

# Ethical Issues in the News

Nov. 2, 9, 16, 30 3 - 4:30 p.m.

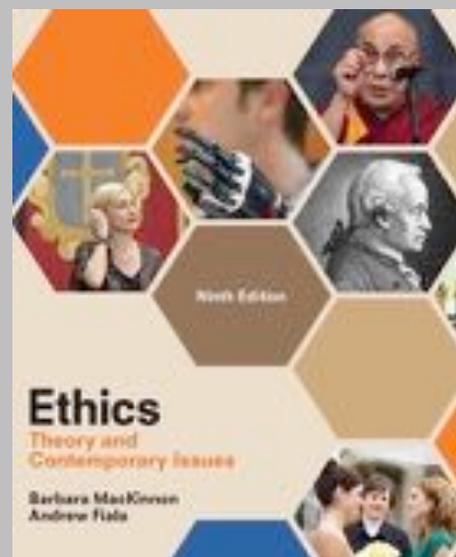
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Course Notes: <https://andrewfiala.com/ethical-issues-in-the-news-olli-fall-2022/>

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## Issues

- Marriage Equality (again...)
- Age
- Affirmative Action
  - And Reparations
- Animal ethics



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## Ethics Center Updates

- December 10, 9:30AM – Noon
- The Human Rights of Indigenous Peoples
- Table Mountain Reading Room in the Fresno State Library
- FEATURED SPEAKERS:
- Willie J. Carrillo, Joannie Suina Romero, Joshua Lanakila Mangaul, Audrey M. Osborne, Radley Davis, Roman Rain Tree, Dr. Kenneth Hanson

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## “Respect for Marriage Act”

<https://www.congress.gov/bill/117th-congress/house-bill/8404>

- This bill provides statutory authority for same-sex and interracial marriages.
- Specifically, the bill repeals and replaces provisions that define, for purposes of federal law, *marriage* as between a man and a woman and *spouse* as a person of the opposite sex with provisions that recognize any marriage that is valid under state law...
- The bill also repeals and replaces provisions that do not require states to recognize same-sex marriages from other states with provisions that prohibit the denial of full faith and credit or any right or claim relating to out-of-state marriages on the basis of sex, race, ethnicity, or national origin.

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## “Respect for Marriage Act”

Biden White House Statement, Nov. 29, 2022

<https://www.whitehouse.gov/briefing-room/statements-releases/2022/11/29/statement-from-president-joe-biden-on-bipartisan-senate-passage-of-the-respect-for-marriage-act/>

- With today’s bipartisan Senate passage of the Respect for Marriage Act, the United States is on the brink of reaffirming a fundamental truth: love is love, and Americans should have the right to marry the person they love. For millions of Americans, this legislation will safeguard the rights and protections to which LGBTQI+ and interracial couples and their children are entitled. It will also ensure that, for generations to follow, LGBTQI+ youth will grow up knowing that they, too, can lead full, happy lives and build families of their own.

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## Reaction to “Respect for Marriage Act”

Albert Mohler at “The World” Nov. 30, 2022

<https://wng.org/opinions/a-massive-victory-for-the-moral-revolutionaries-1669814507>

- What happened yesterday represents an abject failure to uphold the most basic institution of human civilization. The Senate voted to redefine marriage. Sixty-one senators voted for what they dared to call the Respect for Marriage Act, as if subverting marriage is an act of respect.
- Those senators voted to redefine marriage, weaken society’s fundamental covenant, and threaten the religious freedom of Americans who, by religious conviction, cannot join in the legislation’s revolt against marriage and family, morality and creation order.



Albert Mohler,  
President of The Southern  
Baptist Theological Seminary

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Fiala: “Is Joe Biden getting too old to be president?  
There is wisdom in a gracious exit” Nov. 27, 2022

<https://www.fresnobee.com/opinion/readers-opinion/article269144787.html#storylink=cpy>

• **How old is too old?**

- Joe Biden: 80
- Nancy Pelosi: 82
- Mitch McConnell: 80
- Diane Feinstein: 89



- Donald Trump: 76

- Reagan: almost 78 at end of presidency
- Eisenhower: 70 at end of presidency
- Obama: 55 at end of presidency
- Clinton: 54 at end of presidency
- [https://en.wikipedia.org/wiki/List\\_of\\_presidents\\_of\\_the\\_United\\_States\\_by\\_age](https://en.wikipedia.org/wiki/List_of_presidents_of_the_United_States_by_age)

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Fiala: “Is Joe Biden getting too old to be president?  
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- There is also some truth to the idea that we gain wisdom as we age. This is not true of everyone. But we can learn from experience. The passage of time provides a sense of perspective and proportion. What appears as a novel crisis for a 20-year-old is “more of the same” for someone who is 80.
- Most traditions imagine that wisdom and old age are connected. Plato suggested that as the burning desires of youth are quenched, the mind is set free to focus on higher things. Confucius said something similar. According to Confucius, it is not until we reach 70 that virtue and desire come together. The sages of the ancient world were old folks with a faraway look in their eyes.

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Fiala: “Is Joe Biden getting too old to be president?  
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- Some cultures also value “gerontocracy,” which is a fancy word for rule by elders. This may work well, if our elders are wise and civic-minded. But gerontocracy may also create a system in which crabby old geezers cling to power, refusing to make way for new ideas.
- Aristotle was critical of gerontocracy for that reason. He criticized the idea of lifetime tenure for judges, for example. He said, “there is old age of mind as well as of body.” He suggested that some people may be too old to judge wisely.
- And what about fairness? If one generation dominates leadership positions, is that fair to those in other generations?

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- There comes a time, when elders need to make way for the next generation. There is no alarm clock that tells us when that moment has arrived. But it is wise to keep the succession process in mind and to plan for passing the torch.
- One rationale for this generational hand-off has to do with creativity and innovation. Human beings are creatures of habit. We tend to prefer the stability of well-worn ruts. But in politics, business, and art, those ruts can become quagmires.
- Organizations need fresh ideas and new blood. And what about the ambitions of those who are waiting in the wings? The understudies need their chance to shine. But when the old guard hogs the limelight, the back-ups never get to learn how to play the lead.

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## Fiala: “Is Joe Biden getting too old to be president? There is wisdom in a gracious exit” Nov. 27, 2022

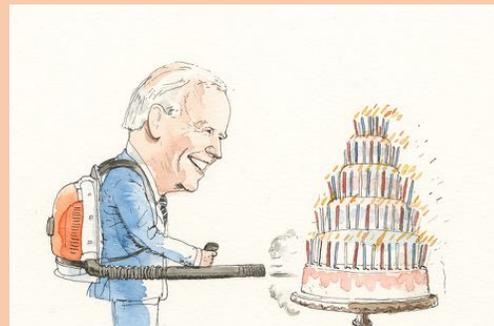
<https://www.fresnobee.com/opinion/readers-opinion/article269144787.html#storylink=cpy>

- This applies to all fields of human endeavor, including sports. In the NFL, the generation of Aaron Rodgers and Tom Brady is ending. It’s sad to watch former heroes fall into mediocrity. And the second stringers need playing time in order to get good at the game.
- Of course, we understand why Brady, Rodgers, Pelosi, and Biden want to stay in the game. It’s fun to play. And they have talents they want to share. There is also a crew of agents and sycophants who have vested interests in keeping the old guard in place.
- But as Ecclesiastes puts it, “for everything there is a season.” It is wise to make a graceful early exit than to linger too long at the party, while clinging to fading glory.

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## What do you think?

- How old is too old?
- Should Biden run again?
- What does a “graceful exit” look like?
- Is there wisdom in gerontocracy?



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## Affirmative Action

- 1961, Executive Order 10925: President John F. Kennedy instituted affirmative action in government hiring and in governmental contracts with the goal of encouraging “by positive measures” equal opportunity for all qualified persons.
- 1978 *Bakke v. U.C. Davis Medical School*
  - Court **banned racial quotas** in admissions but allowed some consideration of race in admissions decisions.
- 1995 *Adarand v. Peña*
  - Race-conscious federal program must serve a “compelling state interest” and must be “narrowly tailored” to achieve its goal.
- 2003 *Grutter v. Bollinger*
  - Allows applicant’s race as one factor among others such as test scores, talent, and grade-point average in admissions. Supported earlier rulings that there was a “compelling state interest” in racial diversity.

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## Affirmative Action: Contentious Questions

- Do members of underrepresented groups deserve help?
  - How much help—for individuals? For “members of groups”?
- What is the value of diversity? And how is it measured?
- Quotas Vs. Diversity as a goal...
- Are qualified applicants prevented from gaining entrance?
  - I.e., reverse discrimination...?

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## Affirmative Action (and Reparations) Moral Questions

- What obligation does society have for aiding marginalized groups?
- What obligation does society have for repairing prior harm?
- Are positions and opportunities to be allocated solely on individual merit? Or are there other values at stake?
- Can “Diversity” as a value be separated from “Affirmative Action” intended to repair prior harm?

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## Affirmative Action at the U.S. Supreme Court, *Students for Fair Admissions v. University of North Carolina and Harvard* October 31, 2022

- **Students for Fair Admissions**
  - Admissions policies gives unfair preference to members of certain racial groups.
  - “racial classifications are wrong”
  - Employing race in the admissions process produces bad consequences (such as people lying about or concealing their racial identities).
- **University Response**
  - “Diversity is our nation’s greatest source of strength.”
  - UNC’s goal of “assembling a student body that is diverse along the many dimensions that matter in American life, including race, but also social class, geography, military status, intellectual views, and much more.”
  - Creating a diverse student body was good for students, since it helps to “equip students with the tools needed to function effectively as citizens and leaders in our complex and increasingly diverse society.”

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## Sandra Day O'Connor's "25 Year" hope in *Bollinger* (2003)

- In the context of higher education, the durational requirement can be met by sunset provisions in race-conscious admissions policies and periodic reviews to determine whether racial preferences are still necessary to achieve student body diversity.
- The requirement that all race-conscious admissions programs have a termination point "assure[s] all citizens that the deviation from the norm of equal treatment of all racial and ethnic groups is a temporary matter, a measure taken in the service of the goal of equality itself."
- We take the [Michigan] Law School at its word that it would "like nothing better than to find a race-neutral admissions formula" and will terminate its race-conscious admissions program as soon as practicable.
- . We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.

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## Supreme Court leans toward ending affirmative action in college admissions, NBC News, Oct. 31, 2022

<https://www.nbcnews.com/politics/supreme-court/supreme-court-hears-challenges-affirmative-action-college-admissions-rcna54564>

- Conservative justices appeared skeptical that colleges and universities would ever conclude that their diversity targets could be met without considering race, thereby creating a conflict with the Supreme Court's 2003 ruling that said affirmative action would no longer be needed after 25 years.
- Barrett wondered whether the 2003 ruling was "grossly optimistic" in suggesting that race might no longer need to be considered after the quarter-century aspirational deadline.
- "What if there's no end?" she asked.

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- Conservative Justice Clarence Thomas questioned whether colleges and universities have a compelling interest in diversity, while fellow conservative Neil Gorsuch expressed concern that the goal of achieving diversity was akin to having racial quotas, which the court has prohibited.
- Gorsuch also noted that Harvard, as part of its explanation of what constitutes a diverse class, includes children of wealthy donors, talented athletes and those whose parents attended the university. He expressed surprise that Harvard considered it vital to its diversity goals to have a competitive squash team.
- "I'm not making it up," Gorsuch said.

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- Liberal Justice Sonia Sotomayor questioning the challengers' lawyer, Patrick Strawbridge, about how college administrators can assess applicants from diverse socioeconomic backgrounds without considering race.
- "Sometimes race does correlate to some experiences and not others," Sotomayor said. "If you are Black, you are more likely to be in an under-resourced school. You are more likely to be taught by teachers who are not as qualified as others. You are more likely to be viewed as having less academic potential."

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<https://www.nbcnews.com/politics/supreme-court/supreme-court-hears-challenges-affirmative-action-college-admissions-rcna54564>

- Liberal Justice Elena Kagan, who served as dean of Harvard Law School before the lawsuit was filed, strongly defended the value of racial diversity on campus, saying colleges are "pipelines to leadership in our society."

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## Reparations: For Native Americans California's Truth and Healing Council

(<https://tribalaffairs.ca.gov/cthc/>)

- “Bears witness to, records, examines existing documentation of, and receives California Native American narratives regarding the historical relationship between the State of California and California Native Americans in order to clarify the historical record of such relationship in the spirit of truth and healing.”
- Pursuant to the Draft Charter, the Council may examine and make recommendations aimed at reparation and restoration and consider how to prevent similar depredations and/or policies in the future. “Reparations” in this context will be defined by the Council and the California Native community, and may include (but would not be limited to) restorative actions, statutory amendments, funding opportunities and capacity building.
  - <https://tribalaffairs.ca.gov/cthc/faq/>

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## Reparations for Black Californians

<https://oag.ca.gov/system/files/media/ab3121-reparations-interim-report-2022.pdf>

- Task force recommendations
  - Address enslavement and incarceration
  - Eliminate racial terror (including in policing)
  - Eliminate political disenfranchisement
  - Eliminate Housing Segregation
  - Fix Separate and Unequal Education
  - Address Racism in Environment and Infrastructure
  - Stop Pathologizing Black Families
  - Redress lack of control over creative cultural and intellectual life of Black people
  - Eliminate racial bias in labor, including stolen labor
  - Fix Unjust Legal system
  - Eliminate anti-Black racism in healthcare
  - Address the Racial Wealth Gap
  - Create a California African American Freedmen Affairs Agency



California Task Force to Study and Develop  
Reparation Proposals for African Americans  
**INTERIM REPORT**

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## Reparations for Black Californians

<https://oag.ca.gov/system/files/media/ab3121-reparations-interim-report-2022.pdf>

- California African American Freedmen Affairs Agency
  - The role of the agency is to identify past harms, prevent future harm, work with other state agencies and branches of California's government to mitigate harms, suggest policies to the Governor and the Legislature designed to compensate for the harms caused by the legacy of anti-Black discrimination, and work to eliminate systemic racism that has developed as a result of the enslavement of African Americans in the United States.



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## Reparations: For Descendants of Former Slaves... or for Black Californians in general?

- California's secretary of state said Thursday that reparations for Black Americans should be limited to people whose forbears were kidnapped from their homeland, stripped of their ancestry and left with nothing after generations of forced labor.
- Shirley Weber, the daughter and granddaughter of sharecroppers who authored legislation creating the first-in-the-nation task force to study reparations, said while Black immigrants have suffered from racism in the U.S., they always had a country to return to. Slavery was more than a physical condition, she said, and its psychological impact stunted people's ability to strive beyond survival.
  - <https://www.nbcnews.com/news/nbcblk/reparations-are-descendants-black-slaves-says-california-official-rcna13955>.

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## Reparations: For Descendants of Former Slaves... or for Black Californians in general?

- “The fear my grandfather felt, I remember as a child, was palpable, and it crippled him and his family’s ability to dream beyond the cotton fields,” Weber said at Thursday’s meeting of the task force to study and develop reparations for African Americans. The meeting continues Friday.
- She said that Barack Obama likely never would have dreamed of becoming president had he descended from enslaved people. Obama, the country’s first Black president, had a white mother and a Black father from Kenya who came to the U.S. to study. Obama, she said, “did not have limitations and fears drilled in his psyche, and thus aspire to become the president of the United States.”
  - <https://www.nbcnews.com/news/nbcblk/reparations-are-descendants-black-slaves-says-california-official-rcna13955>.

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## Reparations Questions

- How much and for whom?
- What would be granted, given, or provided?
  - Cash, loans, loan-forgiveness, land, etc...?
  - Public apologies, monuments, commemorations...?
- Who qualifies to receive the reparations for historical injustices?
  - Who decides who gets what?
  - How do we account for mixed identities and historical differences?
- Is the focus backward looking or forward looking?
  - Remediate or repair (or punish) past misdeeds?
  - Vs. proactive help for communities harmed by those past misdeeds?

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## Animal Ethics in the News

- **California's Recent Animal Welfare Laws**

- California Proposition 12, Farm Animal Confinement Initiative (2018)
- California legislation bans animal fur
- California legislation bans use of exotic wild animals in circuses
- *SCOTUS CASE: National Pork Producers Council v. Ross (2022)*
  - Challenges CA law providing more room for hogs, chickens, and other animals

- **The Fresno Zoo's Elephants**

- Do elephants have rights?
- Is it cruel to keep elephants in zoos?
- Is there anything in particular wrong with the Fresno Zoo?

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## California Animal Welfare Laws

CNN, Oct 13, 2019

<https://www.cnn.com/2019/10/13/us/california-bans-fur-products-trnd/index.html>

- California has become the first US state to ban the sale of animal fur products.
- Gov. Gavin Newsom signed legislation Friday that will make it illegal to sell, donate or manufacture new fur products in the state.
- Used fur and taxidermy products are exempt from the ban, along with leather, cowhide and shearling. Fur products used for religious purposes or by Native American tribes are also exempt, and fur lawfully taken with a hunting license is still allowed.



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## California Animal Welfare Laws

CNN, Oct 13, 2019

<https://www.cnn.com/2019/10/13/us/california-bans-fur-products-trnd/index.html>

- Newsom also signed a number of other bills into law on Friday designed to prevent animal cruelty.
- One piece of legislation bans the use of animals like tigers and elephants in circuses. Another prohibits hunting, trapping and killing bobcats, and another protects horses from slaughter. Newsom also made it illegal to sell more types of dead animals, adding to an existing list of other wildlife.



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## California Proposition 12, Farm Animal Confinement Initiative (2018)

- More precise than Prop 2 (passed in 2008)
- Proposition 12 of 2018, unlike Proposition 2, prohibited the confinement of calves raised for veal, breeding pigs, and egg-laying hens in areas below a specific number of square feet, rather than restrictions based on animal behavior and movement. Proposition 12 also banned the sale of (a) veal from calves, (b) uncooked pork from breeding pigs, and (c) shelled and liquid eggs from hens when the animals are confined to areas below minimum square-foot requirements.



[https://ballotpedia.org/California Proposition 12, Farm Animal Confinement Initiative \(2018\)](https://ballotpedia.org/California_Proposition_12,_Farm_Animal_Confinement_Initiative_(2018))

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## Supreme Court Case (2022)

### *National Pork Producers Council v. Ross*

<https://www.pbs.org/newshour/politics/supreme-court-grapples-with-animal-welfare-in-a-challenge-to-a-california-law-requiring-pork-to-be-humanely-raised>

- Pork producers are challenging a law that California voters adopted in 2018 via ballot initiative with over 63% approval. It set new conditions for raising hogs, veal calves and egg-laying chickens, whose meat or eggs are sold in California. The state represents about 15% of the U.S. pork market.
- At most commercial hog farms, pregnant sows are kept in “gestation crates” that measure 2 feet by 7 feet – enough room for the animals to sit, stand and lie down, but not enough to turn around. California’s law requires that each sow must have at least 24 square feet of floor space – nearly double the amount that most now get. It does not require farmers to raise free-range pigs, just to provide more square feet when they keep hogs in buildings.

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## Supreme Court Case (2022)

### *National Pork Producers Council v. Ross*

<https://www.pbs.org/newshour/politics/supreme-court-grapples-with-animal-welfare-in-a-challenge-to-a-california-law-requiring-pork-to-be-humanely-raised>

- The National Pork Producers Council argues that this requirement imposes heavy compliance costs on farmers across the U.S., since large hog farms may house thousands of sows and that it restricts interstate commerce. The Constitution’s commerce clause delegates authority to regulate interstate commerce to the federal government. In a series of cases over the past 50 years, the Supreme Court has made clear that it will strike down any state law that seeks to control commerce in another state or give preference to in-state commerce.
- Farmers and animal welfare advocates understand that if California wins, states with the most progressive animal welfare policies – primarily West Coast and Northeast states – will be able to effectively set national standards for the well-being of many agricultural animals, including chickens, dairy and cattle.

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## Moral and Political Questions

- Is it wrong to confine pigs and other animals?
- Is it wrong to eat meat?
- Is it wrong to traffic in animal furs?
- Is it wrong to use exotic animals in circuses?
- Should California's laws set the standard for the nation?

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## Bronx Zoo: "Happy" the Elephant

- Nonhuman Rights Project sued the Zoo, claiming Happy had habeus corpus rights, wanted to relocate the elephant sanctuary.

2022: suit dismissed by New York Court of Appeals

- Only human beings are legal persons.
- Dissent by Judge Jenny Rivera admitted that Happy was an "autonomous being" who may have "a right to live free of an involuntary captivity imposed by humans, that serves no purpose other than to degrade life."
- Majority Opinion (by Judge Janet Difiore): elephant personhood is an "appropriate subject of ethical, moral, religious, and philosophical debate." But habeus corpus law is for humans. Elephants are "sentient" but they are not legal persons.



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## Fresno's Elephants

<https://gywire.com/2022/08/02/fresno-chaffee-zoo-defends-care-of-elephants-calls-lawsuit-frivolous/>

- The Fresno Chaffee Zoo has moved to defend itself against a lawsuit after a nonprofit group, the Nonhuman Rights Project, filed a civil action against the popular venue. The group claims the zoo's three African elephants — Amahle, Nolwazi, and Vusmusi — have been unlawfully imprisoned and restrained of their liberty.



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<https://gywire.com/2022/08/02/fresno-chaffee-zoo-defends-care-of-elephants-calls-lawsuit-frivolous/>

- The zoo's leader, however, says it's nothing but a "frivolous" lawsuit. "I'm not worried about it because I don't think anybody who's been to the Fresno Chaffee Zoo doubts that we give the highest standards of care for our elephants," said zoo CEO Jon Dohlin.



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## Fresno's Elephants

<https://gywire.com/2022/08/02/fresno-chaffee-zoo-defends-care-of-elephants-calls-lawsuit-frivolous/>

### Why Did Nonhuman Rights File Civil Action Against the Zoo?

- Courtney Fern, NhRP's communications director, says the group filed a complaint on behalf of the elephants' rights to bodily liberty. Its members believe that the elephants have a right to live in their natural habitat, or as close to it as possible. Fern says an elephant sanctuary would allow these elephants the opportunity to exercise their autonomy and engage in behaviors that are necessary to meet their physical and psychological needs.



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## Fresno's Elephants

<https://gywire.com/2022/08/02/fresno-chaffee-zoo-defends-care-of-elephants-calls-lawsuit-frivolous/>

- “Part of what we base our legal arguments on are affidavits that were submitted by the foremost expert in elephant cognition behavior who have studied elephants and have determined what they need to in order to be healthy, both physically and psychologically,” said Fern. “They’ve all determined that facilities like the Fresno Chaffee Zoo have great negative impacts on elephants.”
- According to Fern, the Performing Animal Welfare Society is an elephant sanctuary located in Northern California that would be an ideal place for the elephants. “There, elephants are divided into their herds and each herd has hundreds of acres to roam,” said Fern.

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## Fresno's Elephants

<https://gywire.com/2022/08/02/fresno-chaffee-zoo-defends-care-of-elephants-calls-lawsuit-frivolous/>

### Zoo Defends Its Standard of Care

- Dohlin says the experts quoted by Nonhuman Rights are people who have observed elephants in the wild, which can't be compared to the elephants at the zoo.
- He says the group has never reached out to have a conversation nor has it been interested in taking part in any type of observation or tour.
- “Many of the things they said about the conditions under which the elephants are captive, the social groupings under which the elephants are kept, the care the animals get – all of those things are wrong, and they never came out to verify any of it,” said Dohlin.



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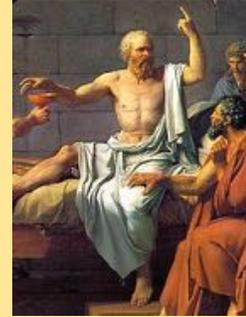
## Ethical Questions about Elephants and Other Animals

- Do Elephants have rights?
- Is it cruel to keep elephants in zoos?
- Is there anything in particular wrong with the Fresno Zoo?
- What other animals may have “rights”?
- And if not “rights”... then what criteria help us define animal welfare (vs. animal cruelty)?

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## Wisdom as we complete the course

- Better and worse answers
  - Vs. Relativism
- Complexity of moral questions
- Complexity of the world/facts
- Difficulty of moral judgment
- Courage, Compassion, and Curiosity
- Hospitality, Inclusion, and Toleration



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## Values for Living Well



Social Virtues



Individual Virtues

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Wisdom

The Unexamined Life is not  
worth living...

