

REGIONAL **ETHICS BOWL** **CASES**

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Case 1 ♦ HIV Criminalization

In January of 2013, Representative Lela Alston of Phoenix, Arizona, introduced a bill in the Arizona House of Representatives that would make it a felony (Class 6, punishable by up to a year in prison) to knowingly expose someone to HIV or other sexually transmitted diseases without their consent. Alston introduced the bill after hearing the story of one of her constituents, who had a partner that did not disclose a sexually transmitted infection. Her constituent thus didn't know that she had to protect herself from the infection.¹

A diagnosis of HIV/AIDS is no longer a death sentence in many parts of the Western world, but it is a serious condition that 1.2 million US citizens struggle with on a day-to-day basis.² Because of the condition's severity and the cost associated with antiretroviral drugs, many countries and states make reckless or knowing transmission of HIV to someone else a crime. In addition to the harms that can come to someone who is unknowingly exposed to HIV, there are issues of consent. Some courts have held that sex cannot be fully consensual if a known sexually transmitted disease is not disclosed, and have awarded damages in such cases.³

But, lately, HIV criminalization has come under attack by public health advocates who say that these laws are counterproductive in the fight against HIV/AIDS. Major organizations such as the World Health Organization and the Presidential Advisory Council on AIDS have come out against such laws, saying that they reinforce negative stereotypes of HIV/AIDS and "fuel the epidemic rather than fighting it". Among the reasons the Presidential Advisory Council offers for its claims are that the laws discourage people from being tested — since in many states testing positive for HIV/AIDS makes one subject to the criminal statutes for exposing others. Another reason is that many criminalization statutes were developed at a time when fear of AIDS was running high and the disease was relatively misunderstood. Public health needs would be best served by revisiting and perhaps striking these statutes, which, according to the Council, cast people's bodily fluids as "deadly weapons" and have been used to imprison people for spitting or biting (both of which have a negligible chance of passing on the disease).⁴

¹ Sean Peick, "Arizona Bill Seeks Felony Charge for Intentionally Exposing Others to HIV, STDs," *Cronkite News*, July 22, 2013, <http://cronkitenewsonline.com/2013/01/bill-seeks-felony-charge-for-exposing-others-to-hiv-stds/>

² "HIV Surveillance—United States, 1981–2008," *Centers for Disease Control and Prevention*, July 25, 2013, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6021a2.htm>

³ Matthew Heller, "Dangerous Liaisons," *California Lawyer*, February 2011, <https://www.callawyer.com/clstory.cfm?eid=913844&ref=updates>

⁴ "Resolution on Ending Federal and State HIV-Specific Criminal Laws, Prosecutions, and Civil Commitments," *Presidential Advisory Council on HIV/AIDS*, February 20, 2013, <http://aids.gov/federal-resources/pacha/meetings/2013/feb-2013-criminalization-resolution.pdf>

Case 2 ♦ Paying for Bone Marrow

The National Organ Transplant Act of 1984 makes it illegal to buy and sell organs in the United States of America (and similar laws also ban the practice in Western Europe). The law has many purposes: it aims to prevent the formation of a black market in organs and to curb the possibility of obtaining organs without consent or against healthcare advice. Furthermore, allowing the sale of one's kidney or lung could also have bad effects on those in poverty, who may overestimate present gain and discount future well-being. Finally, the law prevents the development of a system where wealthier sick people (or their agents) could "buy" their way to the top of an organ transplant list, bypassing those of lesser means (even if they are more compatible with the organs or more deserving of them).

However, none of these factors sound significant when one's child is at stake. Doreen Flynn's daughters have a life-threatening blood disorder called Fanconi Anemia. This condition could only be treated by a bone marrow transplant; life expectancy is only 14-16 years without a transplant. With no match in the donor database, Flynn feared that no compatible match would be found in the near future. Thus, Flynn decided to challenge the National Organ Transplant Act in court so that people could be reimbursed for donating their bone marrow.

Her reasoning was that paying people to donate bone marrow would get much more bone marrow into the system and create a better chance for a match. Unlike lungs or kidneys or other solid organs, bone marrow replenishes itself after donation. The procedure for extracting it has also been greatly simplified over the years. Her daughters would be getting donations through methods that people of lesser means may not be able to employ. However, as many of her defenders point out, this is how the United States' healthcare system works in many cases without laws mandating equality. According to her lawyer, Jeff Rowes, "[b]one marrow is just like anything else in the world... it's valuable. And if you compensate people for it, you're going to get more of it, it's just that simple."⁵

However, some bioethicists reject the market reasoning at work here: "Just because you can sell something, just because you can do anything, doesn't mean you ought to," said bioethicist Kenneth Goodman⁶. Furthermore, there are major health risks⁷ associated with marrow extraction, such as infection — although the likelihood of complications is not as high as with whole organ donations. And opening up paid donations may have bad effects on the system as a whole. Donors may tailor their family and behavioral history forms (which are necessary to making matches with those in need) in order to get paid. Also, if the United States shifts to paid donations, it may not be able to tap into donors overseas or provide bone marrow to patients overseas, according to the way the international system works.

⁵ Ami Schmitz and Stacey Naggiar, "Woman Challenges Bone Marrow Donation Law in Effort to Save Daughters' Lives," *NBC News*, June 13, 2012, <http://rockcenter.nbcnews.com/news/2012/06/13/12190616-woman-challenges-bone-marrow-donation-law-in-effort-to-save-daughters-lives?lite>

⁶ Denise Dador, "Should Bone Marrow Be for Sale? Mom Says Yes," *ABC News*, November 20, 2012, http://abclocal.go.com/kabc/story?section=news/health/your_health&id=8893143

⁷ D.L. Confer, et al., "Serious Complications Following Unrelated Donor Marrow Collection: Experiences of the National Marrow Donor Program," *Biology of Blood and Marrow Transplantation*, February 2004, 10(1): 13-14.

Case 3 ♦ Should Google Be Your Designated Driver?

One of the advantages of mass public transportation is that it takes one's mind off the road and allows it to do other things: listen to music, read the newspaper, talk on the phone, catch up with websites online, read a book, or just space out and get some much needed rest. Unfortunately, these activities are almost uniformly very dangerous things to do while driving a car. So, in places without mass transportation, commuters lose millions of hours everyday to minding the road in their automobiles.

Enter the idea of an "autonomous car". Companies like Google, Toyota, Nissan, Mercedes and others have been pioneering technology that would take the chore of driving away from people who want to free up some time for the sports section in the morning or to readjust their makeup on the way to the club at night. While the technology looked daunting at first, recent autonomous cars run complicated algorithms that can detect cars around them, adjust to changing road and weather patterns, and signal before braking for a turn. The technology is more feasible now, and with big tech startups behind it, it only promises to get better and safer in the future.

There is a problem with these cars, however. They may be *too* good at driving. In fact, tests currently being run by autonomous car makers suggest that they may be considerably better at keeping up with traffic and avoiding accidents than actual human drivers. Google's self-driving car recently logged its 300,000th mile without an accident⁸. Americans like to drive. But let's face it: we're pretty bad at it. According to the United States Census Bureau, there were 10.8 million auto wrecks in the United States in 2009, with 35,900 deaths⁹. Autonomous cars can do things people just can't, like keeping an eye on all four sides of the car and road conditions underneath the car at all times without getting tired. They correctly anticipate passing times and turning radiuses and never take foolish risks. Plus, unlike human drivers, they never age, tire, drink to excess, get distracted by music, incoming texts, or billboards, or get carried away by that car which totally cut you off in traffic two miles ago.

This leads to an interesting question: if autonomous cars get to the point where they are objectively safer than human drivers in almost all instances, should regular people be allowed to drive at all anymore? A commuting public that never wrecks, gets distracted, or experiences road rage would be a tremendous boon to society. A right to drive isn't explicitly spelled out in the United States Constitution. But even given the quantifiable safety benefits, time benefits, and sanity benefits, some auto-enthusiasts may declare that you'd have to pry the gas and brake pedals from their cold, lead feet.

⁸ Rebecca Rosen, "Google's Self-Driving Cars: 300,000 Miles Logged, Not a Single Accident Under Computer Control," *The Atlantic*, August 9, 2012, <http://www.theatlantic.com/technology/archive/2012/08/googles-self-driving-cars-300-000-miles-logged-not-a-single-accident-under-computer-control/260926/>

⁹ "Motor Vehicle Accidents—Number and Deaths: 1990 to 2009," *U.S. Census Bureau*, August 5, 2013, <http://www.census.gov/compendia/statab/2012/tables/12s1103.pdf>

Case 4 ♦ Professional Love?

It is two o'clock in the morning and Maria has just violated both her professional code of ethics and the law. Maria is a foster care counselor and she has just taken Bethany, an eight-year-old foster child, into her home for the evening. The situation is an emergency, but it is not especially uncommon. Bethany's foster parents received a late night call about a dying relative and chose to leave immediately. Bethany is not family, so she needed to be relocated while her foster family is away. Unfortunately, most foster homes are full and the only facility available to take Bethany in the middle of the night is a group home called Interface. Interface is meant for troubled older teens and Maria could not bear to place Bethany there, so she took Bethany home to sleep in her guest bedroom.

It is fairly common for social workers to use their own resources to supplement the services they are able to offer others. Many children of older social workers have stories of sharing their rooms with foster children or of developing family relationships with their parents' clients. Today professional guidelines restrict the sorts of personal relationships social workers develop and generally restrict "dual relationships" such as caseworker and family friend, because the relationships may present a conflict of interest.¹⁰ However, when asked, many foster children describe their best caseworkers as those who best connected with them and their families on a personal level.¹¹

Maria rejects many of the modern protections against conflicts of interest as an "idealistic" personal/professional distinction. According to Maria having a personal relationship with some foster children has helped to boost their sense of being loved. Research suggests that children's self-esteem is strongly linked to the sense that they are loved and some have argued that children have a right to be loved.¹² Maria has bonded with Bethany and wants to support their relationship. She has taken Bethany to visit Bethany's mother in prison and has comforted her about the death of her father. At this point Maria feels that the right thing to do is to take Bethany home for a decent night's sleep and begin looking for a temporary placement in the morning.

One implication of Maria's decision is that she must lie in her official incident report. Because Maria is not a licensed foster parent, Bethany cannot legally spend the night at her home. Officially Maria reports keeping Bethany in her custody at work overnight while unsuccessfully looking for a placement. For many in the office this report has a clear and unproblematic implied meaning, but some of Maria's colleagues would disapprove if they knew. Some might worry that Maria is getting too close to a client for her own good; others might worry mostly about a detrimental interaction between Maria's twelve-year-old son and eight-year-old Bethany. Finally, some might worry that Maria's behavior, combined with her habit of hugging the children with whom she works and kissing them on the head or cheek, will be misunderstood or potentially resented by the children's parents.¹³

¹⁰ "Code of Ethics of the National Association of Social Workers, Sec. 5.02," *National Association of Social Workers*, 2008, <http://www.socialworkers.org/pubs/code/default.asp>

¹¹ John McMahon, "What Do Children Look for in Social Workers?" *Fostering Perspectives*, 2004, 9(1) http://www.fosteringperspectives.org/fp_vol9no1/sw.htm

¹² Matthew Liao, "The Right of Children to be Loved" *Journal of Political Philosophy*, 2006, 14(4): 420-40.

¹³ Page Jools, "Do Mothers Want Professional Caregivers to Love Their Babies?" *Journal of Early Childhood Research*, 2011, 9(3): 310-323.

Case 5 ♦ Philosophiverr

The college experience is undergoing a dramatic shift and so is the profession of collegiate level educators. Traditional bricks-and-mortar colleges are increasingly offering a blended experience, including classes that are completely or partially taught online. The new economics of education also mean that today six out of ten college teachers are part-time contract workers known as adjuncts. Adjuncts are typically poorly paid and do not receive healthcare benefits; they also have little or no job security.

When Kansenis found herself without teaching work one semester, she turned to the website fiverr.com as a way to help make ends meet. Fiverr is a micro-employment website where people like Kansenis offer to provide services, known as gigs, for five dollars. Popular gigs include reading birthday messages in a dramatic movie-trailer-voice, transcribing text, or drawing cartoons. Kansenis' gig is offering to answer questions about western philosophy. Customers submit a question, pay five dollars (four of which go to Kansenis) and receive an answer of between 100-400 words.

Kansenis writes, "Had I wanted to, I could have made a living writing papers for students. Many gigs on Fiverr do exactly this. I estimate that I get at least 100 emails per year on Fiverr asking me to either take an exam, write a paper, or take an online course for someone else. Just the asking is likely unethical, but I surmise that these people find what they want elsewhere; and this means that a large number of students are getting credit and college degrees for work they have not done themselves."¹⁴

Kansenis began her Fiverr gig thinking that traditional philosophy students would use her service as an affordable way to find extra help in their courses. Some college students have sent in drafts of essays asking for feedback and others have used the gig as planned. However, the majority of Kansenis' consumers are "weekend philosophers" or non-traditional students who are unaffiliated with any college and are simply interested in philosophical questions.

When asked about the potential abuse of her gig, Kansenis writes, "[t]o be fair, I think that we have to look at this not from a sanctimonious eye per se, but from the situations which have given rise to this. The main concern that students mention is that Philosophy is not part of their major, has nothing to do with their job and is useless to them. Millennials seem to be more pragmatic and are looking for more of a vocational education overall. The idea of a 'liberal education' where writing and critical thinking are emphasized is not esteemed. To the contrary, it is seen as an obstacle to moving on with their lives."

¹⁴ The quotations in this case came from a series of questions answered by Kansenis as part of a paid gig the subject of which was this case study.

Case 6 ♦ The Slow Movement

While flying back from vacation on a commercial airline, Josh was taken by an article that he read on the in-flight magazine. It discussed the “Slow Movement,” which emphasizes a decreased use of technology, prioritization of issues to only those which are most likely to have lasting impacts, and living in the moment.¹⁵ The author of this article claimed self-improvement and greater happiness in life.

Josh had been feeling overworked and squeezed for time for a while — his smartphone buzzing in his pocket, as he received a constant stream of emails from his boss and coworkers. Thanks to technology, work could barge into Josh’s vacation. Likewise at home, Josh noticed that his long work hours — a necessary sacrifice after the birth of his second child necessitated a higher income— were interfering with his family life. It had been years since he had put his children to bed, and even longer since the last time he and his family sat down for a quiet family dinner with no interruptions. Formerly a college swimmer, Josh was no longer able to swim a lap without going out of breath. It seemed as if every time he tried to start a new exercise routine, his phone would buzz announcing a new crisis at work.

Josh’s experience is anything but unique. As sociologist Juliet B. Schor has documented, “[w]e have paid the price for prosperity. Capitalism has brought a dramatically increased standard of living, but at the cost of a much more demanding worklife...We have color televisions and compact disc players, but we need them to unwind after a stressful day at the office. We take vacations, but we work so hard throughout the year that they become indispensable to our sanity.”¹⁶

Thus, Josh decided that he was going to put into practice the lessons of slow living. Immediately, he decided to do away with his smartphone in favor of a more traditional number key phone that lacked Internet connectivity. He decided that he was going to spend more time meditating, walking outside, exercising, and sharing meals with his family. He realized he could not continue to work late, often until 8 p.m. or later, and would need to ensure he came home at the silent 5 o’clock whistle every day.

Within a week, Josh noticed an improvement in his sleep quality and his mood. He felt more connected to his wife and children, whom he saw every night during his family dinners. However, Josh’s coworkers noticed a change too — and they were not happy about it. No longer tethered to his smartphone, Josh ceased to respond to e-mails and phone calls afterhours. Rumors started flying around the office about Josh no longer being a team player. A month after Josh decided to leap into the slow movement, he was called into his boss’ office. Noticing Josh’s apparent declining dedication to the company, his boss threatened to demote him to a position with fewer responsibilities and a smaller paycheck. On his commute back home, Josh wondered if he should abandon his slo-mo approach and revert to his 12-hour workdays.

¹⁵ David Hochman, “Not So Fast,” *Spirit Magazine*, April 2013, http://www.nxtbook.com/nxtbooks/pace/spirit_201304/index.php?startid=70#/72

¹⁶ Juliet B. Schor, *The Overworked American*, New York: BasicBooks, 1992, p. 10-11.

Case 7 ♦ Final Rest

Tamerlan Tsarnaev died on April 19, 2013, after a gunfight with the police. Four days earlier he and his brother had allegedly detonated two bombs near the Boston Marathon finish line. For nearly three weeks Tsarnaev's body was held in a funeral home waiting for burial, as "protesters kept vigil outside the building."¹⁷ Cremation was not an option for Tsarnaev, for he was an observant Muslim. Boston-area cemeteries refused to allow the interment of Tsarnaev's body, claiming that media presence and protests at such an event would prevent the "the residents of the City of Cambridge...[from returning] to a peaceful life."¹⁸ Even the governor of Massachusetts and some local mayors refused to give the family permission to bury the body within state lines.

In early May, a cemetery in rural Virginia decided to accept the body, and, in order to avoid protests, arranged for its stealthy transfer from Massachusetts to the burial grounds. Many residents and the representatives of the Virginia town expressed their discontent with this situation. A Chairman of the Caroline County Board of Supervisors said that she did not "want the county to be remembered as the resting place for the remains of someone who committed a terrible crime."¹⁹ However, Charles H. Abdel-Alim, whose house abuts the Virginia cemetery, disagreed and suggested that a proper burial is owed to all human beings: "The person is one thing; the body is another."²⁰

¹⁷ Abby Ohlheiser, "Officials Finally Found a Place to Bury Tamerlan Tsarnaev's Body," *Slate*, May 9, 2013, http://www.slate.com/blogs/the_slatest/2013/05/09/tamerlan_tsarnaev_burial_funeral_home_finds_plot_for_boston_bombing_suspect.html

¹⁸ Mark Memmott, "Boston-Area Cemeteries Say No to Burying Bombing Suspect," *NPR*, May 6, 2013, <http://www.npr.org/blogs/thetwo-way/2013/05/06/181542151/boston-area-cemeteries-say-no-to-burying-bombing-suspect>

¹⁹ Mark Memmott, "Emotions Run High after Boston Bombing Suspect Burial," *NPR*, May 11, 2013, <http://www.npr.org/blogs/thetwo-way/2013/05/11/183118085/emotions-run-high-after-boston-bombing-suspects-burial>

²⁰ Brian MacQuarrie, "Bombing Suspect Burial Divides Virginia Resident," *The Boston Globe*, May 11, 2013, <http://www.bostonglobe.com/metro/2013/05/11/virginia-authorities-say-tsarnaev-burial-appears-legal/KtqUFqK5G6LrVVgyub1xO/story.html>

Case 8 ♦ Pay and Tell?

Paul had been operating his small business manufacturing custom kitchen cabinets for over a decade. He employed ten workers who handled all aspects of design and production, and Paul managed the business side, including running the bookkeeping and marketing of his brand. Paul prided himself on paying his employees a fair wage, similar to the traditional manufacturing jobs of past decades. The benefits package for his employees included a strong health insurance program.

Paul also prided himself on his openness with his employees and how he encouraged them to take ownership of their role in his business. He made sure they were aware of the business' budget, current projects and how those projects would impact the business' future. When his employees brought in business or helped to impress large clients, they knew they could count on a bonus to reward their contributions.

Paul needed to budget for employee salaries carefully to ensure that he could consistently pay what he promised his employees, but as time went by, it became more and more difficult for Paul to meet his obligations to his employees. Competitors entered the market and drew a significant portion of Paul's customers. Furthermore, Paul worried that new legislation was going to increase the cost of benefits, and particularly healthcare, for his employees. He began to consider his options.

Paul's habit of involving his crew in management of his business had not, to that point, required much disclosure with regard to salaries or the company's contribution to healthcare. However, as Paul's budget came closer and closer to the brink, and as he anticipated the need to either cut benefits, salaries, or jobs, Paul considered involving his employees in a frank discussion about the costs involved with their employment and the salaries that could be expected going forward. Paul was conscious of American tendencies to treat public salary discussions as taboo.²¹ However, he was also conscious that federal law actually protected employees who wanted to discuss salaries openly with one another.²²

Paul wanted to be sure that the employees were aware of how each was contributing to the bottom line of the business, both in terms of income and cost of salary and benefits. He believed sharing everyone's salary would assist in the frank discussion. Those who made more had been with the company longer or had higher productivity, so he believed inequalities were easily justified. However, he also worried that jealousies would arise, as some learned the exact incomes of their peers. Although Paul remained unsure about discussing actual salaries, he resolved to open a discussion about the company's salary budget in the near future and to continue to contemplate the best way to approach the problem and inform his employees about the future of their jobs.

²¹ Libby Kane, "Is It Ever Really OK to Talk About Your Salary?" *Learnvest*, August 7, 2013, <http://www.learnvest.com/2012/12/is-it-ever-really-ok-to-talk-about-your-salary/>

²² "Salary and Benefit Discussions Among Employees," *Texas Workforce Commission*, August 7, 2013, http://www.twc.state.tx.us/news/efte/salary_discussions.html.

Case 9 ♦ No Black Nurses

On Halloween 2012 at the Hurley Medical Center in Flint, Michigan, a man asked hospital staff to ensure that a black nurse, Tonya Battle, not touch his newborn baby. As a nurse in the neonatal intensive care unit, Battle had been routinely caring for the newborn. Upon seeing this, the man reportedly became agitated, rolled up his sleeve to reveal a swastika tattoo, and insisted to a shift supervisor that Battle not touch his child. The next day Battle arrived to work to find that she had been reassigned and a note placed prominently on the assignment chart reading “No African-American nurse to take care of baby.”²³

The director of nurses, Mary Osika, made the decision to comply with the father’s request and maintained that the directive was issued in an attempt to ensure that the child was able to receive medical care. The staff was concerned that if the request were not met, the child would be removed from the facility against medical advice with physical harm a likely result. The hospital’s administration further argued that the reassignment of Battle and other African American nurses was meant to protect them from contact with an aggressive racist.

After about a month, the hospital reversed its decision, characterizing its temporary compliance as an “initial evaluation” of the request. Battle and three other African-American nurses have since filed discrimination lawsuits, alleging that the Hurley Medical Center created a hostile work environment.²⁴

²³ JoNel Aleccia, “Hospital Granted Dad’s Request: No Black Nurses, Lawsuit Says,” *NBC News*, February 19, 2013, <http://www.nbcnews.com/health/hospital-granted-dads-request-no-black-nurses-lawsuit-says-1C8436588>

²⁴ Jeff Karoub, “Tanya Battle, Michigan Nurse’s, Discrimination Suit Reveals Medicine’s ‘Open Secret’,” *The Huffington Post*, February 22, 2013, http://www.huffingtonpost.com/2013/02/22/tanya-battle-michigan-nurse-discrimination-suit_n_2744546.html

Case 10 ♦ Is That Blood on Your Shirt?

When American consumers shop for clothing, they think about how much the clothes cost, how they look, and how they fit. These may seem like the most important considerations when one is standing in front of a rack of clothes, trying to pick out the perfect dress for a special event or replace a favorite shirt that has been stained. However, studies have shown that consumers also care about ethical consumption practices, such as avoiding the purchase of goods produced under unfair labor practices.²⁶ The paradox is that, while many people describe themselves as ethical consumers, few actually act on this conviction.

A recent tragedy in Bangladesh has brought these issues into the public eye and reignited the debate about consumers' ethical obligations. In May 2013, a garment factory near Dhaka, the capital of Bangladesh, collapsed, killing 1,127 people. The building, allegedly built without permits and using low-grade materials, was eight stories high with another story under construction. Workers reported cracks and creaking sounds, but were told not to worry and to return to their sewing machines.²⁷

Bangladesh has become the second-largest apparel exporter in the world, and the apparel industry makes up 80% of Bangladesh's exports. There are several economic reasons that explain why the garment manufacturing industry is so successful in Bangladesh. The country allows workers to be paid relatively little compared with western standards. For example, the minimum wage is \$37 a month. Overhead costs are also significantly lower in Bangladeshi factories, because environmental, labor, health and safety and building standards are minimal or non-existent.

It would be easy to attribute consumers' apparent insouciance to the fact that tragedies like the one in Bangladesh often occur a world away. Mark Magnier from the LA Times agrees: "One problem... is the geographical and psychological distance most Western shoppers feel toward Bangladesh, making it easier for them to forget about the shocking loss of life by the next news cycle." However, the reasoning behind consumers' choices is much more complex. A 2010 study has found that consumers explain their inability to follow their convictions by invoking three justification strategies: economic rationalizations (e.g., "I cannot afford ethically-sourced goods"); institutional dependency (e.g., "unethically produced goods dominate the market; it is the responsibility of governments, not the consumer, to make sure that workers are not exploited"), and developmental realism (e.g., "even if the conditions are bad, sweatshops offer much-needed employment to people in developing nations").

²⁶ Giana Eckhardt, Russell Belk, and Timothy M. Devinney, "Why Don't Consumers Consume Ethically?," *Journal of Consumer Behaviour*, 2010, 9(6): 426-436.

²⁷ Mark Magnier, In Bangladesh, Shock May Give to Status Quo, *The Los Angeles Times*, May 15, 2013, <http://www.latimes.com/news/nationworld/world/la-fg-bangladesh-garment-workers-20130516.0,1203787.story>

Case 11 ♦ Pet Owners Who Eat Meat

Early in 2013 a genetic analysis of hamburger meat in the UK revealed that what consumers thought was beef was actually horsemeat. The public response to the horsemeat scandal was quite strong and included a 44% reduction in the purchase of frozen hamburgers.³⁰ The scandal eventually spread to Sweden and, by extension, propelled worries about the ingredients in Ikea meatballs in the United States.

Food fraud (substituting less expensive for more expensive ingredients) is common. However, the use of horsemeat evoked an especially visceral reaction — people seemed revolted, disgusted even, at the thought of consuming horsemeat. Some the concerns may be religiously inspired: horsemeat is not kosher and is questionable under halal standards. But most affected consumers neither keep kosher nor halal. Michael Dorf, a legal scholar, argues “[t]hey're not grossed out about eating horses; they feel bad for the horses. Or if they are at all grossed out, they're grossed out *because* of their moral revulsion, in the same way that moral revulsion at cannibalism or (in our culture) eating dogs, would trigger a disgust response.”³¹

Many of us have pets whom we love and treat like family members. It is obvious to us that our pets experience physical pain as well as pleasure, much like humans. Indeed, many of us would cringe at the thought of eating a pet. And yet, most pet owners eat meat. Some critics argue that if we accept that our pets are sentient beings, it would be wrong to eat them. But there is no difference in terms of sentience between companion animals and “food” animals. This suggests that there is an inconsistency underlying our common distinctions between animals we care about and animals we use.

Others maintain that, just as we are morally justified in treating our friends or family members with preference, pets are ethically distinguishable precisely because we care about them. Of course, there is a difference between caring for an individual and caring about an entire species. Likewise, there is a difference between caring about an individual and refraining from harming one.

³⁰ George Hook, “Horse and Pig DNA Found in Some Supermarket Burgers,” *The Irish Independent*, January 15, 2013 <http://www.independent.ie/irish-news/horse-and-pig-dna-found-in-some-supermarket-burgers-28958916.html>

³¹ Mike Dorf, “A Vegan Perspective on the Horsemeat Scandal,” *Dorf on Law*, February 25, 2013, <http://www.dorfonlaw.org/2013/02/a-vegan-perspective-on-horsemeat-scandal.html>

Case 12 ♦ Prayer at Middle School Graduation

The Riverside School District in Lake City, Arkansas, recently opted to cancel its elementary school graduation ceremonies after receiving letters from the Freedom From Religion Foundation (FFRF) and the American Civil Liberties Union (ACLU). The organizations contacted school officials on behalf of an anonymous parent who was concerned about the scheduled inclusion of Christian prayer at the event.

In previous years the school's graduation ceremony had been opened by a Christian pastor and was closed with student-led prayer. Describing the school district's response, superintendent Tommy Knight explained, "[t]hose campuses for the last several years had discussed whether we should continue with sixth grade graduation or not. The controversy arose out of this one. When it came to my attention, the board and I decided to go ahead and discontinue sixth grade graduations."³²

When asked about the cancelation, Barry Lynn, executive director of Americans United for the Separation of Church and State, described the school board's decision as "a foolish, ridiculous response." According to Lynn, "[w]hen the Constitution says you cannot have a prayer at a graduation, the answer is get rid of the prayer not get rid of the entire graduation for all of the children."

While many students and parents were predictably upset about the cancelation, a group of parents arranged an alternative graduation ceremony at a nearby church where everyone — including non-Christians — was welcome to attend. Kelly Adams, one of the parents who supported the alternative graduation, framed this issue as a loss of basic rights: "I understand that they have rights too, but you can't take rights away from one group and give them to another. We are Christians and have a right to pray wherever we want."³⁴

³² Todd Starnes, "School Cancels Graduation over Prayer Controversy," *Fox News*, May 8, 2013, <http://radio.foxnews.com/toddstarnes/top-stories/school-cancels-graduation-over-prayer-controversy.html>

³⁴ "School Cancels 6th Grade Graduation Prayer Ceremony," *Region 8 News*, May 14, 2013, https://www.youtube.com/watch?v=DN_BpqDVMNU

Case 13 ♦ Anti-Obesity Ads

In Georgia 40% of children are obese, but as few as 25% of parents consider this a problem.³⁵ In a move that has provoked some controversy, a pediatric hospital in Atlanta has decided to counteract parents' denial with an advertising campaign. Fashioned after shocking and often gruesome anti-methamphetamine campaigns, the Georgia ads show depressed-looking overweight kids, with messages such as "It's hard to be a little girl if you're not," or "Fat prevention begins at home and the buffet line."



A spokesperson for the ad campaign argues that the harshness of these ads will get people's attention. Some research shows that "in the right conditions, and with appropriate support, stigma may present...sufficient triggers" to jump-start weight loss.³⁶ Maya, one of the girls who participated in the campaign, echoes this sentiment: "It is very provocative and makes people uncomfortable, but it's when people are uncomfortable that change comes."³⁷

However, public health scholars have questioned the effectiveness of a campaign that further stigmatizes a vulnerable population: obese children are frequently bullied in school due to their weight and overweight adults are the subject of discrimination.³⁸ A recent study showed that more than half of medical students polled had a significant anti-fat bias,³⁹ while another study found that 24% of nurses surveyed felt repulsion towards their obese patients. Moreover, compared to

³⁵ Emanuella Grinberg, "Georgia's Child Obesity Ads Aim to Create Movement out of Controversy," *CNN Health*, February 7, 2012, <http://www.cnn.com/2012/02/07/health/atlanta-child-obesity-ads>

³⁶ Jane Ogden and Cecelia Clementi, "The Experience of Being Obese and the Many Consequences of Stigma," *Journal of Obesity*, 2010.

³⁷ Meghan Keneally, "'Mom, Why Am I Fat?': Controversy over Shock Anti-Obesity Ads Featuring Overweight Children," *Mail Online*, January 2, 2012, <http://www.dailymail.co.uk/news/article-2081328/Weighty-debate-anti-obesity-ads-featuring-fat-kids-causes-criticism-health-advocates-shock-tactics.html>

³⁸ Rebecca Pulh and Chelsea Heuer, "Obesity Stigma: Important Considerations for Public Health," *Journal Information*, 2010, 100(6).

³⁹ Stephen Davis, et al., "Are Medical Students Aware of Their Anti-obesity Bias?" *Acad Med*, 2013, 88.

their non-overweight counterparts, overweight individuals are less likely to get hired, receive promotions or raises, and gain acceptance into college or graduate school.⁴⁰

Being overweight is often correlated with a host of medical conditions, such as heart disease, diabetes, hypertension and osteoarthritis. This increased morbidity has been estimated to add \$168 billion to the cost of health care in the U.S.⁴¹ However, a recent Canadian study⁴² has challenged our commonly-held assumptions about the link between health, obesity and mortality, showing that obese people can be healthy (i.e., can have normal blood pressure and blood lipid levels), and that healthy obese individuals “live as long as those of ‘normal’ weight, and, in fact, are less likely to die of cardiovascular causes.”⁴³

⁴⁰ Rebecca Puhl and Kelly Brownell, "Bias, Discrimination, and Obesity." *Obesity Research*, 2011, 9(12): 788-805; Lauren Ingeno, "Fat-Shaming in Academe," *Inside Higher Ed*, June 4, 2013, <http://www.insidehighered.com/news/2013/06/04/outrage-over-professors-twitter-post-obese-students>

⁴¹ John Cawley and Chad Meyerhoefer, "The Medical Care Costs of Obesity: An Instrumental Variables Approach," *Journal of Health Economics*, 2012, 31(1): 219-230.

⁴² Jennifer Kuk, et al. "Edmonton Obesity Staging System: Association with Weight History and Mortality Risk," *Applied Physiology, Nutrition, and Metabolism*, 2011, 36(4): 570-576.

⁴³ Sharon Kirkey, "Heavy But Healthy? New Formula Slims Down Definition of Dangerously Obese," *Postmedia News*, August 16, 2011, <http://www.canada.com/health/Heavy+healthy+formula+slims+down+definition+dangerously+obese/5257089/story.html>

Case 14 ♦ Baby S⁴⁴

Crystal, a single mother of two living in Connecticut, was hired by Tom and Linda to be their surrogate mother. The surrogacy contract stipulated that Crystal would be paid \$20,000 and receive regular prenatal care and screenings. Were there to be a severe abnormality with the fetus, she would have to terminate the pregnancy. Using an embryo conceived through IVF, Crystal quickly became pregnant. Five months into the pregnancy, Crystal had a routine ultrasound, which showed that the fetus had a complex heart abnormality, a cyst in the brain, and a cleft palate. The prognosis for this host of conditions would be grim: after birth, the baby would need a series of complicated operations, and her chances of a normal life would be small. Crystal's doctor suggested that termination would be the most humane option.

After speaking to a genetic counselor, Crystal was still adamantly opposed to an abortion, claiming that she was the only one who could give this baby the opportunity to experience life. Tom and Linda were distraught about Crystal's decision, and tried to convince her to change her mind, pained by the thought of imposing a life of suffering on their unborn child. As a last resort, Tom and Linda offered Crystal \$10,000 to have the abortion - an offer she declined.

Given Crystal's steadfast resolve, Tom and Linda decided that, as the genetic parents, they would take custody of the child upon birth and immediately surrender her to the state. A few months before her due date, Crystal and her daughters left for Ann Arbor, Michigan to prevent the baby from being placed in foster care. While Connecticut grants parental rights to genetic parents, Michigan considers the woman carrying the fetus to be the legal parent.

Despite Crystal's desire to continue with her pregnancy, she decided that, as a single mother, it would be too burdensome for her to care for this child. Thus, Crystal found a couple online willing to adopt the baby. On June 25, 2013, Baby S celebrated her first year alongside her adoptive family.

⁴⁴ Case is inspired by the following story: Elizabeth Cohen, "Surrogate Offered \$10,000 to Abort Baby," *CNN Health*, March 6, 2013, http://www.cnn.com/2013/03/04/health/surrogacy-kelley-legal-battle/index.html?hpt=hp_c1

Case 15 ♦ India vs. Big Pharma

In April of 2013, India's Supreme Court rejected Novartis' bid to patent a new version of Glivec, a popular leukemia drug.⁴⁵ Glivec's original formulation, which has held a U.S. patent since 1993, has never had patent protection in India. The country did not begin issuing pharmaceutical patents until 2005.⁴⁶ However, as a member of the World Trade Organization (WTO), India has had to adopt the patenting of pharmaceutical products and processes, in accordance with the WTO's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs).⁴⁷

Being a long-time supplier of low-cost medicines, India drafted patent legislation that would protect its ability to produce affordable pharmaceuticals, while also complying with TRIPs. According to India's Patent Act, section 3(d), variants of pharmaceutical compounds cannot be patented unless they "show enhanced efficacy." Thus, the newer, crystalline form of Glivec was deemed unworthy of a patent, according to Indian law. This decision means that generic drug manufacturers in India can continue to sell the drug for only a fraction of Glivec's sticker price (\$2500).

Representatives of *Médicins Sans Frontières* hailed the ruling, stating that lower drug costs will "save a lot of lives in the developing world."⁴⁸ Novartis, however, maintained that the company had been providing Glivec free of charge "to 95 percent of patients prescribed the drug in India."⁴⁹ In their eyes, the court's ruling was a sanctioning of intellectual property theft, which, in the end, would discourage pharmaceutical companies from investing in new drug research.

The effects of India's Supreme Court ruling are likely to reverberate across national borders, by setting a precedent against a practice known as "ever-greening" or incremental pharmaceutical innovation - the attempt to obtain a secondary patent on a product by making small changes to its chemical structure. India's stance against ever-greening has been criticized by the U.S.-India Business Council and defenders of patent rights.⁵⁰ Strong protection of intellectual property rights, so the argument goes, "attract[s] foreign research and development investment in developing countries and promote[s] technology transfer."⁵¹ In fact, according to Dr. Alan O'Neil Sykes, a scholar on economics and international law, the absence of protection for the intellectual property of pharmaceuticals in developing nations has been concomitant with, if not causally responsible for, the "dearth of research into the diseases"⁵² that disproportionately affect these countries.

⁴⁵ Mark Memmott, "Patent Ruling In India Could Boost Exports Of Cheap Medicine To Third World," *NPR*, April 1, 2013, <http://www.npr.org/blogs/thetwo-way/2013/04/01/175916808/patent-ruling-in-india-could-boost-exports-of-cheap-medicine-to-third-world>

⁴⁶ Bhaven Sampat, Kenneth C. Shadlen, and Tahir M. Amin "Challenges to India's Pharmaceutical Patent Laws," *Health*, 2012, 4:6.

⁴⁷ Thomas Pogge, "Human Rights and Global Health: A Research Program," *Metaphilosophy*, 2005, 36: 182–209.

⁴⁸ Soutik Biswas, "Novartis India Case: Campaigners Hail Patent Rejection," *BBC News*, April 1, 2013, <http://www.bbc.co.uk/news/business-21992724>

⁴⁹ Richard Knox, "Novartis Ruling Reverberates Past India's Borders," *NPR*, April 2, 2013, <http://www.npr.org/2013/04/02/175997129/novartis-ruling-reverberates-past-indias-borders>

⁵⁰ "The Value of Incremental Pharmaceutical Innovation: Benefits for Indian Patients and Indian Businesses," *U.S.-India Business Council*, 2010, <http://www.ahealthyindia.org/wp-content/uploads/2010/03/USIBCIncrementalInnovationReportFinal.pdf>

⁵¹ Penelopi Goldberg, "Alfred Marshall Lecture Intellectual Property Rights Protection in Developing Countries: The Case of Pharmaceuticals," *Journal of the European Economic Association*, 2010, 8: 326–353.

⁵² Alan Sykes, "TRIPs, Pharmaceuticals, Developing Countries, and the Doha 'Solution'." *University of Chicago Law & Economics, Olin Working Paper 140*, 2002, <http://www.law.uchicago.edu/files/files/140.Sykes..TRIPs..pdf>