

Article

**\*61 CYBER CIVIL RIGHTS**

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Introduction

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The Internet raises important civil rights issues through both its aggregative and disaggregative qualities. Online, bigots can aggregate their efforts even when they have insufficient numbers in any one location to form a conventional hate group. They can disaggregate their offline identities from their online presence, escaping social opprobrium and legal liability for destructive acts.

**\*64** Both of these qualities are crucial to the growth of anonymous online mobs that attack women, people of color, religious minorities, gays, and lesbians. On social networking sites, blogs, and other Web 2.0 platforms, destructive groups publish lies and doctored photographs of vulnerable individuals. [\[FN4\]](#) They threaten rape and other forms of physical violence. [\[FN5\]](#) They post sensitive personal information for identity thieves to use. [\[FN6\]](#) They send damaging statements about victims to employers and manipulate search engines to highlight those statements for business associates and clients to see. [\[FN7\]](#) They flood websites with violent sexual pictures and shut down blogs with denial-of-service attacks. [\[FN8\]](#) These assaults terrorize victims, destroy reputations, corrode privacy, and impair victims' ability to participate in online and offline society as equals.

Some victims respond by shutting down their blogs and going offline. [\[FN9\]](#) Others write under pseudonyms to conceal their gender, [\[FN10\]](#) a reminder of nineteenth-century women writers George Sand and George Eliot. [\[FN11\]](#) Victims who stop blogging or writing under their own names lose the chance to build robust online reputations that could generate online and offline career opportunities.

Kathy Sierra's story exemplifies the point. Ms. Sierra, a software developer, maintained a blog called "Creating Passionate Users." [\[FN12\]](#) In early 2007, a group of anonymous individuals attacked Ms. Sierra on her blog and two other websites, MeanKids.org and unclebobism.com. [\[FN13\]](#) Posters threatened rape and **\*65** strangulation. [\[FN14\]](#) Others revealed her home address and Social Security number. [\[FN15\]](#) Individuals posted doctored photos of Ms. Sierra. One picture featured Ms. Sierra with a noose beside her neck. [\[FN16\]](#) The poster wrote: "The only thing Kathy has to offer me is that noose in her neck size." [\[FN17\]](#) Another photograph depicted her screaming while being suffocated by lingerie. [\[FN18\]](#) Blogger Hugh MacLeod describes the posters as perpetrating a virtual group rape with the site operators "circling [the rapists], chanting 'Go, go, go.'" [\[FN19\]](#)

The attacks ravaged Ms. Sierra's sense of personal security. She suspended her blog, even though the blog enhanced her reputation in the technological community. [\[FN20\]](#) She canceled public appearances and feared leaving her

backyard. [FN21] Ms. Sierra explained: “I will never feel the same. I will never be the same.” [FN22]

Although in theory anonymous online mobs could attack anyone, in practice they overwhelmingly target members of traditionally subordinated groups, particularly women. [FN23] According to a 2006 study, individuals writing under female names received twenty-five times more sexually threatening and malicious comments than posters writing under male names. [FN24] The organization Working to Halt Online Abuse reports that, in 2006, seventy percent of the 372 individuals it helped combat cyber harassment were \*66 female. [FN25] In half of those cases, the victims had no connection to their attackers. [FN26] These mobs also focus on people of color, religious minorities, gays, and lesbians. [FN27]

These attacks are far from the only new challenge to civil rights in the Information Age, [FN28] but they are a serious one. Without an effective response to both aggressive, bigoted attacks and to more passive forms of exclusion, online equality is more of a slogan than a reality.

Nonetheless, the development of a viable cyber civil rights agenda faces formidable obstacles. First, because it must fill the gap left when the Internet's disaggregation allows individuals to escape social stigma for abusive acts, the cyber civil rights agenda must be fundamentally pro-regulatory. A regulatory approach clashes with libertarian ideology that pervades online communities.

Second, civil rights advocacy must address inequalities of power. This may seem incongruous to those who believe - with considerable justification in many spheres - the Internet has eliminated inequalities by allowing individuals' voices to travel as far as those of major institutions. This assumption may slow recognition of the power of misogynistic, racist, or other bigoted mobs to strike under cloak of anonymity, without fear of consequences.

Third, a cyber civil rights agenda must convince a legal community still firmly rooted in the analog world that online harassment and discrimination profoundly harm victims and deserve redress. In particular, proponents of cyber civil rights must convince courts and policymakers that the archaic version of the acts-words dichotomy fails to capture harms perpetrated online. The Internet's aggregative character turns expressions into actions and allows geographically-disparate people to combine their actions into a powerful force. Those who fail to appreciate the Internet's aggregative powers may be inclined to dismiss many of the harms, perhaps citing “the venerable maxim de minimis non curat lex (‘the law cares not for trifles’).” [FN29] For example, an online mob's capacity to manipulate search engines in order to dominate what prospective \*67 employers learn about its victim, by aggregating hundreds or thousands of individual defamatory postings, may not be grasped by judges accustomed to a world in which defamers' messages either reached a mass audience or were sent specifically to recipients known to the defamer. Much as the northern media initially dismissed the Ku Klux Klan's violence in the early 1870s as “horseplay” borne of “personal quarrels,” [FN30] so have many viewed the destruction wrought by online groups as harmless pranks.

Fourth, cyber civil rights advocates must overcome the free speech argument asserted by online abusers. Perpetrators of cyber civil rights abuses commonly hide behind powerful free speech norms that both online and offline communities revere. Just as the subjugation of African Americans was justified under the rubrics of states' rights and freedom of contract, destructive online mobs invoke

free speech values even as they work to suppress the speech of women and people of color. [\[FN31\]](#)

Fifth, a cyber civil rights agenda must be sure to highlight the harms inflicted on traditionally subjugated groups, because online civil rights abuses typically affect members of these traditionally subjugated groups disproportionately, but not universally. This makes the problem less conspicuous and easier to dismiss, much as the fact that the existence of some people of color and women working and learning in a given workplace or school may give the erroneous impression that hiring or admissions procedures do not impose disproportionate burdens on members of those groups.

Finally, applying civil rights norms to the technological advances of the Information Age requires overcoming the same challenges that law faces in coping with any sweeping social change: inevitable false starts threaten to discredit all legal intervention, giving credibility to arguments that law must ignore harms resulting from new technologies to avoid bringing progress to a grinding halt. [\[FN32\]](#)

This Article analyzes the problem of anonymous online mobs that target women, people of color, and other vulnerable groups and proposes a legal response. In so doing, it seeks to begin a conversation about developing a cyber civil rights agenda more generally.

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## I. Anonymous Mobs of the Twenty-First Century

The most valuable, indeed generative, opportunity the Internet provides is access. [\[FN33\]](#) An individual must establish an online presence and begin to build an online reputation before aggregating ideas or economic opportunities with others online. The Internet offers no viable alternatives to connect with others if a person is forced off the Internet as compared to the offline world, which offers various means of communication even if one route is foreclosed. And it is through access to the online community that anonymous groups come together to deny women, people of color, religious minorities, lesbians, and gays access.

The civil rights implications of ISPs charging women or African Americans higher monthly fees than men or Caucasians would be obvious. A less obvious, although no less troubling, civil rights problem arises when anonymous online groups raise the price vulnerable people have to pay to maintain an online presence by forcing them to suffer a destructive combination of threats, damaging statements aimed to interfere with their employment opportunities, privacy invasions, and denial-of-service attacks \*69 because of their gender or race. These assaults force vulnerable people offline, preventing them from enjoying the economic and social opportunities that social networking sites, blogs, and other Web 2.0 platforms provide.

Section A describes these cyber assaults that imperil, economically harm, and silence traditionally disadvantaged people. Section B shows how the online environment magnifies the pathologies driving dangerous group behavior, ensuring that the abuse will not correct itself.

### A. The Destructive Nature of Online Mobs

Online assaults exist along several interconnected dimensions. [FN34] First, attacks involve threats of physical violence. Death and rape threats are legion on the Web. [FN35] The threats may foreshadow offline stalking and physical violence. [FN36] They often include references to victims' home addresses and personal information, suggesting attackers' familiarity with them, and the attackers encourage readers to physically assault the victims, putting them in fear of genuine danger.

In response, victims stop blogging and participating in online forums. [FN37] A Pew Internet and American Life Project study attributed a nine percent decline \*70 in women's use of chat rooms to menacing sexual comments. [FN38] Victims may also make their sites private or assume pseudonyms to mask their identity. [FN39] As one victim explains, it does not take many rape threats to "make women want to lay low." [FN40]

Second, assaults invade victims' privacy. Attackers hack into victims' computers and e-mail accounts to obtain personal information, such as Social Security numbers, driver's license information, and confidential medical data. [FN41] The stolen information is then posted online. [FN42] Disclosing such personal information poses imminent risks, such as the threat of identity theft, employment discrimination, and online or offline stalking. [FN43] It also inflicts harm in the longer term. Victims feel a sustained loss of personal security and regularly dismantle their online presence to avoid further devastation of their privacy. [FN44]

Third, assaults can involve statements that damage reputations and interfere with victims' economic opportunities. [FN45] Online comments may assert that individuals suffer from mental illnesses. [FN46] They may claim individuals have sexually transmitted diseases. [FN47] Attackers sometimes publish doctored \*71 photographs of victims. [FN48] In addition, attackers send damaging statements about victims to their employers and manipulate search engines to reproduce the damaging statements and pictures for others to see, [FN49] creating digital "scarlet letters" that destroy reputations. [FN50]

Fourth, some assaults do not involve online postings at all. Instead, attackers use technology to force victims offline. Groups coordinate denial-of-service attacks [FN51] and "image reaping" campaigns to shut down sites and blogs. [FN52] While the other types of assaults silence victims indirectly with fear and humiliation, this fourth type of assault muzzles them directly.

Groups commonly wield all four of these tools in their attacks against individuals. Some attacks originate online and continue offline, while others move in the opposite direction. [FN53] For example, in 2007, the social networking site AutoAdmit hosted a pattern of attacks on female law students. [FN54] Thirty-\*72 nine posters targeted named students on the site's message board. [FN55] The posters, writing under pseudonyms, generated hundreds of threatening, sexually-explicit, and allegedly defamatory comments about the victims. [FN56]

Posters threatened female law students with violence. One poster asserted that a named female student "should be raped." [FN57] That remark begat dozens of more threats. For instance, a poster promised: "I'll force myself on [the identified student]" and "sodomize" her "repeatedly." [FN58] Another said the student "deserves to be raped so that her little fantasy world can be shattered by real

life.” [\[FN59\]](#)

Discussion threads suggested the posters had physical access to the female students. A poster described a student's recent attire at the law school gym. [\[FN60\]](#) Posts mentioned meeting targeted women and described what they looked like and where they spent their summer. [\[FN61\]](#) Posters urged site members to follow a woman to the gym, take her picture, and post it on AutoAdmit. [\[FN62\]](#) Others provided updates on sightings of a particular woman. [\[FN63\]](#) Another poster provided the e-mail address of a female law student under a thread entitled “Mad at [named individual]? E-mail her . . . .” [\[FN64\]](#)

Posters also asserted damaging statements about the women. One asserted that a female student spent time in a drug rehabilitation center. [\[FN65\]](#) Another claimed the student had a lesbian affair with a law school administrator. [\[FN66\]](#) \*73 Others remarked that the student appeared in Playboy. [\[FN67\]](#) Posters claimed that another female student had a sexually transmitted disease. [\[FN68\]](#) Others provided her purported “sub-par” LSAT score. [\[FN69\]](#) The victims asserted that these were lies. [\[FN70\]](#)

In addition to publishing the alleged lies online, posters spread them offline to undermine the victims' job opportunities. One poster urged the group to tell top law firms about the female student's LSAT score “before she gets an offer.” [\[FN71\]](#) Posters e-mailed their attacks to the student's former employer, recommending that the employer show it to its clients, who would “not want to be represented by someone who is not of the highest character value.” [\[FN72\]](#)

Another poster sent an e-mail to a particular female law student's faculty asserting that her father had a criminal record. [\[FN73\]](#) The poster displayed the e-mail on AutoAdmit before sending it, explaining: “I've assembled a spreadsheet with [faculty e-mail] addresses and every single one of them will be notified about what our darling [named student] has done. I post this here as a warning to all those who would try to regulate the more antisocial posters - we have the power now.” [\[FN74\]](#)

Site members applauded the e-mail and rallied around the sender. For instance, a poster stated that the e-mail sender should be awarded a “Congressional medal.” [\[FN75\]](#) Others recommended sending the e-mail from a public computer and a “hushmail account,” or with anonymizing software. [\[FN76\]](#)

The attackers waged a “Google-bombing” campaign that would ensure the prominence of offensive threads in searches of the female students' names. [\[FN77\]](#) Posters made plain the goal of their Google-bombing campaign: “We're not going to let that bitch have her own blog be the first result from googling her name!” [\[FN78\]](#) An individual writing under the pseudonym “leaf” detailed the steps \*74 AutoAdmit posters would have to take to engage in Google-bombing. [\[FN79\]](#) Leaf explained that posts should include the adjective “big-titted” next to the woman's name. [\[FN80\]](#) “Big-titted [name of female student]'s name is never to be used in parts - it must always be [name of student] at the least, and ‘big-titted [name of the student]’ ideally” with pictures of her accompanying the thread. [\[FN81\]](#) This would work because search engine algorithms assign a high rank to a Web page if sites linking to that page use consistent anchor text. [\[FN82\]](#)

Posters admitted their desire to intimidate and harm the female students. After one of the women did not get a summer job, a poster asked if the

other “bitch got what she deserved too?” [\[FN83\]](#) Another said: “I’m doing cartwheels knowing this stupid Jew bitch is getting her self esteem raped.” [\[FN84\]](#) A poster explained that the women were targeted “just for being women.” [\[FN85\]](#)

A lawsuit filed by two of the women alleged the AutoAdmit site managers refused to remove the offensive threads even though the women told them that the messages caused them severe emotional distress. [\[FN86\]](#) On March 15, 2007, a site manager asserted that he would not remove the offensive threads until the female students apologized for threatening litigation and until \*75 Reputation-Defender, a group assisting the women, acknowledged the mistakes the manager alleged the group had made. [\[FN87\]](#)

In a similar vein, a group called Anonymous has devoted itself to terrorizing and silencing hundreds of women writing on the Web. [\[FN88\]](#) For instance, in 2007, Anonymous used message boards and wikis [\[FN89\]](#) to plan an attack on a nineteen-year-old woman who maintained a video blog about Japanese language and video games. [\[FN90\]](#) Group members hacked her online accounts, including her YouTube blog account, e-mail, Facebook profile, and MySpace page, to obtain her personal information. [\[FN91\]](#) They published her account passwords and private medical history on various sites. [\[FN92\]](#) Postings disclosed her full name, home address, and her mother's e-mail address. [\[FN93\]](#) Group members sent messages from the woman's e-mail account to her loved ones. [\[FN94\]](#) They claimed the woman had committed suicide on various message boards. [\[FN95\]](#)

Members of Anonymous posted doctored photographs of the woman including one picture that featured the woman's head atop naked bodies. [\[FN96\]](#) Next to her picture appeared the promise that group members would rape her \*76 “at full force in her vagina, mouth, and ass.” [\[FN97\]](#) A drawing depicted men brutally raping the woman. [\[FN98\]](#)

Anonymous urged its members to “seek and destroy” the woman's online identity. [\[FN99\]](#) Group members saturated her video blog with sexually violent material. [\[FN100\]](#) They took down her videos. [\[FN101\]](#) Anonymous updated its members on the status of her sites. [\[FN102\]](#) When her live journal or video blog reappeared, Anonymous urged members to “rape” and “nuke[] [her sites] from orbit.” [\[FN103\]](#)

Anonymous similarly attacked a journalist writing under the pseudonym “Heart” who maintained a blog and discussion forum about women's issues. [\[FN104\]](#) Group members pieced together her identity from her postings and revealed her name and home address on her discussion forum. [\[FN105\]](#) They made death threats and sexually menacing comments on her blog. [\[FN106\]](#) Anonymous urged members to engage in “image reaping” to shut down her site. [\[FN107\]](#) The group succeeded in overloading and closing Heart's website during the summer of 2007. [\[FN108\]](#) In August 2007, Heart closed her blog and website. [\[FN109\]](#)

Anonymous maintains a list of sites and blogs addressing women's issues that it claims to have forced offline. [\[FN110\]](#) The list includes the names of shuttered sites with a line crossed through them and the accompanying message: “Down due to excessive bandwidth - great success!” [\[FN111\]](#) When a site reappears online, \*77 Anonymous tells its members: “It's back! Show no mercy.” [\[FN112\]](#) The group takes credit for closing over 100 feminist sites and blogs. [\[FN113\]](#) Anonymous has also targeted journalists, such as Anna Greer, who have reported

on the group's attacks. The group published Ms. Greer's home and e-mail addresses with instructions to "choke a bitch." [\[FN114\]](#)

Targeted female bloggers and website operators confirm the group's claims of attacks. [\[FN115\]](#) They describe the denial-of-service attacks and "image reaping" campaigns that have shut down their sites. [\[FN116\]](#) A victim explained: "Being silenced for over two weeks felt infuriating, stifling, imprisoned by gang rapists [sic] just waiting for me to try to get up from underneath their weight so they could stomp me down again." [\[FN117\]](#) Victimized website operators and bloggers have asked Anonymous in vain to stop its attacks. [\[FN118\]](#)

Groups attack women on the website JuicyCampus with threats of violence, and their posts have generated offline stalking. [\[FN119\]](#) For instance, anonymous posters disclosed a woman's cell phone and dorm address with instructions that she was available for sex. [\[FN120\]](#) After the posts appeared, strange men started knocking on the woman's door at night. [\[FN121\]](#)

Online mobs have targeted African-American and Hispanic women. [\[FN122\]](#) As blogger "La Chola" explains, women-of-color bloggers have consistently \*78 received horrific, vile e-mails and comments threatening violent sexual assault, death, and attacks against family members. [\[FN123\]](#) After the author of the blog "Ask This Black Woman" posted commentary about the Resident Evil 5 video game, anonymous posters attacked her on her blog and other sites. [\[FN124\]](#) She received death threats. [\[FN125\]](#) Posters told her to "[g]et back into the cotton fields, you filthy [n\*\*\*r]" [\[FN126\]](#) and threatened to overrun her blog. [\[FN127\]](#)

Posters on a white supremacist website targeted Bonnie Jouhari, the mother of a biracial girl. [\[FN128\]](#) The site posted an image of Jouhari's workplace burning in flames with a caption that read "race traitor . . . beware, for in our day, they will be hung from the neck from the nearest tree or lamp post." [\[FN129\]](#) The site included a picture of Jouhari's child and an image of her burning office with bomb-making instructions posted beneath it. [\[FN130\]](#) Ms. Jouhari and her daughter received harassing phone calls at home and at work. [\[FN131\]](#)

Other people of color have faced similar attacks. [\[FN132\]](#) An Asian-American columnist who writes a blog called "Yellow Peril" explained that a group of individuals attacked her online after she wrote about a hate crimes march. [\[FN133\]](#) The group posted a picture of her on a white supremacist watch list, which included her phone number and address, and its members sent threatening e-mails to her. [\[FN134\]](#) College students wrote racially threatening messages on a \*79 Hispanic student's Facebook profile, [\[FN135\]](#) promising to "come find you and drag you behind my (expletive) car." [\[FN136\]](#)

Online mobs target individuals from religious minorities as well. Groups post anti-Semitic comments alongside damaging statements about specific Jewish individuals on the website JuicyCampus. [\[FN137\]](#) Anonymous has targeted the Church of Scientology. [\[FN138\]](#) It posted videos on YouTube announcing its intent to destroy the Church. [\[FN139\]](#) Anonymous calls its campaign against the religious organization "Project Chanology." [\[FN140\]](#) Group members have engaged in denial-of-service attacks to take down the scientology.org website. [\[FN141\]](#) Nine hundred Anonymous members gathered in a chat room to discuss different ways to harass the Church. [\[FN142\]](#) Some suggested making harassing phone calls to the Church's local branches. [\[FN143\]](#)

Online groups have attacked gays and lesbians. [\[FN144\]](#) Anonymous has declared homosexuals as the group's enemy. [\[FN145\]](#) It urges members to shut down blogs \*80 and websites of targeted men and women. [\[FN146\]](#) Anonymous takes credit for driving "Gay Diamond," a lesbian, off YouTube. [\[FN147\]](#) Anonymous accuses victims of having sexually transmitted diseases. [\[FN148\]](#) Postings reveal targeted individuals' home addresses, phone numbers, and other personal information. [\[FN149\]](#) In August 2007, denial-of-service attacks shut down a gay gaming site and the site's owners received death threats. [\[FN150\]](#)

The harm online mobs inflict is potent. The threats and privacy intrusions produce damage in numerous ways. Publishing a woman's home address alongside the suggestion that she should be raped or is interested in sex raises the risk that readers of the post will stalk her or commit physical violence against her. Posting a person's Social Security number increases the chance that she will be subject to identity theft. Victims fear that threats or identity theft will be realized: the Internet's anonymity disaggregates the threats from their social context, eliminating cues that might signal the extent of peril. Online anonymity also may prevent an effective law enforcement response. A victim's feeling that she is "being watched" also may stifle her creativity and sense of well-being. [\[FN151\]](#)

Victims may lose job opportunities due to damaging statements and threats posted online. Employers often review Google search results before interviewing and hiring candidates. [\[FN152\]](#) The damaging statements and threats may raise doubts about the victim's competence, or suggest the victim attracts unwanted controversy, causing the employer to hire someone else. When victims stop blogging because of threats, they lose opportunities to establish their online presence in a manner that could enhance their careers and attract clients. [\[FN153\]](#)

If online groups select victims for abuse based on their race, ethnicity, gender, or religion, they perpetrate invidious discrimination. Important parallels exist between the harm inflicted by prior centuries' mobs and this \*81 century's destructive online crowds. Much like their offline counterparts, online hate mobs deprive vulnerable individuals of their equal right to participate in economic, political, and social life. They silence victims and stifle public discourse. [\[FN154\]](#) Although online mobs do not engage in lynching and physical beatings, their attacks produce serious individual and societal harm that should not be ignored.

## B. The Dynamics of Mob Behavior

These destructive crowds continue a disturbing pattern from the past, when anonymous groups such as the anti-immigrant mobs of the nineteenth century and the Ku Klux Klan inflicted serious harm on their victims. [\[FN155\]](#) Social scientists have identified four factors that influence the potential dangerousness of a group. [\[FN156\]](#)

First, groups with homogeneous views tend to become more extreme when they deliberate. [\[FN157\]](#) Group members' interactions tend to reinforce pre-existing views as members offer a disproportionately large number of arguments supporting their views and only a small number of arguments tilting the other way. [\[FN158\]](#) Hearing agreement from others bolsters group members' confidence, entrenching and radicalizing their views. [\[FN159\]](#)

Second, a group member's deindividuation encourages the member to act on destructive impulses. [\[FN160\]](#) According to one school of thought, people in

groups fail to see themselves as distinct individuals and lose a sense of personal responsibility for their destructive acts. [\[FN161\]](#) Another school of thought attributes deindividuation to anonymity rather than an individual's immersion in a group. \*82 This account explains that people behave aggressively when they believe that they cannot be observed and caught. [\[FN162\]](#)

Third, groups are more destructive when they dehumanize their victims. [\[FN163\]](#) By viewing victims as devoid of humanity and personal identity, group members feel free to attack without regret. [\[FN164\]](#) Groups rarely target those who are important to their personal well-being. [\[FN165\]](#) For instance, the incidence of lynching in the South similarly tracked the degree of interdependence between victims and the violent crowd, with black newcomers more vulnerable to violence than black employees who worked for the white community. [\[FN166\]](#)

Lastly, group members are more aggressive if they sense that authority figures support their efforts. Social scientists emphasize a perceived leader's role in accelerating dangerous group behavior. [\[FN167\]](#) As recently as the early 1900s, Southern newspapers explicitly “legitimated mob violence” by reporting that lynch mobs included prominent members of the white \*83 community. [\[FN168\]](#) As legal historian Robert Kaczorowski explains, federal authorities implicitly encouraged the Klan by failing to enforce civil rights laws. [\[FN169\]](#)

The Internet magnifies the dangerousness of group behavior in each of these respects. Web 2.0 platforms create a feeling of closeness among like-minded individuals. [\[FN170\]](#) Online groups affirm each other's negative views, which become more extreme and destructive. [\[FN171\]](#) Individuals say and do things online they would never consider saying or doing offline because they feel anonymous, even if they write under their real names. [\[FN172\]](#) Because group members often shroud themselves in pseudonyms, they have little fear that victims will retaliate against them or that they will suffer social stigma for their abusive conduct. Online groups also perceive their victims as “images” and thus feel free to do anything they want to them. [\[FN173\]](#)

Moreover, site operators who refuse to dismantle damaging posts reinforce, and effectively encourage, negative behavior. [\[FN174\]](#) Their refusal can stem from a libertarian “You Own Your Own Words” philosophy, [\[FN175\]](#) or irresponsibility bred from the belief that they enjoy broad statutory immunity from liability. [\[FN176\]](#) \*84 Negative posts that remain online constitute “calls to action” that generate others in a “snowball effect.” [\[FN177\]](#)

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[\[FN178\]](#). Associate Professor of Law, University of Maryland School of Law. I owe special thanks to Taunya Lovell Banks, Robert Kaczorowski, Dan Solove, David Super, and Greg Young whose insights proved indispensable to the piece. This Article also benefited from the thoughtful comments of Ann Bartow, Richard Boldt, Karen Czapanskiy, Laura DeNardis, Martha Ertman, Lisa Fairfax, Jim Fleming, Susan Freiwald, Nathaniel Gleicher, Mark Graber, David Gray, James Grimmelman, Debbie Hellman, Chris Hoofnagle, Sherrilyn Ifill, Frederick Lawrence, Brian Leiter, Dan Markel, Bill McGeveran, Leslie Meltzer, Helen Norton, Martha Nussbaum, Paul Ohm, Frank Pasquale, Rob Rhee, Neil Richards, Jay Stanley, Sonja Starr, Cass Sunstein, Chris Wolff, Diane Zimmerman, Jonathan Zittrain and the participants in Yale Law School's 2007 Reputation Economics in Cyberspace symposium, the 2008 George Washington Law-Berkeley

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[FN4]. See Daniel J. Solove, *The Future of Reputation: Gossip, Rumor, and Privacy on the Internet* 81-82 (2007).

[FN5]. Jessica Valenti, *How the Web Became a Sexists' Paradise*, *Guardian* (U.K.), Apr. 6, 2007, at 16, available at <http://www.guardian.co.uk/world/2007/apr/06/gender.bloggng>.

[FN6]. See Azy Barak, *Sexual Harassment on the Internet*, 23 *Soc. Sci. Computer Rev.* 77, 80 (2005).

[FN7]. See *infra* notes 49 and 72 and accompanying text.

[FN8]. Anna Greer, *Op-Ed., Misogyny Bares Its Teeth on Internet*, *Sydney Morning Herald*, Aug. 21, 2007, at 15, available at <http://www.smh.com.au/news/opinion/misogyny-bares-its-teeth-on-internet/2007/08/20/1187462171087.html>. Denial-of-service attacks occur when an online group or individual forces a victim offline. See *infra* note 51.

[FN9]. Ellen Nakashima, *Sexual Threats Stifle Some Female Bloggers*, *Wash. Post*, Apr. 30, 2007, at A1.

[FN10]. *Id.*

[FN11]. Mary Sarah Bilder, *The Shrinking Back: The Law of Biography*, 43 *Stan. L. Rev.* 299, 327 n.161 (1991).

[FN12]. *Creating Passionate Users*, [http://headrush.typepad.com/creating\\_passionate\\_users/](http://headrush.typepad.com/creating_passionate_users/) (last visited Nov. 24, 2008).

[FN13]. Don Park's Daily Habit, <http://donpark.wordpress.com/> (Mar. 16, 2008, 17:09) (on file with author); Posting of Zephoria to Apophenia, [http://www.zephoria.org/thoughts/archives/2007/03/26/safe\\_havens\\_for.html](http://www.zephoria.org/thoughts/archives/2007/03/26/safe_havens_for.html) (Mar. 26, 2007, 20:20).

[FN14]. Greg Sandoval, *Blogger Cancels Conference Appearance After Death Threats*, *CNET News*, Mar. 26, 2007, [http://www.news.com/8301-10784\\_3-6170683-7.html](http://www.news.com/8301-10784_3-6170683-7.html).

[FN15]. Valenti, *supra* note 5.

[\[FN16\]](#). Sandoval, *supra* note 14.

[\[FN17\]](#). *Id.*

[\[FN18\]](#). Valenti, *supra* note 5. Although MeanKids.org's site operator initially refused to censor the postings due to his "Own Your Own Words" philosophy, he took down the site after Ms. Sierra expressed distress about them. Posting of Jim Turner to One by One Media, <http://www.onebyonemedia.com/the-sierra-saga-part-1-dissecting-the-creation-of-the-kath> (Mar. 28, 2007, 16:31 EST) [hereinafter Jim Turner].

[\[FN19\]](#). Jim Turner, *supra* note 18 (quoting Hugh MacLeod).

[\[FN20\]](#). Blog Death Threats Spark Debate, BBC News, Mar. 27, 2007, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/technology/6499095.stm>.

[\[FN21\]](#). *Id.*

[\[FN22\]](#). *Id.*

[\[FN23\]](#). Posting of Lisa Stone to BlogHer, <http://www.blogger.com/node/17319> (Mar. 27, 2007, 3:47) (explaining that countless women have been threatened with rape, dismemberment, and violent images in online forums such as message boards and blog comments).

[\[FN24\]](#). Robert Meyer & Michel Cukier, Assessing the Attack Threat Due to IRC Channels, in Proceedings of the International Conference on Dependable Systems and Networks 467 (2006), available at <http://www.enre.umd.edu/content/rmeyer-assessing.pdf> (finding that individuals with ambiguous names were less likely to receive malicious messages than female users, but more likely to receive them than male users).

[\[FN25\]](#). Working to Halt Online Abuse, 2006 Cyberstalking Statistics 1 (2006), <http://www.haltabuse.org/resources/stats/2006Statistics.pdf>.

[\[FN26\]](#). *Id.*

[\[FN27\]](#). See *infra* notes 54-56, 90, 104, 122-128, 132, 144 and accompanying text.

[\[FN28\]](#). The Internet also confers great opportunities on those with the physical and intellectual capital to aggregate with others who are similarly situated, but in so doing it furthers the disadvantage of those who do not share the same physical and intellectual capital. The "digital divide" resembles the enhanced isolation that pervasive telephone ownership imposes on those who cannot afford telephones and that structured, urban environments impose on the homeless. For an explanation of how the "digital divide" operates, see generally Allen S. Hammond, IV, [The Telecommunications Act of 1996: Codifying the Digital Divide](#), 50 *Fed. Comm. L.J.* 179 (1997).

[\[FN29\]](#). See [Wis. Dep't of Revenue v. Wrigley](#), 505 U.S. 214, 231 (1992). Courts invoked this maxim to deny relief to those injured at the beginning of the Industrial Revolution. Morton J. Horwitz, *The Transformation of American Law*,

1780-1860, at 71 (1977).

[FN30]. Philip Dray, *Capitol Men: The Epic Story of Reconstruction Through the Lives of the First Black Congressmen* 99 (2008).

[FN31]. More generally, opponents of cyber civil rights raise the supposed perils of even modest governmental regulatory involvement with the Internet against initiatives to address any cyber civil rights concerns.

[FN32]. See Friedman, *supra* note 3, at 351.

[FN33]. See Jonathan Zittrain, *The Future of the Internet - And How to Stop It* 79-81 (2008).

[FN34]. A note on methodology is in order. Discussing material of this kind in an academic forum raises difficult ethical questions. Repeating damaging material for the sake of condemning it would be counter-productive and, indeed, hypocritical. At the same time, the sheer brutality of these assaults is an important part of this story. This Article repeats the mobs' misogynistic and other bigoted rhetoric to the extent necessary to convey the depth of their depravity, but beyond that paraphrases. It excludes the names of all victims that have not gone fully public themselves.

[FN35]. See, e.g., Cheryl Lindsey Seelhoff, *A Chilling Effect: The Oppression and Silencing of Women Journalists and Bloggers Worldwide*, *Off Our Backs*, Summer 2007, at 18, 18 (describing posters' threats to kill and rape a female writer on her blog); Valenti, *supra* note 5 (describing anonymous posters' attack of women bloggers with comments such as "I would f[\*\*]k them both in the ass" and "hate-f[\*\*]k" them); Posting of Zephoria to Apophenia, *supra* note 13 (providing an account of rape threats on a college computer science message board).

[FN36]. Catherine Holahan, *The Dark Side of Web Anonymity*, *Bus. Wk.*, May 12, 2008, at 64, 64, available at [http://www.businessweek.com/magazine/content/08\\_19/b4083064456431.htm](http://www.businessweek.com/magazine/content/08_19/b4083064456431.htm) (detailing how strange men showed up at a young woman's home in response to sexual comments made about her online). For example, two female bloggers received e-mails from anonymous individuals threatening sexual violence and faced in-person harassment after resigning from John Edwards' presidential campaign in 2007. Posting of Amanda Marcotte to Pandagon, <http://pandagon.blogspot.com/2007/02/13/people-who-claim-to-love-jesus-write-me/> (Feb. 13, 2007); Posting of Paul the Spud to Shakesville, <http://www.shakespeareessister.blogspot.com/2007/03/this-needs-to-stop.html> (Mar. 27, 2007) (describing individuals "blocking [a female blogger's] driveway and pounding on her door").

[FN37]. Barak, *supra* note 6, at 80; *Female Bloggers Face Harassment*, *Women in Higher Educ.*, June 1, 2007, at 5, 5 (highlighting that female bloggers are likely to be harassed far more than their male counterparts and that such harassment may have led to a decrease in female presence in online chat rooms); see Nakashima, *supra* note 9 (explaining that women attacked online by anonymous posters respond by suspending blogging, turning to private forums, or using gender-neutral pseudonyms); Elaine Vigneault: *Read My Mind*, <http://www.elainevigneault.com/> (Apr. 13, 2007) (on file with author) [hereinafter Vigneault, *Ignore Violence*] (explaining that she assumes male pseudonyms to

comment on male-dominated blogs).

[FN38]. Female Bloggers Face Harassment, *supra* note 37, at 5.

[FN39]. *Id.*

[FN40]. Valenti, *supra* note 5.

[FN41]. Barak, *supra* note 6, at 80.

[FN42]. See Pat Miller, Another Rape in Cyberspace, *Cerise*, Nov. 2007, <http://cerise.theirisnetwork.org/archives/188>.

[FN43]. See Danielle Keats Citron, [Reservoirs of Danger: The Evolution of Public and Private Law at the Dawn of the Information Age](#), 80 *S. Cal. L. Rev.* 241, 252-53 (2007) (discussing the risk of identity theft posed by the release of Social Security numbers).

[FN44]. Nakashima, *supra* note 9.

[FN45]. Victims maintain that many of these statements are false. If indeed that is true, such postings may be tortious. See *infra* Part III.C.1 (discussing defamation and false light claims). This Article will not attempt to parse the truth of particular charges.

[FN46]. See, e.g., Sandra Sobieraj Westfall et al., Campus Controversy: Has Online Gossip Gone Too Far?, *People*, Apr. 14, 2008, at 107, 107 (explaining that anonymous posters on the JuicyCampus website asserted that a Duke student attempted suicide, which the student claimed was false).

[FN47]. See Richard Morgan, A Crash Course in Online Gossip, *N.Y. Times*, Mar. 16, 2008, at ST7; Jessica Bennett, The Flip Side of Internet Fame, *Newsweek*, Feb. 22, 2008, <http://www.newsweek.com/id/114535> (describing JuicyCampus as having turned into a venue for bigoted rants and stories about identified students' alleged drug use and sexual diseases).

[FN48]. See Valenti, *supra* note 5.

[FN49]. See Solove, *supra* note 4, at 203 (explaining that employers conduct background checks by running Google searches which often produce inaccurate information).

[FN50]. Frank Pasquale, [Rankings, Reductionism, and Responsibility](#), 54 *Clev. St. L. Rev.* 115, 122 (2006); Adam Hunter, Click Here for Justice?, <http://tech.msn.com/news/article.aspx?cp-documentid=6247087> (last visited Nov. 2, 2008) (“The Puritans had their scarlet letters to shame those accused of wrongdoing; today, we have the Internet.”).

[FN51]. Greer, *supra* note 8; Elaine Vigneault: Read My Mind, <http://www.elainevigneault.com/> (Aug. 11, 2007) (on file with author) [hereinafter Vigneault, Web Harassment]. A denial-of-service attack is conduct that causes a loss in service of online resources. A common form of denial-of-service is a buffer overflow attack in which attackers send multiple e-mails, requests for

information, or other traffic to the server or network address to shut it down. Catherine E. Smith, [Intentional Infliction of Emotional Distress: An Old Arrow Targets the New Head of the Hate Hydra](#), 80 *Denv. U. L. Rev.* 1, 4 n.23 (2002). In November 2001, the FBI reported that extremist groups were adopting the power of modern technology and concluded that, although extremist groups' cyberattacks were limited to unsophisticated e-mail bombs and threatening content, the increase in technological competency could lead to network-based attacks on the nation's infrastructure such as shutting down government computer systems. See Nat'l Infrastructure Prot. Ctr., Highlights 2-4 (Linda Garrison & Martin Grand eds., 2001), <http://www.iwar.org.uk/infocon/nipc-highlights/2001/highlight-01-10.pdf>; Brian McWilliams, Internet an Ideal Tool for Extremists - FBI, Newsbytes, Nov. 16, 2001, available at 2001 WLNR 6085044.

[FN52]. "Image reaping" involves the repeated refreshing of a site's images to use up all of its allocated bandwidth. Vigneault, *Web Harassment*, supra note 51.

[FN53]. See, e.g., Posting of AmandaBrumfield to BlogHer, <http://www.blogger.com/node/12104> (Mar. 30, 2007, 11:16) (explaining that she shut down her personal blog after a year of being stalked and harassed by a group of people both online and offline including calls to her father's unlisted phone number with threats).

[FN54]. Brittan Heller, Note, Of [Legal Rights and Moral Wrongs: A Case Study of Internet Defamation](#), 19 *Yale J.L. & Feminism* 279, 285 n.20 (2007) (explaining that targeted female law students attended various law schools including Boston University, Harvard, New York University, Northwestern, University of Virginia, and Yale).

[FN55]. Posting of Amir Efrati to Wall Street Journal Law Blog, <http://blogs.wsj.com/law/2008/01/30/subpoena-allowed-in-autoadmit-suit> (Jan. 30, 2008, 9:08 EST).

[FN56]. Plaintiffs' Memorandum of Law in Support of Opposition to John Doe 21's Motion to Quash Plaintiff's Subpoena at 6, [Doe I v. Individuals](#), 561 *F. Supp. 2d* 249 (D. Conn. 2008) (No. 3:07CV00909) [hereinafter Plaintiffs' Memorandum of Law].

[FN57]. First Amended Complaint ¶ 49, Doe I, 561 *F. Supp. 2d* 249 (No. 307CV00909) [hereinafter First Amended Complaint]; Letter from John Doe 21, a.k.a. "AK47" to Plaintiffs, reprinted in Declaration of Steve Mitra in Support of Plaintiffs' Opposition to John Doe 21's Motion to Quash Plaintiffs' Subpoena exhibit 4, at 2, [Doe I](#), 561 *F. Supp. 2d* 249 (No. 307CV00909).

[FN58]. First Amended Complaint, supra note 57, ¶ 21.

[FN59]. *Id.* ¶ 23.

[FN60]. Plaintiff's Memorandum of Law, supra note 56, at 4.

[FN61]. Jill Filipovic, Note, [Blogging While Female: How Internet Misogyny Parallels "Real-World" Harassment](#), 19 *Yale J.L. & Feminism* 295, 295 (2007).

[FN62]. Plaintiff's Memorandum of Law, supra note 56, at 4.

[FN63]. Filipovic, *supra* note 61, at 296 (explaining that AutoAdmit posters described sightings of the author alongside comments that she should be “hate f [\*\*]k[ed]” and “kick[ed in] the box”).

[FN64]. First Amended Complaint, *supra* note 57, ¶ 63.

[FN65]. *Id.* ¶ 54.

[FN66]. *Id.* ¶ 27.

[FN67]. *Id.* ¶ 51.

[FN68]. *Id.* ¶ 21.

[FN69]. *Id.* ¶¶ 26, 28, 30.

[FN70]. *Id.* ¶¶ 32, 52-54, 79-82. Whether the assertions are indeed false statements is raised by the plaintiffs' lawsuit against the thirty-nine AutoAdmit posters. See Heller, *supra* note 54, at 280 (explaining that the “ludicrous allegations” made against one of the victims included false accusations that she “bribed [her] way into Yale with an ‘embarrassingly low amount’ of money” and “pretend[ed] to be either African-American or Native-American”).

[FN71]. First Amended Complaint, *supra* note 57, ¶ 30.

[FN72]. *Id.* ¶ 61.

[FN73]. *Id.* ¶ 58.

[FN74]. *Id.* ¶ 59.

[FN75]. Posting of Bodhi Tree Miracle to AutoAdmit, <http://www.autoadmit.com/> (Mar. 9, 2007, 14:34) (on file with author).

[FN76]. Posting of atlas (flae) to AutoAdmit, <http://www.autoadmit.com/> (Mar. 9, 2007, 15:45) (on file with author).

[FN77]. See First Amended Complaint, *supra* note 57, ¶ 17.

[FN78]. Posting of STANFORDtroll to AutoAdmit, <http://www.autoadmit.com/> (Mar. 9, 2007, 12:39) (on file with author).

[FN79]. First Amended Complaint, *supra* note 57, ¶ 43.

[FN80]. *Id.*

[FN81]. *Id.*

[FN82]. See Tom McNichol, *Your Message Here*, N.Y. Times, Jan. 22, 2004, at G1; Tom Zeller, Jr., *A New Campaign Tactic: Manipulating Google Data*, N.Y. Times, Oct. 26, 2006, at A20. Previously, Google asserted it has little or no con-

trol over the practice of Google-bombing and would not individually edit search results due to the fact that a bomb occurred. Posting of Marissa Mayer, Director of Consumer Web Products to The Official Google Blog, [http:// googleblog.blogspot.com/2005/09/googlebombing-failure.html](http://googleblog.blogspot.com/2005/09/googlebombing-failure.html) (Sept. 16, 2005, 12:54). On January 27, 2007, Google announced on its official Google Webmaster Central Blog that it now had an “algorithm that minimizes the impact of many Googlebombs.” Posting of Ryan Moulton & Kendra Carattini to The Official Google Webmaster Central Blog, [http:// googlewebmastercentral.blogspot.com/2007/01/quick-word-about-googlebombs.html](http://googlewebmastercentral.blogspot.com/2007/01/quick-word-about-googlebombs.html) (Jan. 25, 2007, 16:16).

[FN83]. Posting of STANFORDtroll to AutoAdmit, <http://www.autoadmit.com/> (Mar. 9, 2007, 12:42) (on file with author).

[FN84]. First Amended Complaint, *supra* note 57, ¶ 42.

[FN85]. Posting of roffles roffles to AutoAdmit, <http://www.autoadmit.com/> (Mar. 11, 2007, 21:50) (on file with author).

[FN86]. First Amended Complaint, *supra* note 57, ¶ 15. The former Chief Education Director of AutoAdmit filed a libel suit against two female law students, their counsel, and ReputationDefender, in which he disputed the students' claim that he refused their requests to take down the offensive threads. Complaint ¶¶ 30, 33, [Ciolli v. Iravani, No. 2:08CV02601, 2008 WL 4412053 \(E.D. Pa. Sept. 24, 2008\)](#) (alleging that “Mr. Ciolli never told [the law student] that any postings about her would not be removed” and that he responded to a complaint sent by the law student with a message that she should direct her concerns to site owner Jarret Cohen).

[FN87]. Jarret Cohen, AutoAdmit's Challenge to Reputation Defender (Mar. 15, 2007), <http://www.autoadmit.com/challenge.to.reputation.defender.html>. Cohen said that one of the identified women contacted him to remove offensive messages about her, but he ignored her request because she threatened to sue him. Mary E. O'leary, *Open Website Hurts: Yale Group Stands up Against Offensive Content*, *New Haven Reg.*, Apr. 1, 2007. Cohen also asserted that he dismissed another similar complaint “because it sounded like more of the kind of juvenile stuff that I have heard going on that people complained about for years.” *Id.* (quoting Jarret Cohen).

[FN88]. Unidentified individuals began Anonymous in 2003. The group has gathered its members on online image boards, such as 4chan.org. Chris Landers, *Serious Business: Anonymous Takes on Scientology*, *City Paper (Balt.)*, Apr. 2, 2008, at 14. As of April 2008, 4chan.org is the fifty-sixth most popular website in the United States. *Id.* A 2006 news special on Fox's Los Angeles affiliate gave Anonymous some notoriety by featuring the group in a story, which described the group as “hackers on steroids” and an “internet hate machine.” *Id.*; see FOX 11 Investigates: ‘Anonymous’ (FOX 11 news broadcast July 26, 2007), available at <http://www.youtube.com/watch?v=DNO6G4ApJQY>.

[FN89]. A wiki is a webpage designed so that any user may modify or add to its content.

[FN90]. Miller, *supra* note 42. The woman maintained her video blog under the name Applemilk1988. *Id.* Before the attacks, the woman's blog garnered broad

attention, making it onto YouTube's Most Subscribed list. Id.

[FN91]. Id.; see Encyclopedia Dramatica, Applemilk1988, <http://www.encyclopediadramatica.com/Applemilk1988> (last visited Nov. 2, 2008) [hereinafter Applemilk1988].

[FN92]. Applemilk1988, supra note 91; Miller, supra note 42.

[FN93]. See Applemilk1988, supra note 91; Insurgency Wiki, Applemilk, <http://partyvan.info/index.php?title=Applemilk> (last visited Nov. 2, 2008).

[FN94]. Miller, supra note 42.

[FN95]. Id.

[FN96]. Id.

[FN97]. Id.

[FN98]. Id.

[FN99]. Applemilk1988, supra note 91.

[FN100]. Miller, supra note 42.

[FN101]. Applemilk1988, supra note 91.

[FN102]. Id.

[FN103]. Id.

[FN104]. Posting of Heart to Women's Space, <http://womens-space.wordpress.com/2007/08/06/blogging-while-female-men-win-hacking-as-sexual-terrorism/> (Aug. 6, 2007) [hereinafter Heart].

[FN105]. Greer, supra note 8.

[FN106]. A poster wrote: "I'd like to tie you down, take a knife, and slit your throat. I'd penetrate you over and over in all orifices, and create some of my own to stick myself in." Posting of Heart to Women's Space, <http://womens-space.wordpress.com/2007/08/04/blogging-while-female-warning-may-trigger/> (Aug. 4, 2007).

[FN107]. Heart, supra note 104.

[FN108]. Id. ISPs provide the websites they host with monthly bandwidth allocations. When a site uses up its monthly allowance, the ISP will shut down the site until the following month or charge the website owner additional fees. ISPs have a variety of hosting plans and usually charge monthly rates. See, e.g., HostDime, Shared Website Hosting Services and Plans, <http://www.hostdime.com/services/shared/> (last visited Nov. 25, 2008).

[FN109]. Heart, *supra* note 104.

[FN110]. See Encyclopedia Dramatica, Cheryl Lindsey Seelhoff, [http://www.encyclopediadramatica.com/Cheryl\\_Lindsey\\_Seelhoff](http://www.encyclopediadramatica.com/Cheryl_Lindsey_Seelhoff) (last visited Nov. 2, 2008) [hereinafter Seelhoff].

[FN111]. *Id.*

[FN112]. *Id.*

[FN113]. Posting of Jill to Feministe, <http://www.feministe.us/blog/archives/2007/08/09/what-do-we-do-about-online-harassment/> (Aug. 9, 2007, 22:36).

[FN114]. Insurgency Wiki, Anna Greer, [http://partyvan.info/index.php?title=Anna\\_Greer](http://partyvan.info/index.php?title=Anna_Greer) (last visited Nov. 3, 2008).

[FN115]. Posting of Kevin to A Slant Truth, <http://slanttruth.com/2007/08/15/feminist-bloggers-are-under-increasing-levels-of-attack/> (Aug. 15, 2007, 20:15 EST) (explaining that feminist blogs including Feministe, Shakesville, Women's Space, and Biting Beaver were subjected to denial-of-service attacks). For instance, [freesoil.org](http://freesoil.org) was shut down due to excess bandwidth usage. Posting of Aletha to Women's Space, <http://womens-space.wordpress.com/2007/08/06/blogging-while-female-men-win-hacking-as-sexual-terrorism/#comment-47470> (Aug. 7, 2007, 7:20 EST). [Freesoil.org](http://freesoil.org)'s Web access log showed evidence of a denial-of-service attack. Posting of Aletha to Free Soil Party Blog, <http://freesoil.org/wordpress/?p=221> (Sept. 18, 2007, 1:41 EST) [hereinafter Aletha - Free Soil Party Blog]. In addition, "Newwaveradfem" explained that her blog was attacked in August 2007. New Wave Radical Blog, <http://newwaveradfem.wordpress.com/?s=attack> (Aug. 4, 2007, 14:40).

[FN116]. Vigneault, Ignore Violence, *supra* note 37.

[FN117]. Aletha - Free Soil Party Blog, *supra* note 115.

[FN118]. See, e.g., *id.*

[FN119]. Larry Magid, Opinion, JuicyCampus is a Haven for Cyberbullies, San Jose Mercury News, Mar. 24, 2008, [https://www.reputationdefender.com/viewPress?press\\_id=253](https://www.reputationdefender.com/viewPress?press_id=253).

[FN120]. Holahan, *supra* note 36, at 64; Magid, *supra* note 119.

[FN121]. Holahan, *supra* note 36, at 64.

[FN122]. Posting of La Chola to La Alma de Fuego, <http://brownfemipower.com/?p=1224> (Apr. 13, 2007, 11:15).

[FN123]. *Id.*

[FN124]. Posting of Sokari to Black Looks, [http://www.blacklooks.org/2007/08/where\\_lies\\_the\\_resident\\_evil.html](http://www.blacklooks.org/2007/08/where_lies_the_resident_evil.html) (Aug. 1, 2007).

[FN125]. Ask This Black Woman, <http://askthisblackwoman.com/2007/10/01/death-threat.aspx> (Oct. 1, 2007, 15:20).

[FN126]. Ask This Black Woman, <http://askthisblackwoman.com/2007/08/01/more-on-resident-evil-5.aspx> (Aug. 1, 2007, 11:52).

[FN127]. Vigneault, Ignore Violence, *supra* note 37.

[FN128]. Wilson, [No. 03-98-0692-8, 2000 WL 988268, at \\*4 \(Dep't of Hous. & Urban Dev. July 19, 2000\)](#).

[FN129]. *Id.*

[FN130]. *Id.* at \*4, \*6.

[FN131]. *Id.* at \*7.

[FN132]. See, e.g., MinJungKim.com *Braindump v. 6.0*, <http://minjungkim.com/2007/03/26/it%e2%CC80%99s-awful-yes/> (Mar. 26, 2007, 17:00 EST) (describing one Asian-American woman's experience with threatening e-mails, racist online comments, and instant message harassment).

[FN133]. Washington Baltimore and Annapolis Blog, <http://www.crablaw.com/2007/04/take-back-blog-host-page.html> (April 28, 2007, 23:33).

[FN134]. *Id.* Similarly, a woman who maintained a blog about Persian culture reported that her site was hacked and that individuals posted pornographic pictures and her home address on the site. Posting of Lady Sun to Women's Space, <http://womensspace.wordpress.com/2007/08/06/blogging-while-female-men-win-hacking-as-sexual-terrorism/#comment-48188> (Aug. 9, 2007, 5:05).

[FN135]. Christine Reid, Lawyer: O'Neal Not Responsible, *Boulder Daily Camera*, Feb. 28, 2006, at A1.

[FN136]. Vincent Carroll, Editorial, On Point: Blurring the Line, *Rocky Mtn. News*, June 6, 2006, at 34A. In 1996, Richard Machado, a former student at the University of California at Irvine, sent anonymous messages signed "Asian Harter" to fifty-nine Asian students. ComputingCases.org, Machado Case History, [http://computingcases.org/case\\_materials/machado/case\\_history/case\\_history.html](http://computingcases.org/case_materials/machado/case_history/case_history.html) (last visited Nov. 4, 2008). In the message, Machado warned that he would "personally... find and kill" his target. *Id.* Machado was convicted of two counts of federal civil rights violations. *Id.*

[FN137]. California Middle-Schoolers Suspended for Viewing MySpace Posting with Alleged Threat, *San Diego Union-Trib.*, Mar. 2, 2006, <http://www.signonsandiego.com/news/nation/20060302-1140-myspace-suspensions.html> (reporting that twenty middle school students were suspended for two days after viewing a boy's posting that contained anti-Semitic remarks and threats against another student).

[FN138]. See Landers, *supra* note 88 (quoting a statement by Anonymous that it

intends to “expel” the Church of Scientology from the Internet and “systematically dismantle” the religious group); Posting by Ryan Singel to Wired Blog Network, <http://blog.wired.com/27bstroke6/2008/01/anonymous-hacke.html> (Jan. 25, 2008, 18:39) (describing an attack by Anonymous, intended for a Scientology website, that instead attacked the website of a school in the Netherlands).

[FN139]. Landers, *supra* note 88.

[FN140]. *Id.*

[FN141]. *Id.*

[FN142]. *Id.*

[FN143]. *Id.*

[FN144]. E.g., Aletha - Free Soil Party Blog, *supra* note 115.

[FN145]. See, e.g., Encyclopedia Dramatica, Chris Crocker, [http://www.encyclopediadramatica.com/Chris\\_Crocker](http://www.encyclopediadramatica.com/Chris_Crocker) (last visited Nov. 5, 2008) [hereinafter Chris Crocker] (espousing hate for Chris Crocker, a gay man who gained fame on YouTube for a video he posted which depicted him crying and urging the public to leave Britney Spears alone).

[FN146]. See Encyclopedia Dramatica, Mrfetch, <http://encyclopediadramatica.com/index.php?title=Mrfetch&printable=yes> (last visited Nov. 24, 2008) [hereinafter Mrfetch]; Insurgency Wiki, Keith Kurson, [http://partyvan.info/index.php?title=Keith\\_Kurson](http://partyvan.info/index.php?title=Keith_Kurson) (last visited Nov. 5, 2008) [hereinafter Keith Kurson].

[FN147]. See Mrfetch, *supra* note 146.

[FN148]. See Chris Crocker, *supra* note 145.

[FN149]. Keith Kurson, *supra* note 146.

[FN150]. Posting of Brian Crecente to Kotaku, <http://kotaku.com/gaming/crime/gaygamer-target-of-hate-crime-286127.php> (Aug. 5, 2007, 11:32).

[FN151]. See Julie E. Cohen, [Examined Lives: Informational Privacy and the Subject as Object](#), 52 *Stan. L. Rev.* 1373, 1426 (2000).

[FN152]. See Pasquale, *supra* note 50, at 127.

[FN153]. Penelope Trunk's Brazen Careerist, <http://blog.penelopetrunk.com/2007/07/19/blog-under-your-real-name-and-ignore-the-harassment/> (July 19, 2007) (explaining that women who write under pseudonyms miss opportunities associated with blogging under their real names, such as networking opportunities and expertise associated with the author's name).

[FN154]. See Owen M. Fiss, *The Irony of Free Speech* 15-16 (1996) (discussing

the silencing effect of hate speech).

[FN155]. See generally Sherrilyn A. Ifill, *On the Courthouse Lawn: Confronting the Legacy of Lynching in the Twenty-First Century* (2007) (discussing the history of lynching and mob behavior in America).

[FN156]. See, e.g., J.S. McClelland, *The Crowd and the Mob: From Plato to Canetti 196-97* (1989).

[FN157]. See Roger Brown, *Social Psychology: The Second Edition* 200-06, 222 (1986).

[FN158]. Cass R. Sunstein, *Republic.com 2.0*, at 64-67 (2007).

[FN159]. See John C. Turner et al., *Rediscovering the Social Group: A Self-Categorization Theory* 142 (1987).

[FN160]. See Ed Diener, *Deindividuation: The Absence of Self-Awareness and Self-Regulation in Group Members*, in *Psychology of Group Influence* 209, 218 (Paul B. Paulus ed., 1980).

[FN161]. See Gustave Le Bon, *The Crowd: A Study of the Popular Mind* 26 (1896); Brian Mullen, *Operationalizing the Effect of the Group on the Individual: A Self-Attention Perspective*, 19 *J. Experimental Soc. Psychol.* 295, 295 (1983); Tom Postmes & Russell Spears, *Deindividuation and Antinormative Behavior: A Meta-Analysis*, 123 *Psychol. Bull.* 238, 254 (1998).

[FN162]. Arnold P. Goldstein, *The Psychology of Group Aggression* 32 (2002); Ralph H. Turner & Lewis M. Killian, *Collective Behavior* 165, 408 (2d ed. 1972); Philip G. Zimbardo, *The Lucifer Effect: Understanding How Good People Turn Evil* 25 (2007). This insight naturally accords with deterrence theory. Studies show heightened aggression in subjects who feel anonymous. The Zimbardo study asked participants to administer electric shocks to their subjects. Philip G. Zimbardo, *The Human Choice: Individuation, Reason, and Order Versus Deindividuation, Impulse, and Chaos*, in *Nebraska Symposium on Motivation* 237, 266-70 (W.J. Arnold & David Levin eds., 1969). Some participants wore oversized lab coats and hoods while others wore normal attire. *Id.* at 264. The hooded participants shocked their subjects longer than the identifiable participants did. *Id.* at 268; see also Evan R. Harrington, *The Social Psychology of Hatred*, 3 *J. Hate Stud.* 49, 60-61 (2005) (describing a study where participants dressed in Ku Klux Klan-type outfits gave greater shocks than participants dressed in nurse outfits). Thus, groups are more vicious when they believe their victims cannot retaliate against them. See Tizra Leader, Brian Mullen & Dominic Abrams, *Without Mercy: The Immediate Impact of Group Size on Lynch Mob Atrocity*, 33 *Personality & Soc. Psychol. Bull.* 1340, 1342 (2007).

[FN163]. Zimbardo, *supra* note 162, at 296 (explaining how Nazis dehumanized the Jews during the Holocaust); see Roberta Senechal de la Roche, *The Sociogenesis of Lynching*, in *Under Sentence of Death: Lynching in the South* 48, 55-56 (W. Fitzhugh Brundage ed., 1997) (explaining that lynching incidents were more prevalent and violent when the victim was a stranger to the community).

[FN164]. Senechal de la Roche, *supra* note 163, at 55-56.

[FN165]. Roberta Senechal de la Roche, *Collective Violence as Social Control*, 11 Soc. F. 97, 106-07 (1996).

[FN166]. *Id.*; see W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930*, at 81-82 (1993) (describing how whites feared that black floaters “posed a continual threat to white women and children”).

[FN167]. David R. Mandel, *Evil and the Instigation of Collective Violence*, 2002 *Analyses Soc. Issues & Pub. Pol’y* 101, 102.

[FN168]. Stewart E. Tolnay & E.M. Beck, *A Festival of Violence: An Analysis of Southern Lynchings, 1882-1930*, at 25-27 (1995).

[FN169]. Robert J. Kaczorowski, *The Politics of Judicial Interpretation: The Federal Courts, Department of Justice, and Civil Rights, 1866-1876*, at 66 (2005).

[FN170]. See Patricia Wallace, *The Psychology of the Internet* 79 (1999); Katelyn Y.A. McKenna & Amie S. Green, *Virtual Group Dynamics*, 6 *Group Dynamics* 116, 116, 120 (2002).

[FN171]. Wallace, *supra* note 170, at 79.

[FN172]. *Cf. id.* at 125 (reporting a study in which anonymous Internet conferencing groups experienced six times as many uninhibited hostile remarks as non-anonymous groups); Russell Spears et al., *De-individuation and Group Polarization in Computer-Mediated Communication*, 29 *Brit. J. Soc. Psychol.* 121, 122-24 (1990) (reviewing research that attempts to explain the “risky shift effect,” in which group discussions veer toward extreme positions, as a product of visual anonymity). Computer-mediated interactions inevitably engender feelings of anonymity. Adam N. Joinson, *Understanding the Psychology of Internet Behaviour: Virtual Worlds, Real Lives* 23 (2003). Such communications are conducted in a state of visual anonymity as users cannot see those with whom they are communicating. *Id.* Even if users see an individual's e-mail address, name, or familiar pseudonym, such “identifiability” is not equivalent to meeting someone in person. *Id.*

[FN173]. Teresa Wiltz, *Cyberspace Shields Hateful Bloggers*, *J. Gazette (Fort Wayne)*, Nov. 17, 2007, at 2D (quoting John Perry Barlow, Vice Chairman of the Electronic Frontier Foundation).

[FN174]. Solove, *supra* note 4, at 159.

[FN175]. For instance, Chris Locke, the operator of the sites involved in the Kathy Sierra attacks, explained that he initially did not take down the posts about Ms. Sierra due to his libertarian philosophy. Jim Turner, *supra* note 18.

[FN176]. Solove, *supra* note 4, at 159 (claiming that [47 U.S.C. § 230 \(2000\)](#) encourages irresponsible online behavior by too broadly immunizing bloggers from liability for user-posted content).

[FN177]. Amanda Paulson, *Internet Bullying*, *Christian Sci. Monitor*, Dec. 23, 2003, at 11; Dahlia Lithwick, *Fear of Blogging: Why Women Shouldn't Apologize for Being Afraid of Threats on the Web*, *Slate*, May 4, 2007, <http://>

[www.slate.com/toolbar.aspx?action=print&id=2165654](http://www.slate.com/toolbar.aspx?action=print&id=2165654) (suggesting that online threats combined with postings of the victim's home address and Social Security number provide incitement to deranged third parties); see *High-Tech Bullying is Sweeping the Nation*, *Kent & Sussex Courier* (U.K.), Sept. 8, 2006, at 10 (describing the snowball effect of harassing message board posts and mobile phone texts that escalate bullying and threats aimed at victims).