary Fellow, I thought extensively about how religion was at work. I thought about an image of a pastor blessing Nazi soldiers. I thought about how many Christians in Germany threw their support behind Adolf Hitler. I thought about how religion was forbidden within the camps because it could be a source of hope. I thought about how the latrines became sites of group prayer because they were too disgusting for SS soldiers to check. In the midst of this, I also thought of Martin

Luther, many of whose theological writings have brought me to know God as loving and full of grace, but who also wrote *On the Jews and Their Lies*, a horribly antisemitic work that was lauded and used by the Nazis.

Since returning to the United States, I've thought deeply about those utterances of "O God." Why did those words come to mind? Why couldn't I find anything else to pray? Were they a cry of despair, a mournful whisper, an angry shout, a reaction to an unbearable weight? Yes, certainly all of those and probably much more than that.

I also keep thinking about the phrase written on the cover of the notebooks the program gave us: "Question Your Ethics." A statement both open-ended, and quite pointed. A call not to simply submit to any ethical system but rather to spend time thinking about the foundations for, and implications of, any ethical reasoning.

"O God" and "Question Your Ethics," continue to percolate in my mind. Currently, I see both phrases as calls. I see "O God" as me calling to God, as my calling with all that I felt as I stood on the grounds of Auschwitz, as a calling that persists as I continue to think about how my learning experiences will shape me and what I am called to do with that today. I look at the world around me, and I find myself wondering what would happen if, instead of scrambling for the right answer, we could find a way to sit with a simple "O God." Sometimes, those are the best words to speak.

"Question Your Ethics," feels like a calling and a plea. A sometimes pain-filled and pressing thought in an increasingly divisive world, one in which we dig in our heels on issues so quickly and vilify those who disagree with us, seeing ourselves as champions of the "right way." What would happen if we consistently and honestly looked at our grounding principles, our ethical foundations, and considered how they may need to shift depending on their impact on other people?

As I began working on this reflection, I wasn't sure I was ready to share my thoughts and experiences of these two immersive and intense weeks. But then I thought: maybe this is just living in the reality of "O God" and "Question Your Ethics." There's always going to be a level of uncertainty, and that's okay, perhaps even preferable. It's freeing not to have to dig my heels in so deep, to remember that I can know where I stand in the moment while remaining open to how that could change. I believe that

in order to be an ethical leader, one must pay attention to caring for one's neighbor and maintain a willingness to change when one's ethical system no longer serves this purpose. This work necessitates being able, being willing, to cry out "O God," while moving toward comfort with the silence that follows, knowing that sometimes these are the only words to be said.

It is both comforting and distressing to know that God's people have cried out in great lament for thousands of years. I am comforted to be a part of a community that has this practice yet troubled to be a part of a world filled with pain requiring such lament. The rich Judeo-Christian tradition of lament, especially embodied in the Psalms, just might address this void of pain and grief. My mind is drawn to the opening of Psalm 22, later repeated by Jesus on the Cross, words that feel eerily similar to my own "O God."

My God, my God, why have you forsaken me?
Why are you so far from helping me, from the words of my groaning?
O my God, I cry by day, but you do not answer;
and by night but find no rest.
Psalm 22:1-2 (NRSVUE)

In calling this psalm to mind, I can't help but consider how many others may have lamented using these words, cried out in them on the ground upon which I then stood; those imprisoned at Auschwitz, those who have been there in the following decades, those who experienced similar horrors at other camps. The lamentations uttered over decades still seem insufficient, unable to address fully the evil that occurred. And yet, these cries are not simply lost in a void; they are heard, received, and held by God. God takes them as they are, raw and unpolished. God hears the groaning and remains with us even in the face of such evil.

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Notes

1. A version of this piece was originally published on the *Faith+Lead* blog: <https://faithlead.org/blog/questioning-our-ethics/>

The Witness Trees

KINGSLEY EAST GIBBS

Last week,¹ the DaySpring youth group and I participated in Compassion Camp with our children's ministry, where we talked about loving the whole world—all of God's creation, which includes people. We even learned a special chant to remember what compassion is and how to show it. I'd like to invite the children and our youth group to help me teach it to you today. So, if you were at Compassion Camp, or if you learned our chant during formation this morning, would you stand up and say it with me? Repeat after me:

I see your hurt.
I feel your hurt.
I help ease your hurt.²

Before Compassion Camp, I spent two weeks participating in an ethics fellowship in Germany and Poland. I spent the first week in Berlin and a few surrounding sites where the horrors of the Holocaust took place. Then I traveled northeast to Kraków, Poland and from there went to the heart of the tragedy: Auschwitz. During the Holocaust, some people saw the hurt inflicted on Jews and other persecuted groups, and they helped ease their suffering by sheltering them and meeting their daily needs. But a great many, as we know, did not show compassion for one another. They did not help ease the hurt of those suffering around them but actually contributed to this evil.

One of the most important things that we believe as Christians is that we are here to love and care for everything and everyone God made. Regardless of our differences and fears, we are called to show compassion toward all living things. To do that, we must remember the stories and traditions that shape who we are in Christ, repent and lament of all that we've done wrong as individuals and as generational communities, and then work with God to restore all of creation. As we continue learning from Paul's letter to the Romans today, this is what I want to share with you. We are called to remember who we are as both children of God and as sinners, to repudiate how we've lived in our sinfulness at the great expense of others, the world, and ourselves—and to restore the world with God through His Spirit in us.

We have new identities in the Spirit. This is an incredibly hopeful, comforting truth, but with this freedom comes great responsibility. As Uncle Ben said in the original Spiderman (the only Spiderman series I can keep straight now): “With great power comes great responsibility.”

In Romans 8:12, Paul says, “So then, brothers and sisters, we are debtors.” Before this verse, Paul tells the Romans that there is now no condemnation for those who are in Christ Jesus, and if Christ is in them, they are no longer dead to sin but alive in the Spirit.

With this gift of life comes an obligation: “so then, we are debtors.” This statement may sound odd. How can we receive a gift only for it to come with an obligation?

Dietrich Bonhoeffer, famous for his resistance during the Nazi period that led to his own death in a concentration camp, provides one of the clearest explanations of this kind of grace, grace that comes with a cost. He contrasts cheap grace, the sort that doesn’t free us from the toils of sin, with costly grace, which both condemns sin and justifies the sinner.³ Bonhoeffer describes this concept, saying, “It is costly because it costs a man his life, and it is grace because it gives a man the only true life.”⁴ It is a grace from God that we no longer live under sin’s control. Now, through this grace, we are freed into a new existence subordinate to God’s will, which is the fullest human life.

When Paul talks about the two controlling powers under the realm of sin or the realm of God, he uses the terms “flesh” and “spirit.” See Romans 8:13: “for if you live according to the flesh, you will die; but if by the Spirit you put to death the deeds of the body, you will live.” Paul is not saying that to have a body and meet people’s material needs is bad and leads to death. When he talks about living according to the flesh, Paul is talking about the realm of sin and death, not the material world. Life in the spirit, as Paul uses the term, means the realm of God’s will and righteousness. As humans, we all have physical bodies and material needs, and we all live in a realm dominated by sinful forces. As Christians, however, we still have those physical bodies and needs, but now we are called to live under the force of righteousness instead of sin. And we’re given the power of the Spirit to do this.

The goal of God’s grace and our freedom from condemnation isn’t simply to feel better about ourselves and our lives under the forces of sin and evil.⁵ The goal is that we live

freely, not continuing in sinning. Paul says in verses 15-17a: “For you did not receive a spirit of slavery to fall back into fear, but you received a spirit of adoption. When we cry, ‘Abba! Father!’ it is that very Spirit bearing witness with our spirit that we are children of God, and if children, then heirs, heirs of God and joint heirs with Christ” As adopted heirs with Christ, we are now responsible to live ethically, to bear godly fruit, and to use our agency to work with God instead of resisting His will.

As heirs of God, we inherit the good and the bad of our Christian history.⁶ We receive the beauty of creation and a God who wants to be in relationship with us; we inherit the tragedy of the Fall that cuts off our relationship with God, creation, and even ourselves. We take on the triumphal freedom story of Exodus, and we recall the faithless stories of grumbling and worshipping idols in the desert. We live in the life of the resurrected Christ, and we lament the death that we inflict over and over again as we oppress the least of these. As heirs of God, we must remember both aspects of our identity—the good and the bad. Because only when we remember who we are and what we’ve done with God and against God, can we learn how to move forward in repentance, lamentation, and restoration.

One way that we in our culture remember our history is through memorials. During FASPE, we visited many memorials that call people to encounter traces of the Holocaust. The most moving of these I encountered on my trip was at Grunewald Station’s Track 17 in Berlin. The Nazis used this train track to deport thousands of Jews to camps, usually to their deaths, between the years 1941-1945. The platform surrounding it is lined with 186 steel plates. Engraved on each plate is a train’s departure date, the number of Jewish people deported, and their final destinations. The number of each journey’s deportees ranges from dozens to hundreds to thousands of people.⁷

On the tracks, white trees grow between the rails. Fallen leaves and vegetation cover parts of the area. This growth adds to the human-made memorial, offering a sign that no train will ever leave this track again.

At the first concentration camp we visited, called Sachsenhausen, I was overwhelmed by the woods that we drove and then walked through to approach the camp gate. It felt like a sin for there to be beauty in this place of such evil, devastation, and death. Inside Sachsenhausen, I put my hands on the bark of a huge tree at the center of the camp. I sat under its shade with my hands in the dirt, watching ants crawl past my fingers. How many prisoners walked under this same

shade, feeling perhaps a moment of relief from the sun? How many people collapsed here from exhaustion, abuse, and despair? Walking inside the camp felt like stepping on people's graves. This tree bore witness to these atrocities.

It was impossible for me to walk through concentration camps and not ask: where was God? Where is God now? How could an all-loving, all-powerful God not stop this? What do we as Christians do with this extreme evil? How do we understand it?

During my own dark night of the soul when despair overwhelmed me and I couldn't make any sense of my suffering and the senseless evil in the world, it was Romans 8 that gave me enduring answers to the problem of evil. Midway through verse 17, Paul says that if we suffer with Christ, we will be glorified with Him. He continues in verse 18, "I consider that the sufferings of this present time are not worth comparing with the glory about to be revealed to us." Now, these verses are true and comforting, but they can also be misused to encourage suffering or to minimize agony. Paul isn't prescribing suffering; he's talking about Jesus redeeming it. Pain in this life doesn't foreshadow eternal suffering. Just as Jesus reversed our expectations about the Messiah by coming to us humbly in a manger, riding on a donkey, and then suffering a criminal's crucifixion, Paul reminds the Romans that their suffering isn't a sign of divine damnation. In the Romans' world, and in our world today, many of us live with the misconception that if we are blessed with good things, it's because God favors us, but if we are going through trials, we're being punished for our sins. In God's upside-down kingdom, despite our suffering and through our suffering, we will one day be glorified with God.

Agony is not based on God's retribution for our sins. Suffering is not an isolated issue that only affects individuals. Paul says in verses 19-21: "For the creation waits with eager longing for the revealing of the children of God, for the creation was subjected to futility, not of its own will but by the will of the one who subjected it, in hope that the creation itself will be set free from its bondage to decay and will obtain the freedom of the glory of the children of God." Creation is waiting with eager longing to be freed from bondage. One day, God will make the earth itself new and whole. Since the fall, however, all creation has lived under the curses of Genesis 3 and felt the weight of decay and death.

This brings us to verse 22: "We know that the whole creation has been groaning in labor pains until now." I held onto these words in places like Auschwitz, in places of

incomprehensible evil, suffering, and death. All creation is groaning under the weight of sin. We are not, therefore, alone. Even when people forsake us and God becomes silent, the trees surround us. They groan with us and for us, against us, and for those we oppress. Creation shouldn't groan alone. Paul says in verse 23, "and not only the creation, but we ourselves, who have the first fruits of the Spirit, groan inwardly while we wait for adoption, the redemption of our bodies." Christians too should groan against sin. We shouldn't be able to contain our deep sorrow stemming from the fact that we've been promised redemption yet still live with suffering. This groaning, the recognition that the world is not as it should be, should lead us deeper into the work before us now.

When we see the sin and suffering around us, we must repent of the role we play in perpetuating these atrocities. In repentance, we turn away from sin toward God and new life in the Spirit. We also lament the suffering of the world, regardless of who caused it. I was born decades after the Holocaust, but I lament the human tragedy that occurred then. And suffering deserves witnesses. God's creation and manmade memorials are witnesses beckoning us to remember the sins of the world and calling us to repent, lament, and work to restore the earth.

There are images from the woods in Auschwitz that will always haunt me—photographs of people surrounded by the same trees that stood around me. Those trees are witnesses, still screaming for those silenced and murdered. And creation doesn't only speak in Auschwitz.

Can you hear the trees screaming around us here in Waco? The lynching trees on our land are waiting with eager longing for the revealing of the children of God.

Just this year, Waco erected a historical marker for Jesse Washington, memorializing "The Waco Horror," when locals lynched this seventeen-year-old Black child in the year 1916. Historians say some 10-15,000 people came out to watch and participate in this lynching. 10-15,000 people from Waco and the surrounding area, people from largely Christian communities. Lord, have mercy. Lord, have justice.

In his book *The Cross and the Lynching Tree*, James Cone writes, "Suffering naturally gives rise to doubt. How can one believe in God in the face of such horrendous suffering as slavery, segregation, and the lynching tree? Under these circumstances, doubt is not a denial but an integral part of faith. It keeps faith from being sure of itself. But doubt does not have the final word. The final word is faith

giving rise to hope.”⁸ Hope is Paul’s final word in our text today. Verses 24-25 say: “For in hope we were saved. Now hope that is seen is not hope, for who hopes for what one already sees? But if we hope for what we do not see, we wait for it with patience.”

What is hope in the face of the Holocaust?

What is hope in the face of systemic racism, climate change, domestic violence, poverty, cancer?

What is hope when your spouse or your parent or your best friend in the world abandons you?

What is hope when God becomes silent and seems to let the world perish over and over again?

Hope is patient, meaning that it persists for as long as restoration takes. Hope is communal. We hope alongside a community of believers, calling on each other to remember who we are, who God is, and what God promises us. Together, we repent and lament when we fall short of the fullness of life in Christ. We also hope alongside all creation—rocks and trees that were here before us and will live on after us, bearing witness to the good and bad of our lives. I want to be clear: there is hope for all of us—victims and perpetrators alike—for we are both at different times in our lives. When God puts an end to evil, God doesn’t only redeem victims; God makes a way for perpetrators to repent and be restored too. Finally, hope itself is restorative. Hope ushers us out of despair. Through hope, God gives us a vision of what the world can be and offers us the courage to continue working when we cannot see change.

We know who will ultimately save the world from sin, suffering, and death: Jesus Christ. Because we are in Jesus Christ, we are empowered to participate in this restorative work until God completes it.

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Notes

1. A previous version of this piece was given as a sermon entitled, “Remember, Repent, and Restore: Romans 8:12-25” on July 23, 2023 at DaySpring Baptist Church in Waco, Texas. All Biblical quotations are taken from the New Revised Standard Version.

2. This chant comes from the curriculum “Compassion Camp: What Every Living Thing Needs,” (Racine, Wisconsin: Illustrated Ministry, LLC), 2023.

3. See Dietrich Bonhoeffer, *The Cost of Discipleship*, (New York, NY: Simon and Schuster, 1959), 43-56.
4. Bonhoeffer, *The Cost of Discipleship*, 45.
5. David E. Garland, *Romans: An Introduction and Commentary*, (Downers Grove, IL: InterVarsity Press, 2021), 256 says, "Paul's chief concern is not that believers receive forgiveness and relief from the feeling of moral culpability, but rather that they can be delivered from the sinful flesh that makes inevitable the repeated swerving away from the will of God."
6. Fleming Rutledge, *Not Ashamed of the Gospel: Sermons from Paul's Letter to the Romans*, (Grand Rapids, MI: William B. Eerdmans Publishing Company, 2007), 247 says, "Inheritance, then, is a complex matter. We inherit the bad along with the good, the responsibility along with the privilege, the shame along with the pride."
7. See Clint Smith, "Monuments to the Unthinkable: America still can't figure out how to memorialize the sins of our history. What can we learn from Germany?" *The Atlantic*, December 2022, 22-41.
8. James H. Cone, *The Cross and the Lynching Tree*, (Maryknoll, NY: Orbis Books, 2011), 106

Not Remembering, not Forgetting

MORGAN FIGA

i.

At the Memorial for the Murdered Jews of Europe people are taking selfies. They are posing for photos. I hear a group with American accents discussing where the sunlight is and how far to extend the selfie stick to get as many of the steles as possible in the photo. I peer down rows of concrete trying to see if I can find them. After a few turns, I catch them—smiling, hands on hips, selfie stick out so far their phone is scraping against the concrete.

When I turn, I run into another one of my seminary colleagues. We look at each other, and after a moment he asks, “Do we say something? Is that awkward?”

“What would we say?”

Later, as I’m recounting this story, my roommate searches *#HolocaustMemorialBerlin* on Instagram. Hundreds of photos appear. A few are somber. Their owners have put them through the black-and-white filter and tagged them *#neverforget*.

Most took some effort. In many, people are jumping in between the rows, suspended in mid-air. Others slide themselves in between two of the steles—their feet on one and their backs against the other. Some stand on the tops of the more easily attainable pillars. Sometimes they sit, smiling at the camera. Other times they stand with a serious expression, looking off into the distance.

“Why would someone want these?” she asks me, holding up a picture of two women smiling and making peace signs at the camera, the Memorial in the background. They have tagged the photo: *#vacation #summer #Berlin #neverforget*.

Full of judgement, I reply. “Why would someone put them on the internet for everyone to see?”

For a moment, I pride myself on being someone who knows better. I tell myself that I would never do such a thing and that I will not use photography to obscure history. I will be present. I will not look away.

And then I remember: not long into the same tour that ended at the Memorial for the Murdered Jews of Europe, I stopped to take a picture of an advertisement with a silly pun on the tagline (*Eis Eis Baby*) and then, while still listening to the tour, I sent the photo to a friend in D.C. who likes puns and speaks German.

A few days later, at the Neue Nationalgalerie, I ask one of the historians what he thinks about photographs where memorial sites are the background for the visitors. He quickly asks as clarification, “You mean selfies?”

I nod, waiting for his judgement. Instead, he replies, “I think we have to take them seriously as something that could teach us about history and memory. There is a reason that people want to center themselves, their experiences in these places. There’s a reason they keep returning to their photographs.”

At first, I think that he means photographs exist as memory aides. When we foreground ourselves, we do so to remember we stood in that place, took in that scenery, felt those emotions. But, as I walk through the museum, I wonder if some photographs exist to help us forget or misdirect.

I sit on a bench in the middle of one of the galleries and look through the camera roll on my phone for the trip. Buildings, paintings, more advertisements and billboards – no selfies, no historical sites, no memorials.

In remembering puns and city skylines, what, exactly, am I trying to forget?

ii.

As I walk up to Am Großen Wannsee 56-58, my first instinct is to take a picture.

Immediately ashamed, I realize I feel my hand on my cell phone in my pocket. If I didn’t know where I was, if I had continued napping on the bus and missed Thorsten’s introduction to the site, I would have immediately stopped for a photo of the garden.

My phone is full of nature photos. I can't tell you why—I am not, by any stretch, what someone would describe as “outdoorsy.” But on trips or even out on my daily commute, I will often stop and take a photo of a particularly beautiful arrangement of flowers or try to catch a butterfly moving through blades of grass.

As I am not a particularly talented photographer, I rely on portrait mode on my phone. Portrait mode creates a narrower “depth of field” effect.¹ Depth of field refers to “the distance between the closest and farthest objects” in a photograph.² Talented photographers use this phenomenon to guide our eyes to what they wish us to see. A narrow depth of field creates a foreground disconnected from its background; a wider depth of field creates the opposite.³

I did not realize until recently that nearly all the pictures on my phone rely on this narrowness. I have picture after picture foregrounding an element of the natural world at the expense of everything else happening in the background.

Of course, these photos almost always wind up on my own Instagram and have captions like,

“Jamaica Pond on a Sunday afternoon” or “First signs of spring at the arboretum”.

I am not sure when I began this collection of photos, but I do think that the reason I continue to take them is simple (and embarrassing): they make me feel artistic. Or more precisely, I take them and send them out into the world in the hope that other people will think I am artistic. I squeeze them in between selfies with friends or vacation photos, in which I strike exaggerated poses. I don't want my social media presence to express all the fun (and always only the fun), I am having. I want people to think that I am also deep, reflective, and creative as well.

If I didn't know what had happened at the Wannsee House, I probably would have walked the grounds for a bit and stopped near the lake to take 10-15 photos of it obscured by some tree leaves and then later have had a coffee while I scrolled through to find the one that felt the artsiest. I would have posted it on Instagram with the caption “Beautiful day outside! #vacation #summer #Berlin.”

This is not the first, nor the last time on this trip, I feel my focus shift from the voice of the guide or a memorial display to the natural world. A few days prior, I

could not stop staring at ladybugs at Sachsenhausen. There were so many that during a break I searched online, “Ladybugs in Berlin,” wondering if there was some seasonal event taking place.

As I spent most of that trip staring at the ground, I also noticed that it was not just insects disrupting the terrain. All across the grounds small flowers burst through faded, unkempt grass. During a break, I asked the guide, “Why are these here? Did someone plant them?”

He shook his head and told me, “They are natural.”

Later at Grunewald Station, Track 17, I experienced a similar sense of disorientation. Butterflies and mosquitos breezed by, and yet another ladybug determinedly crawled across the tracks, away from the deportation site, for several minutes.

At Sachsenhausen and Track 17, something felt wild, untamed, each time I saw a flower or an insect. In those moments, it seemed that the work of creation continued as pictured in the commandment from Genesis 1:22 to “be fruitful and multiply.” Creation continued; life continued in places where every effort had been made to extinguish it.

This garden is not natural. It is cared for, tended, and manicured.

As the seminary cohort gathers with one of the historians, he asks us if we have any questions. I immediately raise my hand and ask, “Why is this garden so nice?”

He smiles, “Why do you ask that?”

I am too cowardly to admit that I am uncomfortable with my own reaction to its beauty, so instead I say, “Was it this nice during, uh, the conference here? Is it supposed to look like it did when, um, they were all here?”

He tells me exactly what I don’t want to hear, “Keep thinking about this. Keep thinking about why historians would make a choice to make this house look so beautiful.”

Later when I have a few moments to walk around the exhibition inside, I leave the

building and go walk the grounds, eventually finding a pathway down to the lake. It's a lovely, sunny day and I see people in rowboats across the shore.

I stare out unable to focus my eyes on anything in particular before I say out loud to my own surprise, "Hey Heydrich. I hope wherever you are, I hope you are so mad that I am here right now."

As I start to return to the house for our next session, I decide that I am going to pray during my whole walk through the gardens until I get to the house. It is not a reflective or sorrowful impulse. I am not trying to memorialize or mourn. I'm feeling petty, vengeful. I hope to, as I describe to my seminary colleagues later, be as publicly Jewish as possible my whole way back to the house, hoping that somewhere, somehow, the men who with such cordial formality decided to massacre my family, sense this act, sense me, and are furious.

Later that evening, I tell others about singing and praying in the garden. "It just, it reminded me that in spite of everything, they lost. They really lost, y'know? Like, there's still life here."

"True," one of the other seminarians responds. He takes what I said in for a moment before saying, "Yeah, they did lose. Eventually. But they won a lot too."

iii.

About two hours into our tour of Birkenau, the guide offers us a restroom break. We all look around uneasily until he points to a well-used set of restrooms clearly constructed for visitors.

After hearing multiple historians and tour guides describe in painstaking detail all the ways they have tried to preserve spaces, to make them feel frozen in time, I cannot handle the irony that, of all the things, someone decided to build a restroom for the convenience of visitors in the middle of Birkenau.

The guide kindly points out to me there is a single-stall, accessible bathroom that I can use to help the line move a bit faster. As is my primary coping mechanism in all moments of pain and discomfort, particularly the last few weeks of this trip, a series of jokes flood my mind, but I decide not to share any of them.

The restroom is, well, gross, and I resolve to get out as quickly as possible.

And then, the sink breaks. Or maybe I break the sink. Either way, no matter what I do, I cannot get the tap to stop pouring water. I turn the faucet handle, press it gently, then smack it with force, but the water continues to pour.

“Who,” I wonder to myself, “do I tell that I broke the sink at Auschwitz?”

After what seems like an hour, I notice that the drip has started to slow and give myself permission to leave, mostly confident I’m not about to cause a flood.

When I exit the bathroom, the rest of the group has already gone. I run forward further into the path, looking in every direction. I cannot see them. I cannot hear them.

I am alone. In the woods. In a concentration camp.

My mind immediately starts to unravel—wondering if someone I was related to once stood there, and then I’m thinking about how I just learned bathrooms were a place of prayer because it was one of the only times inmates had close to a shred of privacy, and then I’m thinking about sanitization and insects, which are all over the ground here, and how Jews were compared to insects and how so many people got typhus here, which is caused by insects and—

And then I realize there is a thicket of trees in the distance, leading to woods that are absolutely beautiful. It’s a sunny day with a perfect blue sky and white fluffy clouds, and you can see literal beams of sunlight through the forest green leaves of the birch trees. It’s picture perfect—I’m standing in front of the cover of a photo album or a tourism poster.

I squeeze my eyes shut and then open them. I don’t know what I’m trying to do, what I’m hoping for in this moment, but it doesn’t work. I am standing in one of the worst places in the whole world, and I have somehow stumbled in front of something that is disturbingly, heartbreakingly beautiful.

I look away. Until this point on the trip, I have tried to stare into every abyss, listen to each word of every awful story, but this, this, is too much.

I turn right, and luckily, I guess correctly. After walking a few paces, I see the tour group ahead.

When I rejoin them, I must look visibly shaken, because one of the other rabbinical school students asks me, “Are you okay?” He then quickly adds, “I mean, okay, in this place, in this moment—”

“No, no, I get what you meant,” I reassure him. “I...I just got forgotten in the bathroom.”

One of the medical students is in front of me and turns around immediately, instinctively, to offer care:

“Oh Morgan. Are you alright? I mean, like, as okay as anyone can be in this place—”

“No, no, I’m...I’m fine. I mean, not fine, but...I don’t even have a joke about what just happened.”

Gently, my friend offers, “I’m sure one will come to you later.”

iv.

On Shabbat morning, I attend services at the Galicia Jewish Museum in Krakow. There is a tour group of bored French teenagers standing in front of the room for services. When I arrive, a woman addresses me in English and offers me a *tallit*, a prayer shawl. I look around. There is no one there. I start to panic, wondering if, after watching me burst into tears the day before, Wayne, the kind FASPE CEO, has designed a whole egalitarian service for me, and no one else is there.

Another woman breezes in, and greets me in rapid Polish, explaining she’s been texting the congregants. They are all late because it’s raining.

I reply in English, “Oh, it is pretty gross outside. The rain was coming down pretty hard when I walked here.”

She stares at me for a moment and asks in Polish, “Do you speak Polish?” In Polish I respond, “A little, not well.”

She laughs and says, “I think your accent is a bit too good for that to be true.”

After a few minutes a group of Israelis walk in. They are shouting, half in Hebrew, half in English, about how excited they are to pray here again. They sit in the front. I sit in the back.

Slowly the congregation trickles in—a few people in suits, others in yoga pants. Another one of the rabbinical school students joins me. The cantor announces, half in Polish, half in English, that she’s going to do her best to call page numbers in as many languages as possible. The prayer book has Hebrew on one side and Polish on the other, and I feel my heart in my throat, realizing I was holding something I never knew I wanted.

The Israelis have a guide with them who speaks some Polish, and he and I take turns helping to quickly translate page numbers and prayer names. The Israelis get up to dance at one point. A bunch of the French teenagers come to look at the photography in the room. Most back out slowly, but a few stand at the door watching, unsure if this is part of an exhibition or not.

When I go visit the museum a few days later, I realize the room where I prayed contains an exhibition called “An Unfinished Memory.” The exhibition consists of a series of photographs of synagogues across Poland and Eastern Ukraine. The photographer, Jason Francisco, took the photos on a large-format analogue camera that he believes is a “tool that forces a slow and contemplative observational process.”⁴ At first, I am struck by how difficult it is to see anything detailed in each of the photographs. Most of the synagogues are centered in a wide landscape, often obscured by overgrowing vines and unintentional gardens full of weeds.

As I stand in front of each synagogue, trying to figure out what it is that I should look at, I am overwhelmed with emotion. For two weeks I have been standing in places of destruction that are somehow still overflowing with life. Here too, each

photograph is teeming with life—weeds and trees and bushes that probably contain mosquitos and butterflies and ladybugs overwhelm each of the abandoned, nearly destroyed buildings.

There is life around every one of these synagogues; there isn't any sign of humanity.

And then it hits me, here I am, the granddaughter of Polish-Jewish Holocaust survivors, who prayed on Shabbat in Krakow and cursed Heydrich in his own backyard. I'm standing in a museum looking at photographs of dilapidated synagogues with the power to fill them with people again.

This is the ending I want. This is the great takeaway, the great lesson that I want to have learned from all this: that I'm here, alive, carrying the legacy of my family, and there is so much work to do.

And then I remember as we rushed to meet the group in the rain, as I raved about the cantor's voice and the Polish-Hebrew *siddur* and how I finally got to pray as myself in my spiritual homeland, my colleague said, "Yeah...but weren't you a little surprised at all of the Carlebach tunes she used?"

And then I realize, just two days prior, the four rabbinical school students had a spirited debate about whether it was ethical to use Carlebach tunes in services and that I had been the one with the fastest "no" and the least patience for nuance in the conversation.

And then my memory of praying in Krakow does not feel quite as pristine, like quite as perfect an ending as I would like.

And then I remember that I had a plan to pray *mincha*, afternoon prayers, in the Remah synagogue not in the back section, but in the front of the pews toward the ark. When I first walked in, I saw a group of Orthodox men praying and made a mental note of how long I thought it would take them to finish. I tried to wait them out by walking around the cemetery and chatting with some Israeli women near the entrance. After almost a half an hour, when they had not finished, I walked inside, into the main space and started walking toward the ark.

They glared, and I pretended not to see it. They said something; I pretended not to speak Polish. And then, they wouldn't move. And while I could have found a way

around them, I felt myself paralyzed by the choice I had to make: make a point (and probably cause a scene) or respect our differences and keep my distance.

Ultimately, I decided to stand behind them and pray,

ברוך אתה די אלהינו מלך העולם שעשני אשה

“Blessed are you God, ruler of the universe, for making me a woman.”

And then I walked out.

And then I remember the conversation that my dad and I had a week later, walking down Świętokrzyska Street in Warsaw:

Me: “Two years in, what do you think your parents would think about me becoming a rabbi?”

Him: “I think they’d think it’s strange.”

Me: “Strange...confused?”

Him: “Oh, no, strange, mad. (*Pause*). They really never trusted organized religion.”

And then I realize I don’t have an ending. Every time I think I stumble upon a memory or a vignette that feels perfect for a sermon, for a joke, for this very capstone project, or even an answer to the question, “What did you do for two weeks?” I remember something else.

During the pandemic, a group of friends and I held a weekly text study on Zoom. Each week, we’d all promise to read the weekly Torah portion, and then, being the only person who actually completed the assignment, I would lead the group in a conversation.

One day, while my friends generously let me play rabbi, I brought up Exodus 24:2:

וַיִּשְׁמַע אֱלֹהִים אֶת־נַאֲקָתָם וַיִּזְכֹּר אֱלֹהִים אֶת־בְּרִיתוֹ אֶת־אַבְרָהָם אֶת־יִצְחָק וְאֶת־יַעֲקֹב

“God heard their cries and God remembered his covenant with Abraham and Isaac and Jacob.”

“I kind of hate this,” I told everyone over Zoom. “Why does God suddenly ‘remember’ the Israelites now? What has God been doing all this time?”

My friend Sarah, a lawyer with an always careful way of reading words, replied, “But it doesn’t say that God forgot the Israelites. We never read that.”

“Isn’t forgetting the opposite of remembering?” my friend Meagan asked.

“No, I think forgetting is something different. The opposite of ‘remembering’ is ‘not remembering.’”

“Sarah,” I sighed. “What is the difference between ‘not-remembering’ and ‘forgetting’?”

She paused for a few moments before saying, “So, ‘forgetting’ is active. You are making a choice. ‘Not remembering’ is more passive. You are deciding the story is over, that there is nothing else to add. ‘Remembering’ means you think there’s still more to the story.”

At the time, I thought this was a lawyerly sleight of hand. But, as I’ve tried again and again to write without remembering, hoping that I would find an ending, I realize Sarah was right. We remember when there is more of the story to be told.

I would like to say that I think this is good—that I understand this is what is required to be uncomfortable, to do the work of growing, changing, and maintaining a sense of self-reflectiveness. I wish I could end with the reassurance that I continue to remember and re-remember this trip because I understand and have chosen to keep the story going.

But the truth is, my most natural inclination is to push away the responsibility of remembering and instead to end on a clever turn of phrase or a quick punchline. But since I keep remembering, I turned back to the room where I started to think about what it means to have an “unfinished memory.” In his concluding reflections on his exhibition, Jason Francisco wrote:

I am a photographer with a deep love of pictures and little faith in them. If photographs mostly show us what we are already prepared to see, sometimes they provoke us to ponder what we are not prepared to understand. In such situations, we

stand to receive memory not just as an anterior truth but a future possibility, a force of change and renewal as against the forces of indifference and oblivion.⁵

In an effort to take seriously Franco's plea for future possibility and perhaps, find an ending, I returned recently to the many photos that I took on this trip—colleagues who became dear friends, the ladybug that crawled along Track 17, tiny white and yellow flowers bursting between weeds at Birkenau, plates of pierogis and craft beers, the Berlin skyline, a Polish-Hebrew dictionary preserved in a museum, plaques and text from different exhibitions, statues, artwork, abandoned buildings, memorials, the Wisła at night.

I originally wanted to end this all with a story about life as a triumphant force in this world. I wanted to end with a great story. Instead, I just keep looking through photographs that represent the mess of my own humanity—photos of me being present, very present, in others completely absent. Some of these I sent out into the world. Others, I don't think I'll ever show to anyone. Some I know exactly why I took them; others, I have absolutely no recollection of their purpose. Some bring me joy, others sadness, still others guilt that I stopped to take them at all. Some brought about a sense of possibility; some I don't ever want to look at again.

As it is all I have to offer, I am ending with this mess. And a prayer: may I continue to resist the urge to look away. May I continue to hold the contradictions, the possibility in the future, and the tragedy of the past. May I continue to embrace the mess.

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Notes

1. See, "How Portrait Mode Works and How It Compares to an 8,000 Camera," <https://petapixel.com/2017/12/11/portrait-mode-works-compares-8000-camera/>
2. See, Depth of Field – Everything You Need to Know from the Nashville Film Institute, <https://www.nfi.edu/depth-of-field/>
3. Ibid.
4. <https://jasonfrancisco.net/an-unfinished-memory>
5. Ibid.

The Story I Choose to Tell

JONATHAN ORT

The concrete slabs cut a jagged silhouette. Over the course of eighty years, they have sagged, buckled, then snapped under their own weight, plunging into the void beneath. It took me a moment to grasp what they were or had been: a block of pit latrines. Here, prisoners in Sector II of Auschwitz-Birkenau had been forced to relieve their bodily functions, the discharges that human survival requires. Guards beat anyone thought to tarry too long. As I tried to fathom the horror inflicted in this place, a blur of motion startled me.

It was a hare, its head above the concrete. It pattered through the fractured earth, then vanished in the ruins. To my surprise, I was shaking. The sight of animal life only deepened my sense of transgression. What right had I to tread this ground soaked, as one of my peers lamented “in blood and ashes”?

I was at Birkenau alone. Though I had planned to spend the afternoon at Auschwitz I, something led me to take the bus one stop farther. This essay attempts to honor my experience there—three hours that I have struggled to put into words. The night after I left Poland, I tossed and turned, dreaming of a grid that stretched forever. When I awoke, I knew at once that it had been rows of chimneys.

Birkenau exposes the false premise of neutrality. I cannot, and never could, give a neutral account of being there. The anthropologist Michel-Rolph Trouillot explains why: narratives we tell about the past are inherently implicated in the exercise of power. In *Silencing the Past: Power and the Production of History*, he writes, “what history is matters less than how history works.”¹ We choose to inscribe particular histories, namely those that reflect our positionalities of race, gender, class, and other facets of identity. The notion of fixed historical truth privileges one narrative while foreclosing others. “We now know that narratives are made of silences,” Trouillot writes, “not all of which are deliberate or even perceptible as such within the time of their production.”²

If I say that clergy, journalists, and doctors had to choose whether to “collaborate” with or “resist” the Nazi regime, I assume that they could have undertaken only one of two actions: one moral, one immoral. I conclude that their ethics were not already

compromised, that they were not already complicit in Nazi rule. Those claims reveal as much about me as they do about my subjects. I have a stake, after all, in presupposing that collaboration and resistance excluded each other. The binary suggests that I—a white, non-Jewish man—could have chosen resistance, and thus remained without blemish. That assumption flatters me.

To be clear, professionals in the Nazi era did have to choose between good or evil. I believe that “resistance” and “collaboration” rightly describe that crossroads. But those extremes do not represent the one-time flip of a switch. People did not simply cleave to one or the other. A single decision—decrying the Nazi war effort while failing to defend one’s Jewish neighbors—betrays just this intersection. Writing about apartheid, Jacob Dlamini stresses that a “fine line” always separated resistance from collaboration.³ Was that line any thicker in the Holocaust?

To pit the two stances against each other disguises assumptions rooted in power. If I define resistance as a state of moral purity, then a “resister” must have defied the Nazi regime in no uncertain terms. Who do I take to meet that bar?

The historians Vesna Drapac and Gareth Pritchard write, “the predominant image of the resister remains individual, heroic and masculine.”⁴ They critique “a gendered resistance/collaboration paradigm” that predominates in scholarship about the Nazi era.⁵ Such a narrative only renders political acts of a public nature—those available to men who held authority—legible as resistance.

What of the choices made by women? What of the choices made by people who lacked professional status? “Any approach to the study of European society under Nazi rule that privileges the concepts of resistance and collaboration,” Drapac and Pritchard warn, “leads to misrepresentations.”⁶

If I remember only the men popularly regarded as exemplars of resistance, I reinscribe a dangerous politics of power. At the German Resistance Memorial Center, I learned that no one ideological, religious, or moral commitment united those who opposed the Nazi regime. Our guide ventured “incredible courage” as the only common denominator. The site itself, however, risks telling the same selective narrative.

Located in the Bendlerblock, where elite Wehrmacht officers plotted to assassinate Adolf Hitler, the memorial valorizes men whose Nazi complicities ran deep. I do not

deny that their resistance had integrity. Perhaps it was exemplary given how enormously Nazism had profited Hitler's would-be assassins. But that interpretation is not innocent, especially if I take it alone. "Power is constitutive of the story," Trouillot reminds us.⁷ And uncritical heroism is not the story that FASPE tells.

In June 1942, my great-grandmother and great-great grandparents resisted the Nazi regime that ruled occupied Czechoslovakia. They helped shelter the parachutists who assassinated Reinhard Heydrich. My forebears paid with their lives. As their descendant, I am tempted to identify with the mantle of resistance. But it is not mine to claim.

As a white, affluent man, I exercise privileges that derive from racism and anti-Blackness. As an insatiable American consumer, I participate in neocolonial systems of exploitation. I benefit from patriarchy, heteronormativity, ableism, and Christian privilege. Though we do not often understand our choices today in terms of "collaboration" and "resistance," neither category is a relic. How I understand them in relation to the Holocaust reveals whether I see them in my own life.

I had hoped, even expected, that FASPE would ground me in moral bedrock. I imagined learning principles that could guide my decisions. I had it wrong: FASPE issued a call, not a credential—the call to be and to remain troubled, to recall the horror I felt at Birkenau, to remember that I am not so far removed.

Jonathan Ort was a 2023 FASPE Seminary Fellow. He is a Master of Divinity candidate at Yale Divinity School.

Notes

1. Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Beacon Press, 2005), 28.
2. Trouillot, *Silencing the Past*, 152-153.
3. Jacob Dlamini, *Native Nostalgia* (Jacana Media, 2010), 8.
4. Vesna Drapac and Gareth Pritchard, "Beyond Resistance and Collaboration: Towards a Social History of Politics in Hitler's Empire," *Journal of Social History* 48, no. 4 (2015): 875, https://www.jstor.org/yale.idm.oclc.org/stable/pdf/43919819.pdf?refreqid=excelsior%3Aedb076eaca837a10087547ffc3c4bbca&ab_segments=&origin=&initiator=&acceptTC=1.
5. Drapac and Pritchard, "Beyond Resistance and Collaboration," 870.
6. Drapac and Pritchard, "Beyond Resistance and Collaboration," 865.
7. Trouillot, *Silencing the Past*, 28.

