Letter from the Editor

To Be A Friend

Shabat Shalom

Threats to Duke Students' Voting

The Plight of the Modern Day Big Brother
The purpose of Encompass Magazine is to renew an ethical dialogue among all disciplines of the Duke community. We hope to show that ethics isn’t just for philosophers, priests, or obnoxious goody-two-shoes.
From across the world to the recent elections in the United States: ethics is international. It is not only a part of our humanity, but brings us together as a single people. In the past, Encompass Magazine aimed to demonstrate how ethics is both everywhere and everyone. However, in this issue we show how ethics demonstrates our fundamental similarities across borders. In a politically divided world, ethics invokes the responsibility to be a citizen of the planet, as the way we examine our reality and the reality of others affects humanity as a whole.

In this issue we start by analyzing the ethics of political responsibility in the United States and within the Duke community. How do we construct our responsibilities to participate in elections (pg. 10)? How do ethics, religion, and political conviction play a role in our decision as voters (pg. 16)? Parting views on what is ethically and politically appropriate will affect Duke, America, and the World and are paramount to the 2012 presidential election.

But ethics should be taken further than headline news stories and also focus on more unsung questions. Through the eyes of a Freshman here at Duke, we analyze the ethics of social interaction and its inherent superficiality (pg. 18). Then, through the eyes of a Duke Junior abroad, we interpret the ethics of personal and ethnic barriers in social situations, and how they might be shed (pg. 6). And, through the eyes of one of Duke’s spiritual leaders, we consider social interaction within the context of religion and how ethical behavior transcends religious convictions (pg 8).

Finally, we look at how information is presented by the media and at the ethics of its reception across the world. Nearly anything can be posted on the internet, but how has this reality affected communities in America and across the globe (pg. 12)? Moreover, with exponential growth in access to information, what is the ethical divide between being an expert and simply having an opinion (pg. 25), especially when it comes to our health (pg. 22)?

Ethics as an international concept requires a simple commitment to view people as people. Preconditions and prejudices will always persist, but in considering humanity more deeply we allow ourselves to lead a more ethically enriched life.

Enjoy, engage, and encompass ethics!

Jacob Golan and Bethany Horstmann
Ethics as an international concept requires a simple commitment to view people as people.

Ethics Quotes

“Is it a crime, to fight, for what is mine?”
  — Tupac Shakur

“Consensus is what many people say in chorus but do not believe as individuals.”
  — Aba Eban

“We all came into this world naked. The rest is all drag.”
  — Ru Paul

“Ethics is in origin the art of recommending to others the sacrifices required for cooperation with oneself.”
  — Bertrand Russel

Winter Break Reading

The Snow Leopard
  Peter Mathiessen

Mathiessen travels through the Himalayas in search of the elusive Snow Leopard. This memoir is as much an existential journey as it is a biological expedition, drawing readers into the bleak Himalayan landscape. Mental and physical survival merge as one, leaving readers both overwhelmed and deeply appreciative of life.

The Book of Disquite
  Fernando Pessoa

A compilation of fragmented writings from one of Portugal’s most famous writers. Pessoa deconstructs human yearning in his observations of daily life. What does it mean to complain, when is it appropriate, and why is it so linked to our humanity?

Must Watch
Ethics in Movies

I Am Love (Io sono l’amore)

What is the connection between how we love and who we are as a person? Do we love for ourselves or for others, or both? And where is the line drawn? A film about a Milanese family caught between socially accepted relationships and deviant passions. This film calls into question the ethics of sexual consequences and asks to whom we are responsible for our lust.
Barefoot and smiling, we set off for town. In pursuit of I could not tell you what; the ceaseless desire for carpe diem fueled this love story between a girl and a country. Four months in Cape Town, South Africa to soak it all up, somehow—to see the sounds, hear the colors—make it count, make it count, make it count!

I have always been most interested in cultural overturn, rather than political overturn. My decision to study for the semester in South Africa stemmed from my curiosity to experience a society, freshly post-Apartheid, in the midst of its metamorphosis.

Admittedly pleased, what I go looking for is never what I find. In what is called, “The Rainbow Nation”, I thought about what it means to be a rainbow. Colors that blend into and, in essence, become, one another. The infinite pieces of the complete spectrum, the summation and reflection of wholeness, or of emptiness, that really, are just two names for the same thing—black and white. Is a rainbow the opposite of the shades? Or is it what lives beneath black and white? Rainbow is who we all really are. Beyond our exteriors, which we have deemed all but arbitrary, we are rainbows, every color, we are Everything.

"Easy for you to say, Rachel, you are a white, American girl abroad."

Yeah, you’re right, easy for me to say.

The slight, hegemonic, orientation of the world that veers in the direction of white and middle-class American trail always right behind me.

I did not come here to change the world, I didn’t come here to criticize this country, declare that it’s ailing and tell it how to go about making itself better. I’m just here wandering, but I ain’t lost. Wandering the city’s flowered streets, wading through the vivid sounds and colors of racism, sexism and class struggles, trying to put a face to the oppression.

Never have I felt more aware of my whiteness, my girl-ness, and my economic background. In this country, I am exposed to the direct juxtaposition of the First World and Third World conditions, just minutes from one another. Friends I have made here communicate in up to four different languages at home and with their friends before they come to classes at the University of Cape Town and speak English. I wondered if they resented learning English. I wish they didn’t have to learn English. I felt guilty for not learning one of the many local languages or dialects. On my walk from school to my apartment, I am approached by many people everyday asking for change and I wonder if what I have to offer helps them enough. On the other side of the street I see people turning their backs. This heavy, self-conscious feeling of acting in and around my identity seems to creep up and permeate like dripping molasses settling back into the shape of its container. I realized that even if we shake up the circumstances, throw together blacks and whites and coloreds, and discuss the theories behind the “isms” (race, sex, class, gender, etc.), even still, we conform to the shape of our container—our culture. The constant and astute awareness that I feel everyday, that I am a
girl and I am white, is difficult to reconcile while simultaneously trying toimmerse in the culture of a million sounds and languages and multitudes of color. Stopping to think about it, I felt trapped. In Marx's theory of culture; culture is inescapable and even resistance serves only to fortify it. There is nothing outside of culture...how claustrophobic. But somewhere in between all of the stares, the whistling, trying to de-rail the stereotypes that have been jammed into my head, after lots of interesting conversation, I have come to one conclusion: It is O.K.

On my walk home from class, deep in thought, I fought internally with a provocation from a TA, "Diversity is not beautiful, Diversity is a struggle." I replayed it over again. My abstract optimism could not leave that untouched and unquestioned. My thoughts were shattered by a familiar voice, “Hey, again.” I turned to see a smile and a man sitting in the same place I had seen him three hours earlier on my way to school. “What are you still doing here?” I asked him, wondering what he had been waiting for. “Food,” he said. And I realized he had not planned to ask me as earlier, he only wished me a good day. Hungry as well, I took out my peanut butter and jelly sandwich from my backpack and split it into halves. Then I sat down on the sidewalk for lunch. Just like I would with a friend.

All day long, I see people ignore the many strangers who inevitably approach them on the street in a day in the life in Cape Town. Talk from strangers is often brushed off and regarded as either harassing or bothersome. To me, it seems strange to ignore someone. I am not talking about the rules of being polite, I am talking about what it means to be a friend. To level with another human being because it’s three in the afternoon and you both haven’t had lunch.

Each time I find myself sad over the stark differences in lifestyle and location in society based strictly on all of the other variables measured up against white hegemony, I recognize the validity and limitations of living in a material consciousness and inescapable, physical state of world. Colors of skin, sounds of language and all other organizing factors of society (gender, class), have been socially constructed and fortified throughout all of culture to become signifiers that are anything but empty. We do not allow ourselves to interact with anyone or anything that brings us into slight states of discomfort, fear or otherwise. We hide behind the dogmas of what is clean, what is good, what is proper, what is professional and what is right. We walk around with blank faces, sunglasses on and pretend to be interested in our cell phones, wondering how others on our path perceive us. If you are wondering how a homeless person perceives you when you walk across the street to avoid them or what a person of another race thinks when you overlook the empty seat next to them, I can tell you that I wonder about that too. We’ll never know if they know we are foreigners, if they are staring because we are white, or if they are even staring at all. We’ll never know if their motives are anything other than to elicit a simple smile, as you move so stilly and untouchable through the flowered streets of Cape Town. Instead of worrying and wondering what others are thinking, realize that, just like them, you will never find yourself anywhere where you shouldn’t be. But if you find yourself still wondering, if you really want to know what someone is thinking about you, smile at them. I guarantee you, if nothing else, they will think you are nice.

Nice is a good thing to be.
A student came into my office and asked: “When you said ‘Shabbat Shalom’ to me on Saturday morning, what did you mean?”

The question surprised me. “Shabbat Shalom” translates roughly to “Sabbath greetings,” or “Sabbath peace.” Once could extend the simple greeting to mean “may the peace of the seventh day be upon you.” It’s the general greeting given among Jews on Shabbat, simply a special way of saying “hi” that also acknowledges that it is a special day set apart from the other six days of the week.

What surprised me was that the student who asked me that question knows more than enough Hebrew to understand the phrase, and has used it regularly. So I was very confused by the question. I responded “It was Shabbat morning, so I was saying ‘hi.’”

“Oh,” the student said. Then, after a pause, the student asked another question. “So you weren’t judging me?”

“Judging you?” I responded, now even more confused. “How could I have been judging you? Why would I do that?”

“Because it was Shabbat morning, and I was jogging when you were walking to synagogue. You’re the Rabbi, so I thought you were judging me or thought I was a bad Jew or something when you didn’t just say ‘hi’ or anything like that but instead had to remind me it was Shabbat and I wasn’t in synagogue.”

My confusion turned to something akin to shock as I realized that what to me was a friendly greeting that comes as easily and automatically as “what’s up,” “hi,” or any of the many other ways in which we acknowledge each other’s presence in the modern era had taken on entirely new levels of meaning for this one person in that one instant. While to me it was something very simple, a casually spoken and friendly greeting, it came across to the person I greeted as a condemnation that had never arisen in my thoughts. I couldn’t imagine judging someone in such a way, much less in that moment when it was such a wonderful morning to be outside.

What resulted from that one student who thought I had been harshly judgmental following up with me was a wonderful conversation that strengthened a relationship. It was for me a powerful moment and a tremendous learning experience. We all are socialized and raised to recognize that words have tremendous power. Despite the childhood rhyme of “sticks and stones may break my bones but words will never hurt me,” we all know better. We all know that words can cause far more damage and leave greater wounds that the various physical scrapes, bumps, bruises, and injuries that we experience growing up. Even after we physically heal and can no longer truly remember the physical pain we are always able to recall an injury left by someone else’s words.
How easy it is to wound someone verbally! We live in a society where we often laud people who are quick-witted and think on their feet, always quick with a rejoinder or able to swiftly relieve a tense situation with humor. Indeed, it is a valuable gift to do so and we are often right to admire this talent in those who possess it and use it. But sometimes the swift comeback leaves a mark, sometimes we answer with humor too quickly in a serious situation and effectively send the signal to those listening that we care less about their concerns because we can make light of them. We always appreciate the power of speech when it is used to entertain us, but rarely when it hurts us personally do we consider the ramifications beyond our personal pain. Our personal pain is not inconsequential and should never be seen as such. But let us consider the greater meaning and power of speech as a concept.

The ethics of speech are often seen as being encapsulated in a very limited yet important sense, that of truth. Has a person spoken honestly and clearly, without deception? If so, then that may be considered ethical speech. If one views speech as simply a medium by which one conveys information, then that seems to be a reasonable standard. As a Rabbi, I find that standard to be necessary but entirely insufficient. Not simply because I believe that speech is neither one-sided or simply serves as a means of sharing information, but because my faith demands a considerably higher standard.

In Judaism we recognize the tremendous power of speech. Not simply because it is the means the tradition teaches us God used to create the world, something we recite in the daily liturgy in the prayer of “Barukh She‘Amar,” “Blessed in The One Who spoke,” nor because that is the primary means by which most of us interact with each other. Even in the era of ever more pervasive online social media we use speech more often than any other form of communication. All the more so since having access to so many sources of social media means that our words can reach ever greater numbers of people, so we should therefore be considerably more careful with them.

In the first chapter of Mishna Avot, a rabbinic text codified in the 2nd century CE that collects and organizes words of wisdom from many rabbis over several centuries, more than a third of the teachings are devoted to issues dealing with speech and social conduct. This includes injunctions to “speak truth to one another,” (1:18) “say little and do much,” (1:15) and “I have not found anything better for a man than silence.” (1:17) At times the best thing one can say is nothing, and there are various other adages, from multiple cultures, affirming and reinforcing this belief. But this only covers half of the equation.

Yet the emphasis on speech at times seems to forget a key factor, arguably the most important one in the anecdote we opened with. That factor is the listener. Listening isn’t simply a passive skill. People aren’t empty vessels waiting to have more information poured into them. Listeners are taking an active role in any verbal interchange. When we are spoken to we don’t simply absorb the information like a sponge but color it with our own thoughts, beliefs, knowledge, intentions, and desires as we make sense of what we are hearing in our own individual frameworks. We actively engage with the speaker and our feedback in any form can affect the not simply the content of the message but also the delivery.

This is of course evident in a conversation between people who are paying attention to the other as active speakers and active listeners. Yet this would seem to be of limited use in particularly short interactions where there may not seem to be any time available to give or make use of such feedback. In brief encounters shorn of greater context it seems all too easy for there to be a significant difference between the intent of the speaker and the impact on the listener. Is there an ethical obligation on the part of the listener to revisit a conversation which may have been unintentionally hurtful for the sake of learning whether or not the hurt was intended?

As painful as it may seem, I would suggest that the answer is yes. I will suggest this because sometimes things which seem to be obvious and clear to one individual may be very difficult and confusing for another individual, just as something that is simple and meaningless to one person may be quite profound for another. The speaker may not have realized the impact of their words on another person and deserves to know the power that their words can have. I believe this not only because that first chapter in Mishna Avot teaches that we must always “judge others on the scale of merit,” (1:6) mandating that we give others the benefit of the doubt, but because we each have the potential to help others become better people.

The student who came to speak to me about what I thought was a simple greeting, and what the student felt was a personal judgment, gave me the gift of opening my eyes to see things in a different way. Isn’t that a gift you wish to also share with others?
I remember the look on the Duke undergraduate’s face as he ran down the main Quad towards the Trinity Room. He was yelling “I’ve got to vote” and the music of the chapel had just begun, announcing that the noon hour on Saturday had arrived. “How could I have forgotten to vote, when the opportunity was sitting under my nose for the past two and a half weeks? “ This particular student - I’ll call him Reggie – was smart, popular, well-informed, and this morning hung over, a procrastinator like so many of us who had just missed his chance to vote in what was the closest Presidential vote in the country. The election in North Carolina was decided by less than fourteen thousand votes, a mere five voters per precinct. Reggie was able to vote that morning, one of more than ten thousand citizens who voted in the Trinity Room in the fall of 2008 after Board of Elections Superintendent Mike Ashe decided to extend early voting hours on Saturday by an hour. Reggie had been given another chance.

Unfortunately, many Duke students may not have such opportunities to vote with relative ease in the future. Republican Gubernatorial candidate Pat McCrory, likely to be Governor-elect when this article appears, has promised to sign the “Voter-ID” bill that was proposed and passed by State Republicans, but vetoed by Governor Beverly Perdue in 2011. The bill would make it much more difficult for citizens without drivers’ licenses to vote, requiring that voters have state-issued photo identification. Duke cards or Duke registration info would likely not cut it. And North Carolina students whose home address is on their driver’s license would have to vote by absentee ballot or at home, a hard thing to do when elections are on Tuesday. The proposed law claims to be aimed at eliminating vote fraud, a concern that grew after the historic 2008 election in which minorities and students voted in record numbers. But there was no uptick in actual cases of voter fraud in 2008. Indeed not a single case of vote fraud was observed in Durham County in 2008.

Republican sponsors of the voter ID bill have suggested that the lack of voter fraud convictions proves there is a problem. Such “logic” relies on a perception, with deep historical roots, that when poor and minority voters turn out some kind of chicanery or political corruption is at work. Such perceptions, largely impervious to facts about voter fraud, are fueled by the very real mobilizations.

“But having access to an early voting site is a privilege not a right. We have to earn that privilege each and every election as early voting sites cost local and state governments precious money and resources.”

By: Gunther Peck Bass Fellow Associate Professor of History and Public Policy

Threats to Duke Students’ Voting Rights

I Voted

Photos by Henry James via flickr
curred in the last election. Indeed, what was truly remarkable about 2008 was not voter fraud, but the dramatic ways new voters transformed the electorate and the outcome. John McCain won every group of voters above the age of thirty, but he still lost the state because Barack Obama won the 18 to 29 year old group by a better than three to one margin, the largest generational voting gap of any state in the Union. It is these sporadic voters, students rather than undocumented immigrants, who are the real targets of the voter ID bill.

Another danger to the future of Duke students' voting rights may be apathy. Here at Duke access to voting matters. In the spring of 2008, Duke students produced some of the lowest voting returns of any major university in the state, with approximately 12% of locally registered students participating in the decisive primary that essentially guaranteed Barack Obama the nomination over Hilary Clinton. That turnout was roughly two-thirds of the level of participation generated by fellow students at UNC-Chapel Hill, NC-State, and NC-Central, all of which had early voting sites on or very near campus. In the fall of 2008, by contrast, Duke finally got its own early voting site at the Trinity Room, and participation soared. Indeed, Duke went from being a laggard to a leader, generating perhaps the highest voter turnout on any college campus in the state with 83% of all Duke students registered in North Carolina casting ballots. Turnout by students living on East Campus, the recently graduated class of 2012, approached 90%.

But having access to an early voting site is a privilege not a right. We have to earn that privilege each and every election as early voting sites cost local and state governments precious money and resources. As citizens at Duke, we either use the early voting site or lose it. This fall, there are worrying signs that students, faculty, and employees have not realized as fully the opportunity that we have in the Trinity Room. Just over halfway through early voting, turnout at the Trinity room lagged behind its 2008 turnout by several hundred votes, the only early voting site to see turnout fall in Durham County. Currently, the Duke precinct is a full thousand votes behind its nearest counterpart, the early voting site at North Carolina Central. This turnout not only stands in stark contrast to the voting turnout at Duke in 2008 but also to this past spring when concerns about the marriage amendment briefly made Duke the hottest voting spot in the county. Duke's lower numbers also stand in contrast to the turnout among young voters across the state during the first week of early voting, which jumped almost 40% compared to 2008, an increase greater than the overall increase of 31% among all voters during the same stretch statewide. Despite nearly incessant commentary that students are less politically engaged in 2012 because of lingering effects of the recent recession and the lousy job market, students statewide seem to have learned the right lesson about 2008 – that using your voice in the election booth is always preferable to having others speak for you and staying home. I can only hope that, whatever the election's outcome, Duke students have also learned that lesson and that "Reggie" and his many friends will have found a way to get to the Trinity Room before it doors closed to voters at 1 pm on Saturday November 3rd.
Google is by no means, “Big Brother,” but it certainly has been making some big calls recently, with regards to its decision to keep the controversial video, “The Innocence of Muslims,” on YouTube.

Despite requests from the government of the United States, Bangladesh, and Russia, Google has maintained the video on its main site, and only blocked it in India and Indonesia, where it violates local law. To justify its decision, Google asserts that the video does not violate its terms of service or constitute hate speech because it is directed against Islam, not Muslims as a group.

This recent controversy brings to light grave ethical and political implications. Should corporations exercise jurisdiction over the Internet, especially in matters with vast social implications? What does freedom of speech and press look like in a realm that transcends national, religious, and geopolitical boundaries? Google’s recent actions are problematic in three ways:

First, in an effort to preserve free speech, Google premises its defense on imposing a blanket principle that other countries and cultures may not subscribe to. Satire of Islam may not qualify as hate speech in the United States, but it certainly does figure into the definition that many Americans, such as Bangladesh, espouse. By refusing to take down the video, Google is forcing these countries’ hands in banning YouTube altogether – which is what Bangladesh has done, and what Russia is considering.

Second, by refusing to assume a “Big Brother” role, Google is ironically becoming “Meta-Big Brother.” Although protests have erupted in more than twenty countries, Google has only temporarily blocked the video in Egypt and Libya. In response to U.S requests to take the video down in other protest-ridden nations, Google has responded that it will do so if these situations become exigent. This begs the question, since when did Google become the main arbiter of geopolitics? Given that Google removes videos that violate local copyright law, it should accede to local standards for hate speech as well. With regard sensitive videos such as “The Innocence of Muslims,” Google can be “hands-off” by allowing governments to make the final call.

Third, finally, Google needs more restrictions on permissible video content beyond its terms of service and prohibiting hate speech. Although the “Innocence of Muslims” may not hit close to home for many Americans, the video of the former U.S Ambassador to Libya, Christopher Stevens, certainly does. While it is certainly within the purview of Google’s policies to allow the video of former Ambassador Steven’s brutal treatment to be shown, is it ethical to allow the footage in light of the recent tragedy?

Google needs to recognize that the line between inaction and action is a dubious one. Although it wants to be as unobtrusive as possible, the plight of the Modern Day Big Brother is that it has no choice but to involve itself in governing the internet realm. Whether it chooses to keep the video up or to take it down is setting an unmistakable precedent. Given that Google has already conceded that free speech needs to be reined in under certain circumstances, it should take the first step in further defining its place in the YouTube community.

Surveying the broader picture, there are a couple of reasons why corporations should be subordinate to national governments. Corporations lack the mandate to make weighty decisions in comparison to national governments. When the latter adopt democratic practices like elections, governments are sensitive to the ground sentiments and the intensity of preferenc- es for or against a certain product or service. In contrast, corporations are behold- en to their shareholders. Stock markets, takeovers, and other investment maneuvers define these shareholders. Corporations are therefore more vulnerable to being hijacked by dangerous interests. This volatility makes them less reliable arbiters than national governments.

One issue with this stance is that a significant number of governments are neither wholly benign nor perfectly democratic. The first response to this worry points to the zealous and widespread profit motivations of corporations that, although concealed beneath proud mission statements, can be more unsettling than power-hungry statesmen.

Furthermore, some products and services from technology corporations can nudge communities toward more democratic norms and beliefs. They create more open forums for the exchange of ideas and grievances. When corporations put on an arrogant and sanctimonious front, national governments can cast them as villains. Governments can righteously remove the presence of such corporations from their countries. Consequently, any inching democratic progress would be rolled back.

To be a force for good, corporations should be less forceful and hardheaded.
Google currently holds power of regulating speech through YouTube. They also shape the way they control speech by using the American ideal of free speech. Their
to regulation. In fact, one could argue that since they follow other governments’ laws, other nations are actually the checks and balances for this company. Whether they should have this power is irrelevant, because it already lies in their hands. What is worrisome is how a government or a company decides to regulate their power of speech.

Recently the video, The Innocence of Muslim was tied to the violence occurring in Libya and other countries in the Middle East and Northern Africa, as Grace posted about earlier this week. YouTube hosted the video, but decided to take down the video in Egypt and Libya even though they had already determined that it did not violate their terms of service. Why did Google decide to violate its normal ways of regulating YouTube? They issued a statement saying these were extenuating circumstances. In this case, the fact that violence was tied specifically to this video shows that Google tried to make the situation better with the options that were available to them. Other countries, including the U.S., requested that Google remove the video from YouTube, and were denied. Numerous countries that made this request did not have any violence occurring that was tied to the video. Not to mention, Google rarely ever complies with such requests, so any acquiescence would have been unusual. If Google had complied, their role in regulation would increase, which evidently Google wants to prevent.

Other videos exhibiting acts of violence like the video showing the former U.S. Ambassador to Libya moments before his death have also not been taken down. You may wonder if this maybe classifies as an extenuating instance, but this video has not incited violence nor is it hate speech. Taking down videos like this could make Google more susceptible to the numerous requests they receive concerning the removal of videos.

While legally Google does have the right to take down any video, whether they use it or not people are similarly free to use Google’s services or not. I feel that Google has chosen to give the power back to the people as much as possible through their lack of interfering with what is posted on YouTube. Having the video on YouTube, doesn’t force anyone to watch it. Google leaves it up to the current laws of a nation and the choices of its people to regulate.

Google’s business and moral interests are in alignment: they largely do not want to control speech. They’ve mostly taken a hands-off approach to regulation that coincides with the country the company originated in. Some incidences occurred where Google played the moral police in subtle ways, like in the case of Ashley Madison website. Google removed this website which helps to facilitate extramarital affairs, from autocomplete — making it more difficult to find unless you know what you’re looking for—and blocked its ads in the Google Content network. Google had no right to begin blocking their ads or the website and should have followed their own rules of taking smaller role in regulating speech. If Google took a more active stance in regulation everyone would be aware of the beliefs of the people in charge. If they were homophobic, chances are all of the videos concerning homosexuality would be removed. If they were religious, anything that violated their beliefs could be removed. If they hated violence, perhaps the Call of Duty commercials would no longer exist on YouTube. Wouldn’t you rather they took a hand-off approach to regulation except for extenuating incidences like “The Innocence of Muslims” video?

How Google Decides: Google’s Transparency Report and What It Reveals About the Company’s Role in the World

Everyday businesses and governments send Google dozens of messaged to remove content from its searches. From July-December Google received 187 transparency reports from the USA alone (100% increase from past 6 months) 42% were complied with 65% are court ordered, 47% are informal complaints.

The Kenan Institute for Ethics

The Kenan Institute for Ethics is an interdisciplinary “think and do” tank committed to promoting moral reflection and commitment, conducting interdisciplinary research, and sharing policy and practice. The Institute works to foster students’ capacity for ethical decision-making and to develop ethical leaders. It also conducts interdisciplinary research that has practical implications. A core part of the Institute’s mission is to shape public policy and institutional practices through partnerships with businesses, think tanks, non-profit, and policy-makers. At Duke the Institute serves as a central node for analysis, debate, and engagement on ethical issues at and beyond the university. The Institute currently feature work in global migration, human rights, regulation, moral attitudes and decision-making, and religions and public life. Throughout its activities, the Institute strives to bring diverse perspectives together to foster dialogue and understanding. Some of the student-focused programs and initiatives of the Kenan Institute for Ethics are outlined on these pages.

DukeEngage Dublin

Led by Suzanne Shanahan, a sociology professor and associate director of the Kenan Institute for Ethics, this eight-week summer program takes place in Dublin, Ireland, under the auspices of DukeEngage. Immersive and challenging, it involves examining and tackling important issues pertinent to the Irish people and immigrant communities, such as racism, immigration, globalization and nationalism. Students are placed in several non-governmental organizations during their time in Ireland, including Educate Together, New Communities Partnership, and Metro Éireann. This program not only enables the participants to get first-hand experience of the challenges that face migrant and refugee communities in Ireland, but also enables them to help the communities they work with in a unique and long-lasting way.

The Ethics Certificate Program

An undergraduate academic program that involves an in-depth examination of ethics from different perspectives, the Ethics Certificate Program is an interdisciplinary certificate aimed at encouraging moral imagination and contemplation. It seeks, above all, to pose ethical question for students to ponder and discuss, rather than soliciting moral answers or attempting to find one correct way to live. Students in ECP courses attempt to answer the question: How Ought We to Live? There is no single major associated with the ECP as it encourages students from all disciplines to explore ethical questions within and outside their field. The senior capstone course for the ECP creates a publication discussing one specific ethical issue, such as terrorism and just war in a new age.

For more information on these programs and how to get involved with the Kenan Institute for Ethics, go to: dukeethics.org and click on students.
Focus
Kenan’s Focus program, World on Fire: Ethics, Leadership & Global Citizenship, asks questions about which communities we belong to, what values we ought to uphold and how should we exercise our political and civic rights? The goals of this Focus Program cluster are for participants to develop a critical yet actionable understanding of the concept of “citizenship”—its historical origins, ethical implications, and contemporary global challenges—for both individuals and institutions and to develop the crucial tools of moral dialogue necessary for lifelong engagement as thoughtful citizens and ethical leaders.

DukeImmerse: Uprooted/Rerouted
Think of Uprooted/Rerouted as Focus on steroids: a semester-long, research-based, student-faculty collaboration on a single theme—forced migration—plus a weekly dinner meeting and a four-week mid-semester field trip to Nepal or Egypt. The program strives to understand the contemporary dynamics of displacement and the challenges it poses. It aims to offer concrete research-based interventions to address both the causes and consequences of displacement. Duke students and faculty will collaborate both with refugee communities and international, national and local NGOs working with these communities to address a single research question: how does displacement affect the well-being and the social identity of those displaced?
Election season discourse is particular. As Fall unfolds, the general public convenes over airways, blogs, and water fountains to debate the character of individuals who seek elected office. For one reason or another, the personhood of candidates always achieves greater rhetorical salience than does the possibility of policy distinctions. Despite a hermeneutical framework of church-state separation, the United States government finds itself compelled to wrestle with faith and governance on an annual basis. In late September, Duke did the same.

I led Duke University’s inaugural symposium on religion, law, and politics with the support of the Kenan Institute. This event, “Ethically Formed? An American Religion, Law, and Politics Symposium,” sought to critically engage the role of moral formation in creating discourses of power in American life. Throughout the course of two days, students and faculty from Duke and the University of North Carolina took part in a conversation that explored the relationship between religion, law, and politics within a context of ethical discourse.

The Symposium sought to bring together members of the Duke community along with elected officials, political consultants, and a variety of academics—legal scholars, historians, and political scientists—to wrestle with the ways that law, politics, and religious ethics are embedded in one another. We heard from both a U.S. and a State Senator, a faith-based political consultant who was largely responsible for Obama’s faith outreach, along with scholars of immigration law, American religious history, and moral formation. The Symposium was closed by an address by President Stephen Lewis of the University of Toronto. The event was a collaboration among Duke Divinity School, Trinity College of Arts and Sciences, and the Kenan Institute for Ethics. Find out more at kenan.ethics.duke.edu/religion

---

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

—The First Amendment of the U.S. Constitution

same time, however, Hart was aware that the entire world could taste in the air the acridity of but a decade before in Nazi Germany; positivists, Hart understood, could not be seen as complicit in the silence against oppressive legal regimes—as Hart put it, “the stink of such societies [was] still in our nostrils.”[1] The relationship has long been in question. Sophocles’ Antigone gives us the statement that “morality tells you one thing and law another.”[2] For many theorists, such a statement is plausible. Indeed much of American public discourse rests on a buried assumption that morality should be divorced from law, and broadly, from politics. As much as this idea runs through public argument, the public generally does not believe it—the public tends to resort to religious appeals when discussing everything from the death penalty and abortion to education and tax incentive incentives. But ethical discourse cannot be derived from an unhistorical, disembodied, non-particular understanding of morality as decontextualized duty or right. Morality, rather, must be viewed as a historical, embodied, particular hermeneutic. Our politics, too, must be historical, embodied, and particular. Faith and politics require grounding within time and place that speaks the language of a particular community and constitutes a particular reality.

Roger Williams, an early advocate for religious liberty in the new world, is often known for the famous phrase ‘wall of separation’ that found its way into the letters of Thomas Jefferson and left an indelible mark on our American story. But what type of wall is our wall of separation between church and state? Is it an impenetrable wall—one that stands as a fortress between two worlds? Is it a wall like Duke’s East Campus wall, short enough to climb over but tall enough to be visible to the eyes? Or is it a transparent wall, one where passage back and forth is a part of every day experience? While the question has faced constitutional scholars and policy-makers for centuries, the answer is never clear. One thing is clear—religious language contributes significantly to the ethical purview of law and politics. The formation of leaders for the American public is a process of habituation into the language of faith in all of its varieties. As president after president have learned, public discourse is infused with echoes of the religious. What is religion’s gift to the ethical purview of American legal and political discourse? The question requires the varied answers of each generation as new boundaries are defined. Often the language is used to perpetuate fear and exclusion, such as in recent remarks by a North Carolina minister who called for the abuse of gay teens by their parents. Other times it is used to promote inclusivity and hope such as in national movements like Habitat for Humanity and the Developing Communities Project. As Rev. Jack Danforth (U.S. Senator-Missouri) has said, “when religion is at its best, compassion is its gift to American politics.” The role of religion in public discourse will continue to be debated because far too often the words of compassion are left unseen, trampled by a more visible religious culture of extremism and hate. The Symposium on Religion, Law, and Politics sought to push open the doors to a more honest and civil discussion and tell a new story that redefines ethical leadership in the public square.

[2] Sophocles, Antigone,

Photos by yunusosozsu via flickr

-Andrew Tower Barnhill is a graduate student and the coordinator of Duke’s inaugural symposium on religion, ethics, and politics.
There are three questions that will define what everyone thinks of you during Orientation Week. 1) What is your name? 2) Where are you from? 3) What is your major? If the person with whom you are conversing does not share a common interest in your pursuit of study or is not from the same geographical region as you, an awkward silence is a probable result. This method of social sorting is what consumes everyone’s first week of college. The superficiality is somewhat sickening, but in what other way will relationships begin to grow?

Let’s begin examining the social culture of O-Week at the most obvious point, move-in day. After an exhausting day of hauling boxes and hanging posters, you have successfully moved into your room. Your parents leave and now you are left with the other one hundred or so kids in your dorm to mingle. You watch students hop room to room asking each encountered person the three questions before moving onto their next potential friend. As the day draws to a close, the night arrives and the issue of “What am I going to do on my first night of college and who will I hang out with?” becomes the topic of conversation.

On our first night, a panic sets in. We realized that because our days had been filled with superficial dialogue, we hadn’t really gotten to know anyone. Worried, we searched through our text messages at the numerous contacts we had accumulated throughout the day and recognized the names of a few people who we had met and liked. We texted them, we met up, and then the real fun began of searching for a party to go to. We wondered about the mythical Shooters: the sweaty, crowded bar just steps from campus, but did we really want to go? Were we antisocial and weird if we did not have the desire to dance with strangers all night? We didn’t think so, but others we noted, may be quick to pass judgements, so we made the trek down Main Street to the staple of Duke’s social life.

During the following days of O-week, we came to a conclusion: orientation week is quite similar to the highly comical act of speed-dating. Going from person to person, people involve themselves in short snippets of meaningless dialogue solely to get a first impression from which they decide “yes, I like this person” or “I have no desire to speak with this person again.” How is this any different than singles looking for prospective partners? It’s not! O-week, just like speed-dating, is a time when you are judged non-stop based upon things that really shouldn’t have that much importance. Like in speed-dating, students feel their time to make friends and form relationships is limited, so the depth of conversation doesn’t have time to get pushed past shallowness. Statistics show that about one third of people make their decision within the first 30 seconds. We would argue the same is true for students during O-Week. Quantity over quality is the definite mindset dictating dialogue.

We are not arguing that genuine and amazing friendships are not formed during O-week, they are. Superficiality, on some accounts, is a gateway through which people pass and then move away from quickly. In these circumstances, a level of comfort is reached between the two people and superficiality is short lived, leaving people to form great bonds. However, we are saying that the “three infamous questions” most people presume are essential to the development of friendships, may actually keep people apart. It is comforting for people to find others like them. This is why we feel awkward in the presence of strangers and at ease around our best friends. So people tend to automatically search solely for those with whom they will have something to bond over. “Hey, you’re from Philly?” “Me too!” “Our cheesesteaks are the best!” And from there the conversation naturally flows. It is much more difficult to appreciate someone’s love of Philly cheesesteaks when you are from Northern Wisconsin. The connection simply won’t be made with the same ease, but that’s not to say it couldn’t be made with just a little more effort.

So we have established that forming relationships is challenging due to a collective atmosphere of uncertainty and awkwardness. And it is even more complex to develop relationships when upon getting to school, the P-Waves crew is already a cult, the Division 1 athletes practically drink each other’s sweat, and the international kids group together and intimidate everyone with their capability to speak several languages. And yes, maybe your name, your hometown, and your major are granted too much importance, preventing Duke’s diverse groups from mixing. But look at the flip side, maybe this superficiality is a GOOD thing. It is easy to give fake demeanors, which are so consuming during O-week, a negative connotation. We could easily degrade those who act flippant and argue that everyone should actively attempt to be more real. But, we would like to convince you to believe that this superficiality is positive and ironically, completely natural.

How would you feel if someone came up to you on one of your first days of college and told you their entire life story, just laid it all out in the open? Most, we assume, would feel quite uncomfortable. People, in today’s world, usually prefer to keep their private lives private, sharing deeper experiences and facts of life with only those whom they trust. To achieve that level of connection, people need to begin at some starting point. And so that point may be the “three infamous questions”. If it weren’t for those original questions, dialogue would not ensue at all. Instead of hearing fragments of relatively empty-minded conversation everywhere, we would all sit silent and isolated. That would be terribly awful and boring. Laying out your story to everyone you meet is a definite no no; it is overwhelming. People need to start slow, start shallow. Some relationships need to be established before one can expose their real personality and share their deeper thoughts. So, the fake nature of everyone during O-Week is a natural self-defense mechanism. It is how students will find others with whom they feel comfortable and eventually share their more private selves. Without the powers and norms of superficiality, we would all say nothing, or perhaps worse, say too much upon meeting others. Superficiality is a protective barrier or security check of sorts. It keeps the bad from seeping out before people are ready to hear it and makes us less vulnerable to the judgements others may have.

But the more important question is: why are we so afraid of each other? Why isn’t everyone immediately comfortable around strangers? Because as a species destroyed time and time again by disillusion and betrayal, we have observed that in order to best survive we need to be skeptical and fearful of the unknown, especially those unknowns that seem threatening or superior to us. Fears of inferiority are definitely a factor in the interactions that take place during O-Week. When someone says they’re from Dubai and you mention that you lived your whole life in a small town in Idaho, you may feel subordinate. Or, when people say they knew their major would be biomedical engineering since the age of four and you are completely undecided, you may feel slightly belittled. When people feel inferior, they are more likely to cut off the conversation or be more reserved; people don’t want to be viewed as weak or uninteresting. Superficiality can be beneficial in the sense that it allows people to avoid exposing their true, inferior-feeling-selves to the presence of someone “greater” or “more enthralling.” It acknowledges the perceived threat some students’ sense from others and provides them a shield in which to hide until they feel ready to emerge. Of course, in a perfect world everyone would be on a level playing field, no person better than the next. Yet, we know that this is not the case. We have developed human strategies to cope with the inequalities. Superficiality, in many ways, allows students to circumvent feelings of self-
loathing by blocking the harsh reality that people can be and often times are superior. The “three infamous questions” and other superficiality can definitely build the platform of a friendship with people that are similar, but it can also create a defensive wall between people with different priorities. The good news is, by the end of O-Week you feel as though you know some people. Of course, you haven’t totally formed a group of “besties”, but you have some idea of the people you will become closer with. To everyone’s relief, the frivolous dialogues reduce in their numbers. Likewise, the instances you are asked the “three infamous questions” severely decreases. And most importantly, you start to realize you might be comfortable with a few people and you can finally relieve the troops and let down your fortress. So maybe what Duke’s administration would like to see happening during O-Week (diverse groups of people unifying to collectively embark on their transition from home to college), doesn’t happen. But maybe the friendships that ARE formed and the level of comfort that IS created, is enough to deem O-Week a successful initiative. And maybe, superficiality has more benefits than we are made to think...

What Do You Think?

We asked 100 Duke First Years what they thought about behavior during Orientation Week. Here are the results:

- **Were you frustrated during O-Week with how others were behaving or interacting?**
  - Yes: 63%
  - No: 37%

- **Did you feel Socially Uncomfortable at some point during O-week?**
  - Yes: 85%
  - No: 15%

- **Did you feel as though you were superficial (to some degree) during O-week?**
  - Yes: 79%
  - No: 21%
After the initial high of “OH MY GOD, I GOT INTO COLLEGE” dies down and the reality that you will be leaving home next year to live amongst thousands of strangers sets in, the anxiety about whom your roommate will be becomes all-consuming. Of course, not everyone entering his or her freshmen year of college is as concerned as I make it seem. Yet, let’s get real: roommates are a huge source of apprehension for the average incoming freshman.

Ideally each person hopes that he will be paired with someone with whom he is compatible. No one who goes to bed at 9:00 sharp each night and is disgusted by the smell of Ramen Noodles desires to live with a slob who barely got into college and is more concerned with the frat scene than succeeding in class. The horror stories are abundant. Everyone has heard about the roommate who NEVER leaves the room, the one who up and leaves college after the first week, the one who wants her boyfriend to sleep over every night, and the one who doesn’t stop listening to heavy metal despite the fact that it’s 3 a.m. and you have your first Econ test in the morning.

Luckily the majority of universities do have some type of questionnaire that asks generic questions such as, “Do you smoke?” and “Do you stay up late?” in the hopes that students will then be paired with people with whom they are somewhat compatible. These guidelines can offer some comfort to incoming students, yet just because two people go to bed at the same time does not mean that they are in any way similar personality wise. This underlying fear that a successful pairing is not at all guaranteed is what has driven many students to self-select their roommates.

I was a bit shocked when after acceptance letters had been sent out, I received an invite on Facebook to the Duke Girls Class of 2016 Roommate Group. Out of curiosity, I accepted. I began reading through the hundreds of surveys that girls in my class had filled out. Each girl had uploaded a document, answering over thirty questions that were posed by the site’s anonymous designer. Each girl was actively “searching” for a roommate. As I scanned through the posts I was mystified by how comfortable people were. Here girls were posting everything about themselves onto a public page that other girls would simply go through and do what I was doing—judge. I read each survey subconsciously analyzing the person’s interests, favorite T.V. shows, and past travels. Every question from “How many siblings do you have?” to “What is your clothing and shoe size?” was asked. It was like an online interrogation of sorts. I felt, at once, uncomfortable with what was going on. Yet, many others seemed to think this page was God’s answer to the hell that is picking your roommate. Every moment more posts were uploaded, more comments were posted, and more pairs declared themselves roommates. Continuously girls were choosing each other based solely off the fact that they shared common answers to a few superficial questions. As the posts were uploaded, people continued to comment with “Oh, I love that show too!” and “Ah, I am also from San Diego!” None of the comments acknowledged differences in answers. For example I didn’t see anyone comment “Hey, that’s so cool that you are from China. I am from Australia” or “I dislike nonfiction but it’s really cool that you’re so involved in reading and discussing it.” Girls were simply looking for mirror images of themselves.

Colleges today are continually attempting to enhance their diversity. The finest institutions in America draw on students from countries and cultures across the globe in an attempt to enrich the academic and social experiences of their students. Yet, if students are, already forming cliques of people before even getting to college, how is diversity benefiting anyone? Students should be aware that when self-selecting their roommate on superficial guidelines they are simultaneously denying the opportunity to be exposed to what could be an incredible experience of diversity.
Where to Draw the Line

By: Natalie Alberman
Biology '16

The moral concept of consent in medical ethics has been delineated between simple and informed consent. Historically, simple consent was used for the purpose of physicians obtaining permission so that they would not be charged with “assault and battery,” not to protect patients from paternalism. There was no requirement that patients understand what they were agreeing to, and if a physician coerced them, technically speaking the physician was absolved. More recently, the concept of informed consent has been implemented to require physicians’ disclosure regarding risks a patient may encounter with a procedure. The rationale for insisting that consent be informed is that without a patient knowing what he or she may encounter in what they are agreeing to, it is impossible for a decision to be made in which the patient maintains the right to control his or her body, and therefore results in a relapse of paternalistic medicine (Berg, Appelbaum, and Lidz 2001, 41-4).

In the case of Arato v. Avedon, physicians were accused of withholding valuable information from a cancer patient, and although consent was legally obtained, they allegedly compromised the informed aspect of his consent. When brought to court, this case refined the notion of consent and assessed physician-patient relations in order to appeal to the fundamental units of what constitutes an informed consent. Understanding the legal role of the physician in these interactions allows us to combine practical measures to ensure that consent be informed and that the patient can uphold their autonomy or what they choose to act on.

The moral ideal of informed consent originated with the case of Mr. Salgo, in which the California court sided with the patient who was not aware of paralysis being a risk of a procedure he underwent. The court recognized that physicians could use discretion to not frighten patients; however discretion of physicians cannot undermine the patient’s need to know facts. The rationale was that if patients do not know facts, including risks, they cannot give informed consent to the procedure. In other words, the court found the patient’s need to know outweighed the physician’s effort to be discreet. This decision made it apparent that simple consent to a medical procedure is not enough; the consent must be informed and physicians must fully disclose facts (Berg, Appelbaum, and Lidz 2001, 45).

After the Salgo case set the precedent, many others cases followed and physicians became concerned about what exactly informed consent entailed so as to avoid schisms with the law. While the importance of disclosure was established in the court’s decision, it was unclear what exactly physicians needed to disclose. Thus, assuming a patient is competent, the requirement was elucidated by the law with the three elements of an informed consent including disclosure, understanding and voluntariness. Disclosure refers to the physician’s moral obligation to give patients information, since there is an asymmetry of knowledge between the physician and patient in their interactions. As part of disclosure, doctors need to explain the purpose of treatment, risks associated, and alternative treatments. The element of understanding refers to the physician’s responsibility to use terms that the patient will actually understand, not just medical terminology when they disclose.

Finally, the canonical element of vol-
untariness indicates that the patient must give the decision, without coercion or external pressures (Berg, Appelbaum, and Lidz 2001, 64-5). Although these guidelines facilitated a reduction in the amount of malpractice charges, there remained a question of what exactly physicians were required to disclose regarding a certain procedure or risks associated. To explain circumstances that may arise with various patients and physicians, three legal standards for disclosure are generally considered.

The first of the standards is the medical practice standard, in which courts treated the lack of disclosure as negligence and malpractice, thereby appealing to the typical judgment of other physicians to demonstrate that the physician did something uncommon. By appealing to normative practice, the courts could understand what most doctors disclose before treatment. A benefit of this method is that physicians have the experience to determine what is appropriate to disclose to patients; too much information is not advantageous to an anxious patient but there is a need to disclose to patients what they want to know. However, a negative aspect of the medical standard is that informed consent is an ethical issue because there was no established standard for disclosure, physicians either varied greatly in their method or did not disclose properly; therefore it is difficult to judge physicians based on other physicians’ ethical lapses. It is for this reason that the second of the legal standards for disclosure, the reasonable person standard, may be implemented (Berg, Appelbaum, and Lidz 2001, 46-7).

Instead of having disclosure center around physicians’ moral abilities, the reasonable person standard maintains that no patient needs to know everything about a given procedure, but rather that patients want to know the basics and that there is some sort of a consensus about what information is valuable. While this method for disclosure is patient oriented, a disadvantage is that most physicians disagree about what constitutes key information and therefore will contrast with what facts they disclose. It is reasonable to conclude that this standard is most effective when the circumstance at hand clearly dictates what to disclose and what to keep discreet; however in the large indeterminate state of medicine, this method can prove to be challenging since patients and circumstances vary so significantly (Berg, Appelbaum, and Lidz 2001, 48-80).

To reconcile between the two extremes of physician based and patient centered standards for disclosure, the subjective standard can be used in which there is some agreement about what patients want to know. However this model differs from the other two because it leaves room for variations and it emphasizes the importance of knowing what the patient wants to know based on their lifestyle, career, hobbies or passions. That is to say that while an average person may judge a piece of information regarding a procedure to be trivial, a particular patient with a different lifestyle may view it as highly important. The subjective model clarifies that a consensus about what to disclose cannot be based on a majority and that disclosure needs to be fine-tuned on a case-by-case basis. While the elasticity of the subjective standard resolves the rigidity of the medical practice and reasonable person model, its shortcoming is that the physicians become burdened with the task of determining what the patients’ values are and what information they need to have disclosed in order to reach to a decision. This would require extensive discussion with the patient and may be difficult to apply to patients who are not open to confiding in their physicians. Furthermore, the task of evaluating a patient’s values may be too onerous for a physician who has numerous patients to consider. Nevertheless, in theory, the subjective model resolves the issues that the reasonable person approach presented being too ambiguous (Berg, Appelbaum, and Lidz 2001, S1-4).

The physicians on the case of Mr. Arato simulated the balance between the fine line relating the medical practice standard and reasonable person standard when they disclosed to him his diagnosis of pancreatic cancer. While they did not know Arato’s prognosis because the cancer was detected before it metastasized, he was given an experimental chemotherapy drug. Again, statistics were not available on this new drug, however, Arato was clearly aware of the fact that he had an aggressive cancer. When he died, his family sued his physician, Avedon, because they argued that Arato received insufficient disclosure, and that the physicians didn’t tell him how sick he was and the shortcomings of the chemotherapy treatments he was given. This in turn, affected his ability to settle affairs and as a result of Arato’s false sense of time, he left his family in a terrible financial situation. The physicians’ defense was that the statistics were not relevant to him because his tumor was localized; they further argued that for most people, it is enough to tell them their diagnosis and then if they are still unclear about what the prognosis is, they can ask physicians. Arato, they claimed, knew everything he wanted to know and settling his affairs was a personal, non-medical task for him alone to accomplish. Consequently, this debate conveyed the complexity of the issue about how much physicians are responsible to disclose (77-83).

Given that the moral purpose of consent is to ensure that a patient understands what is happening to him or her, the most reasonable compromise would have been for Arato’s physicians to use the subjective standard. In doing so, they could have told him a range of statistics and prognoses from other cases and explained that these were biased because they were from patients who were diagnosed later. Additionally, a completed consent form is not the same as informed consent, as consent forms do not effectively obviate the need for a documented discussion in the medical record of the risks and benefits of the proposed treatment. Consent forms are one type of evidence that consent has been obtained; yet better evidence that informed consent has been obtained is documentation in the patient’s medical record of a discussion between the physician and patient, or in other words, proof
that the subjective standard was used. This will ensure that all patients, with varying intelligence, understand their situation before they choose how to react.

It can be anticipated that one would argue in favor of the physicians, indicating that is not the physician’s responsibility to act as the patient’s adviser. According to the case of Cobbs v. Grant, from its inception the rationale behind the disclosure requirement in the legal doctrine of informed consent has been to protect the patient’s freedom to exercise control over his or her own body by directing the course of medical treatment (Medical and Public Health Law Site). Therefore statistical life expectancy data is information that lies outside the significant risks associated with a given treatment and it falls within the scope of additional information a practitioner would provide. In fact, at the trial, all of the physicians testified that statistical life expectancy data obtained from large groups had little predictive value when applied to a particular patient with individual symptoms, and history. The jury agreed, and found in favor of Avedon.

It should be noted however, that had the physicians utilized the subjective standard even to a small degree and spoken to Arato respectfully, the whole trial might have been avoided. That is, the subjective standard ensures informed consent by patients because it gives them the opportunity to manage the impact of their medical condition or in other words, it protects patient autonomy. This is due to the fact that the subjectivity in a discussion with a patient concerning their prognosis and plan of action could resolve all future questions regarding disclosure and understanding. Yet in order to make the subjective standard viable, a tweak must be employed: as discussed above, using this model would result with physicians being burdened with extensive discussions in order to determine patients’ values. Therefore using a novel approach, patient disclosure would have the physician apply the first two methods, the medical practice standard and reasonable person standard, and then incorporate the subjective third model, to ensure understanding on the patient’s end. To accomplish this, a medical counselor can be employed for further discussion and to advise patients how to choose treatment, realize or cope with the seriousness of their condition and act accordingly. In doing so, physicians are not weighed down with the time consuming deliberations needed to ensure that their patient comprehend his or her medical circumstances yet full disclosure and understanding are guaranteed.

By utilizing a standard in addition to relying on physician morality and patient accountability, the notion of informed consent becomes an amalgam of the three legal standards that should be used. While technically speaking, Arato’s physicians did disclose vital information to him, they could have done more to ensure that he came to terms with his illness and should be held responsible. This incident clearly illustrates that physicians should be more concerned with the impact they have on their patients’ personal lives; there is a strong need for human contact during the diagnosis process and physicians cannot minimize this by assuming that patients will understand or ask about serious illness. In brevity, while the legal aspect of informed consent may be captured with a signature on a form, this is not sufficient to ensure the moral aspect of informed consent. Instead, there are cooperative measures that can be taken by physicians and hospital staff to make certain that patients are fully understanding of their medical circumstances and that a lack of communication does not inhibit informed consent.

References


I rarely cry during movies today. Maybe I did as a child in 1982 when *E.T.* finally got to make his phone call and went home. I really don’t remember. However, my age-peers assure me that they all did. Elliot (played by Henry Thomas) taught my generation that it was OK for boys to cry, so I probably did join in. I do remember the last time I shed tears in a public movie theater. For that to happen, it took the combined geniuses of the late science-fiction author Michael Crichton (1942-2008) and director Steven Spielberg. It was *Jurassic Park* and I was a Freshman in college. For someone who had been dazzled by the puppetry of *E.T.* and the stop-motion-animation of the 1970s and 80s, that first CGI scene of the Brachiosaurus feeding on the tree-tops was so incredibly realistic it was like dinosaurs had returned to Earth. I believed and I cried.

It made an impression on me because today I find myself a Ph.D.-carrying paleontologist and an avid reader of Michael Crichton. By the time I was a graduate student, well into my paleontological studies, I had worked my way through most of the incredible works of fiction that were and will forever be Michael Crichton’s legacy[1]. As paleontologists we loved him for kindling an unprecedented worldwide interest in our science, well beyond anything the scientific community had ever been able to achieve on their own. Many a paleontologists of my generation will point to *Jurassic Park* as a moment of inspiration that put them on the path of their scientific career. Michael Crichton was our hero.

But heroes must fall. Our idolatry was severally punished in 2004, with the publication of *State of Fear*. There will always be those annoying academic types that will criticize any tiny deviation from scientific reality as portrayed in movies and books like *Jurassic Park*. Yes, Brachiosaurus probably couldn’t rear-up on its hindlimbs, and yes, the Velociraptors were too large in size[2] (as were the Stegosaurus in *Jurassic Park II*), but that’s called “creative license”. These are “scientific errors” that authors and directors must be allowed to make in order to create an inspiring story line. However, Michel Crichton took “creative license” to a whole new level in *State of Fear*. A page-turning, well-written, techno-thriller, its main point is essentially that the phenomenon of global warming is just the latest means by which politicians, environmentalists, and scientists seek to assure their positions of power and funding. Global warming is not real; it is a carefully constructed, fear-mongering tool wielded by powerful political, private, and academic interests. The use of a novel to propagate run-of-the-mill global warming denier arguments as having any merit (despite having been discredited by the scientific community) might be chalked up to Crichton’s creativity gone too far. However, what is unusual and particularly insidious about *State of Fear* is its extensive appendix containing a bibliography of real peer-reviewed papers, private think-tank reports, textbooks, newspaper articles, scientific reports, and various academic books. Crichton allegedly provided these “to assist those readers who would like to review my [Crichton’s] thinking and arrive at their own conclusion”[3] Crichton’s goal is not the construction of a peculiar “what if” science fiction story, but an actual criticism and alleged expose of the wrongs climate science! By doing so, Crichton has committed a most egregious act against his laymen readers and academic fans.

---

**Tears for Dinosaurs**

I rarely cry during movies today. Maybe I did as a child in 1982 when *E.T.* finally got to make his phone call and went home. I really don’t remember. However, my age-peers assure me that they all did. Elliot (played by Henry Thomas) taught my generation that it was OK for boys to cry, so I probably did join in. I do remember the last time I shed tears in a public movie theater. For that to happen, it took the combined geniuses of the late science-fiction author Michael Crichton (1942-2008) and director Steven Spielberg. It was *Jurassic Park* and I was a Freshman in college. For someone who had been dazzled by the puppetry of *E.T.* and the stop-motion-animation of the 1970s and 80s, that first CGI scene of the Brachiosaurus feeding on the tree-tops was so incredibly realistic it was like dinosaurs had returned to Earth. I believed and I cried.

It made an impression on me because today I find myself a Ph.D.-carrying paleontologist and an avid reader of Michael Crichton. By the time I was a graduate student, well into my paleontological studies, I had worked my way through most of the incredible works of fiction that were and will forever be Michael Crichton’s legacy[1]. As paleontologists we loved him for kindling an unprecedented worldwide interest in our science, well beyond anything the scientific community had ever been able to achieve on their own. Many a paleontologists of my generation will point to *Jurassic Park* as a moment of inspiration that put them on the path of their scientific career. Michael Crichton was our hero.

But heroes must fall. Our idolatry was severally punished in 2004, with the publication of *State of Fear*. There will always be those annoying academic types that will criticize any tiny deviation from scientific reality as portrayed in movies and books like *Jurassic Park*. Yes, Brachiosaurus probably couldn’t rear-up on its hindlimbs, and yes, the Velociraptors were too large in size[2] (as were the Stegosaurus in *Jurassic Park II*), but that’s called “creative license”. These are “scientific errors” that authors and directors must be allowed to make in order to create an inspiring story line. However, Michel Crichton took “creative license” to a whole new level in *State of Fear*. A page-turning, well-written, techno-thriller, its main point is essentially that the phenomenon of global warming is just the latest means by which politicians, environmentalists, and scientists seek to assure their positions of power and funding. Global warming is not real; it is a carefully constructed, fear-mongering tool wielded by powerful political, private, and academic interests. The use of a novel to propagate run-of-the-mill global warming denier arguments as having any merit (despite having been discredited by the scientific community) might be chalked up to Crichton’s creativity gone too far. However, what is unusual and particularly insidious about *State of Fear* is its extensive appendix containing a bibliography of real peer-reviewed papers, private think-tank reports, textbooks, newspaper articles, scientific reports, and various academic books. Crichton allegedly provided these “to assist those readers who would like to review my [Crichton’s] thinking and arrive at their own conclusion”[3] Crichton’s goal is not the construction of a peculiar “what if” science fiction story, but an actual criticism and alleged expose of the wrongs climate science! By doing so, Crichton has committed a most egregious act against his laymen readers and academic fans.

---

**The Betrayal**

There will always be those annoying academic types that will criticize any tiny deviation from scientific reality as portrayed in movies and books like *Jurassic Park*. Yes, Brachiosaurus probably couldn’t rear-up on its hindlimbs, and yes, the Velociraptors were too large in size[2] (as were the Stegosaurus in *Jurassic Park II*), but that’s called “creative license”. These are “scientific errors” that authors and directors must be allowed to make in order to create an inspiring story line. However, Michel Crichton took “creative license” to a whole new level in *State of Fear*. A page-turning, well-written, techno-thriller, its main point is essentially that the phenomenon of global warming is just the latest means by which politicians, environmentalists, and scientists seek to assure their positions of power and funding. Global warming is not real; it is a carefully constructed, fear-mongering tool wielded by powerful political, private, and academic interests. The use of a novel to propagate run-of-the-mill global warming denier arguments as having any merit (despite having been discredited by the scientific community) might be chalked up to Crichton’s creativity gone too far. However, what is unusual and particularly insidious about *State of Fear* is its extensive appendix containing a bibliography of real peer-reviewed papers, private think-tank reports, textbooks, newspaper articles, scientific reports, and various academic books. Crichton allegedly provided these “to assist those readers who would like to review my [Crichton’s] thinking and arrive at their own conclusion”[3] Crichton’s goal is not the construction of a peculiar “what if” science fiction story, but an actual criticism and alleged expose of the wrongs climate science! By doing so, Crichton has committed a most egregious act against his laymen readers and academic fans.
Just the Facts

It sounds perfectly intuitive: in a country with a free press, freedom of speech, freedom of information, and academic freedom, everyone should have the right to be able to look at the scientific evidence and come to their own conclusions. Indeed, by providing actual reference materials for his book, is Crichton not a paragon of this very precious freedom? Isn’t this what we are supposed to do when reaching out to the public—cite our references, and provide the audience with a chance to read the literature themselves? I don’t know of any scientist who would fault someone for providing this information to their audience. However, the problem doesn’t lie with making information available. It is the public’s ability to correctly view this information, that is the problem. In the words of Steven Shapin, Harvard Professor of the History of Science: “We hear about scientific findings, but the proportion of the population that can evaluate them—can follow along with them as opposed to hearing about them—is very, very small. But I think people who say that you have to come to your own view, evaluate, make up your own mind are in a sense speaking something which is blandly true, but strictly speaking, impossible.”[iv] Unfortunately, in order to really “make up your own mind” you would need to be rather fluent in the complex science you are being asked to evaluate. Only about 25% of Crichton’s suggested literature consists of the actual peer-reviewed scientific articles that are part of the vast literature behind the scientific consensus on anthropogenic global warming. The other 75% has not undergone adequate scientific review, or has already been “filtered” by third parties. For someone who really wishes to “make up their own mind” much of the latter literature is fraught with questionable third party interpretations, dubious facts, exaggerations, and the spin of private interest groups. They make for an interesting read, but they no longer represent the science upon which scientists build their consensus on climate change. But let’s assume for a moment that the non-scientist reader will focus only on the actual peer-reviewed scientific articles. How many of Michael Crichton’s readers are really in a position to evaluate these articles? The answer is preciously few. 72% of US residences hold an associate’s degree or less[v]. Half of those are limited to a high school diploma. That leaves 18% with a bachelor’s degree, 7% with a Master’s degree, and 3% with a Ph.D. Now despite the incredible self-confidence a bachelor’s degree can give to students, I would argue that few will have been exposed to enough basic and advanced math, statistics, physics, earth science, and atmospheric science to be able to judge the scientific validity and merit of a peer-reviewed paper. When was the last time a senior undergraduate was asked to serve as a peer-reviewer for a scientific journal? It doesn’t happen. That leaves less than 10% of the population that might, and I want to stress “might” [vi], have a degree in the appropriate scientific field with a sufficient background to “make up their own mind.” Yes, I am saying that most Americans are NOT educated enough to review and judge the merit of a scientific paper. Those who advocate the “give them all the facts and let them make up their own mind” view, like Crichton, are propagating a philosophy that is simply untenable. By asking the public to do so, one places an unrealistic expectation, and a completely false sense of empowerment on the lay person. Worse, it completely undermines the scientific community by trivializing scientist’s hard-earned education, expertise, and experience.

Intellectual Elitism

It by now you haven’t started to shift uncomfortably in your seat or shaken your head at my outrageous elitism, you were probably not born and raised in the United States. Americans despise anything that even slightly sniffs of elitism. This is a country that was born out of the flames that ultimately threw off the elitism of the past European class system and hierarchy. The Statue of Liberty greets the hopeful immigrant with the words “Keep, ancient lands, your storied pomp! Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed to me; I lift my lamp beside the golden door!”[vii] Unfortunately, for an increasing number of Americans the ideals of “equality” and “freedom” have come to mean much more than their original intent. Some have been taught and have come to believe that “equality” also extends to the layman’s opinion about scientific explanations: they should be viewed as equal to that of trained experts. Nonscientific opinions, supported by the public, should be given “equal time” or “equal treatment” in legislative discussion and school classrooms: from scientific creationism, to global warming denial, all the way to questioning the horrors of the holocaust[viii]. “Freedom” now extends to mean that every American should be free to reject scientific findings altogether, and that legislators should be free to pass regulations that are not based on the best scientific evidence. Indeed, more and more Americans “feel free” to accept anything as “scientific” so long as it is consistent with their economic, religious, social, or political views. Views to the contrary provided by expert scientists are simply dismissed and criticized as intellectual elitism and hierarchical arrogance. Indeed some American politicians have gone so far as suggesting that the scientific community is actively and knowingly misleading the public, for example, about the threat of global warming.[ix]
Choose Your Scientist

But I am oversimplifying this, right? No one willingly rejects scientific conclusions: it’s just that there are alternative scientific explanations of equal merit. Aren’t there real expert scientists who don’t accept macroevolution, or anthropogenic global warming? Aren’t there experienced engineers who have concluded that the collapse of the Twin Towers on 9/11 required more than just the impact of passenger airplanes? If scientists and experts make these conclusions, why should the public not accept them as well? There is no easy answer to this question, however, it most certainly lies within the idea of a “scientific consensus.” Essentially, I am arguing that the public is best served by accepting that conclusion which has been reached by the majority of the scientific community. There are always going to be scientists that will not accept the consensus. That’s has been true and will be true for all future scientific consensuses. However, shouldn’t we place our trust in the analytical minds of the many rather than the few? Ideally, we should “look at the evidence and reach our own conclusion,” but as we have seen, too few citizens have the necessary scientific background and education. Am I really arguing that Americans should put their trust in the scientific consensus because it is best to trust the majority of scientists than the minority? Isn’t history full of examples where the minority view was initially scoffed at by the mainstream scientific community but later found to be correct? Maybe so, but this is not reflective of the scientific endeavor as a whole. The reason most of us have heard of the Galileos of the scientific world is not because they represent how most scientific breakthroughs or consensuses are reached. Quite the contrary, it is because “Galileos” represent outliers to the usual way in which scientific knowledge grows. The vast majority of scientific explanations are the result of slow, repetitive, often mundane, but meticulous work done by many individual scientists. Historians look for outliers, renegades, and heroes because writing about the everyday work of most scientists would bore the audience to death. Global warming deniers, anti-evolutionists, and Holocaust deniers often cloak themselves in the mantle of Galileo, representing themselves as the true scientists, whose views are stilled by a dogmatic scientific mainstream. Some of them might be right. However, the history of science has shown that for every Galileo there have been (and are) hundreds of crackpot renegades whose ideas were rightfully discarded by the scientific majority[x]. Nevertheless, Galileo is an iconic hero in the mythology of science. The average science-educated college degree holder can probably list 4-5 such renegades, but would have a hard time naming an equal number of scientists who made and make a living by contributing to scientific progress through equally-creative, but less publicized and less controversial means. The non-scientist citizen is facing an unbalanced choice: to either place their trust in a scientific consensus, the evidence for which is well beyond their understanding, or to follow the populist renegade with the apparently simpler science who might just turn out to be another Galileo. Yes, Americans are and should be free to make such decision, it is fundamental to the very heart of American values and political system. However, such freedom brings great responsibility, in this case the necessity to be highly educated. Unfortunately, most of us are not.

What Then Shall We Do?

I believe that Michael Crichton was wrong to advocate the “make up your own mind” approach. It is an idealistic but unrealistic view of the world that does more harm than good. First, because it asks the public to make decisions they are not prepared to make, second, because it portrays a completely wrong picture of the rigor and complexity of scientific inquiry, and third, because it plays into the hands of those who willingly abuse the public’s freedom of choice to mislead them with false science. Indeed, the “we’ll give you all the facts and let you make up your own mind” approach is the cornerstone of every pseudoscientific conspiracy movement in existence. They thrive on the American sentiment of “freedom of choice,” and count on the paper-thin understanding that most of the public has about science. They raise Galileo’s flag and liken the scientific consensus to an elitist hierarchy.

Citations

[i] Aside from Jurassic Park, my favorites are The Andromeda Strain (1989), Congo (1980), The Lost World (1995) and Timeline (1999), and yes, I read the books before they were made into movies.

[ii] The real Velociraptor was no larger than the most impressive Thanksgiving turkey, although other members of the group, like Utahraptor could have stared you in the eyes. [ii] p. 641 in State of Fear (2004), Avon Books, New York.

[iii] The actual number of Masters and Ph.D. in the relevant sciences must be a fraction of the total given here.

[vii] Part of a poem by Emma Lazarus placed on the pedestal of the statue in 1903; today it can be viewed in the park’s museum.


[ix] “With all of the hysteria, all of the fear, all of the phony science, could it be that man-made global warming is the greatest hoax ever perpetrated on the American people? It sure sounds like it.” James M. Inhofe, Senator (Oklahoma), member of US. Senate Committee on Environment and Public Works, 2003.
Across:
1 - formal change to a text, e.g. the constitution
4 - constructive exchange of ideas
5 - former US ambassador to Libya
7 - the exclusive right given to the creator of an original piece of work
9 - condition that is perceived to be far outside of the norm
11 - the owners of a corporation
13 - one who rejects conventions
14 - author of the novel “Jurassic Park”
16 - a model of excellence
17 - to approve
18 - to resolve
19 - make something seem less significant
20 - an important feature on which something e.g. theory, is based
21 - the power to exercise authority
22 - a tragedy written by Sophocles

Down:
1 - a state of being indifferent
2 - “Arato v. _____” A California Supreme Court decision on “informed consent” by patients
3 - the belief that the world was created by a deity
4 - an authoritative point of view
6 - a principle of interpretation e.g. of the bible
8 - that which cannot be forgotten easily
10 - “Big Brother” of the Internet
11 - “The Rainbow Nation”
12 - based on measurable evidence and subject to some specific principles of reasoning
15 - deception
16 - doctrine of experiential sensory data being the exclusive source of all knowledge