

Author's accepted manuscript (postprint)

"Whose Expression is it Anyway? Videogames and the Freedom of Expression"

Jørgensen, K., & Mortensen, T. E.

Published in: Games and Culture
DOI: 10.1177/15554120221074423

Available online: 28 Feb 2022

Citation:

Jørgensen, K., & Mortensen, T. E. (2022). Whose expression is it anyway? Videogames and the freedom of expression. *Games and Culture*, 17 (7–8), 997–1014. doi: 10.1177/15554120221074423

This is an Accepted Manuscript of an article published by Sage in *Games and Culture* on 28/02/2022, available online: <https://journals.sagepub.com/doi/10.1177/15554120221074423>

Kristine Jørgensen, University of Bergen
Torill Elvira Mortensen, Nord Universitet

“Whose expression is it anyway? Videogames and the Freedom of Expression”

Published in *Games & Culture* Volume 17, Issue 7-8. Online first February 28, 2022.
<https://doi.org/10.1177/155541202210744>

Whose expression is it anyway? Videogames and the Freedom of Expression

Introduction

In debates concerning videogames and the freedom of expression, two lines of argumentation have traditionally been put forward: That games express ideas and that they for this reason are in principle entitled to the protection of free speech in the same sense as other expressive media; or that their interactive nature makes them different in how they reflect our world back to us compared to what traditional media do and that they for this reason also may be more harmful (Hakimi 2019). They are argued as being either mainly expressive or mainly interactive, making them either comparable to traditional media, or very different and unique.

This essay aims to add nuance to this discussion through two arguments. First, we will argue that videogames cannot be understood as *mainly* expressive or interactive, but that the two – what we will refer to as the *procedural* and *representational* aspects of games – must be considered together when approaching games as an expressive medium (Sicart 2011, Mortensen & Jørgensen 2020, 85). Second, we will argue that *play* and *playfulness* are generally ignored in debates about videogames and the freedom of expression, and that attention towards the playful aspects involving videogames as an activity will offer a more nuanced view of how videogames are set apart from other media and what this means for the status of expressions in videogames, not least when it concerns their potential harmfulness.

Thus, central to our argumentation is the idea that videogames are two-sided – they are both an expressive medium that combines the representational and procedural, and they are dynamic systems activated through *play*. We stress that how people interact with games and the mindset they bring to this interaction are of essence when understanding videogames as an expressive

medium. The fact that people engage with games through *play* is an affordance of the medium and must be considered in a debate about games and freedom of expression. Taking into consideration the dynamics of the ludic context will allow for a player-centric perspective that illustrates how certain games may challenge certain players' sensibilities while remaining "play" for others, without falling for the fallacy that "play" means "harmless" (Mortensen & Jørgensen 2020). This new perspective will allow us to understand how players use games as a medium for their own self-expression while also providing a perspective to understand trolling and harassment in games, and positions itself within a growing body of research attentive towards the fact that play is not always enjoyable or even consensual for all involved (Boudreau 2019; Stenros 2019; Trammel 2020).

We will ground the discussion in specific examples. First, we will discuss the political art game *Easy Level Life* (DE Team 2016) as a simple example that demonstrates how videogames create meaning through combining procedurality and representation. Second, we will discuss the open world sandbox game *Red Dead Redemption 2* (Rockstar North 2018). The open world genre is perhaps the one to best illustrate the relevance of play and playfulness in understanding videogames as expressive media since they afford the player a high degree of freedom to explore the gameworld in ways that may transcend the intention and imagination of the designers. This genre has also attracted much media interest and often been the centerpiece in debates about videogames and the freedom of expression. Our theoretical perspective will combine two strains of thinking: With basis in philosophy on the freedom of expression following John Stuart Mill (Feinberg 1985; Warburton 2009), we will take a media studies perspective on games and freedom of expression (Hakimi 2018; Petersen 2014). To this view, we will add perspectives from game studies focusing on the meaning-making aspects of games (Bogost 2007; Schulzke 2020), and combine this with play theory (Sicart 2011; Schechner

2015) to include the essential perspective that play matters for understanding videogames as a medium of expression.

Freedom of expression

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” (United Nations 1948)

Based in a liberal tradition in philosophy, article 19 of the United Nation’s Declaration of Human Rights ensures the freedom of expression, through any media. This broad, but important statement has been the source for a number of principle legal discussions on human rights issues. When we start at this point for this discussion, it is so we can begin narrowing the scope of this essay. We follow philosopher Nigel Warburton’s broad definition of *speech* to include public acts of expressions covering “the written word, plays, films, videos, cartoons, paintings” – and where he continues with “and so on”, we include videogames (Warburton 2009, 4-5). While freedom of speech is in many democracies one of the founding pillars of the constitution, it is never absolute, but subject to limitations in cases where it breaks with ideals of democratic equality, privacy and security, such as defamation legislation, discrimination and hate speech, or calls for violence (Van Mill 2018). With basis in this foundational understanding, we stress that free speech indicates a freedom *from* prosecution for one’s opinions alone although it does not free an individual from the *consequences* of their expressions.

There is a relative agreement among philosophers and laymen that expressions that cause legitimate harm should be limited. The idea that free speech is not absolute but limited by

certain other human rights is anchored in John Stuart Mill's idea that the freedom of speech is only valid as long as the expression causes no harm in the sense that it does not violate the rights of a person (Mill 2002, 56), which has been a touchstone for discussions of democratic liberties since Mill wrote *On Liberty* in 1859 (Warburton 2009, 25). However, what constitutes a harmful expression is notoriously hard to define. While research shows that harassment and hate speech are expressions that indeed have the potential to cause psychological harm (Keipi et al 2017, 75), there are other situations in which the harmfulness of an expression is unclear.

To allow for a more aimed discussion about such expressions, philosopher Joel Feinberg's principle of *offense* is often also applied in freedom of speech debates. Offensive expressions span those that provoke and disturb, that violate sensibilities, or that dilutes democratic values such as equal respect for all citizens. While offense in itself is not a cause for censorship and may sometimes be useful in order to draw attention and create debate on certain topics (Schulzke 2020, 169), applying the principle of offense allows for debating forms of expressions where harmfulness may be debated or unclear, but where emotional distress on part of the offended party is unavoidable. In such situations, the restriction of free speech may be evaluated against the seriousness of the offense, thus including contextual factors such as the extent, duration, and intensity of the offense, whether the expression itself can be deemed any social value, as well as the intentionality of the speaker and how easily the offense can be avoided (Feinberg 1985, 7-9). However, a complicating factor in evaluating offense is that it is dependent on cultural or social contexts or norms. Because norms may have different meaning depending on the point of view (Bicchieri 2017, 1-2), offense will always be in the eye of the beholder, which indicates that it may be difficult to understand when an expression is offensive for those who are not themselves targeted by that expression.

Mill's understanding is a basic pillar in the modern understanding of freedom of expression, but it is important to keep in mind that his philosophy was specifically concerned with the protection of individuals against censorship from the state and the church. The videogame debate, however, only partly concerns the protection of the creator of the work against censorship. Importantly, the videogame debate also concerns the player and how they can be seen as executing their freedom of expression through play, rather than slavishly following a design. Since games cannot be understood apart from play, it is in any debate about videogames and the freedom of speech essential to understand what role play has in framing videogames as a medium of expression. As we will problematize below, this is important for videogames not only because players may have different sensibilities with respect to what they find offensive, but also because a playful mindset may reframe the actions a player takes during gameplay.

Understanding videogames and the freedom of expression

While arguments have been postulated that *interaction* is the factor that potentially makes games more harmful than other media, how a particular game interaction is *represented* through audiovisual means is what generally has triggered demands of regulation. In the following, we will discuss the previous debate about videogames and the freedom of expression and present our view of what is missing from a comprehensive understanding of games as a medium of expression.

The discussions in research as well as in public discourse concerning the need to restrict videogames are mostly aimed at whether they have harmful effects or not (Hargrave and Livingstone 2009; Gentile and Anderson 2003; Hartmann and Vorderer 2010). While there is some research on censorship and regulation in specific countries and regimes (Zhang 2012; Mandiberg 2016; Tsuji 2017; Pfister 2020), most research on games and freedom of speech is

located in the intersection between law and psychology and has been linked to the regulation of videogames in an American context. The conversation has been invariably related to the discourse of violent content and effects (Bushman & Pollard-Sacks 2014; Calvert & Richards 2005; Ferguson 2013; 2014; Garon 2012; Garry 2004; Hall et al 2011; Laughlin 2006; Post 2011; Salamanca 2005; Wolf & Dee 2013). In public discourse, the debate tends to ignore the ludic context of games and is driven by a general idea that harmful videogames exist, even if the specific videogame examples discussed are perceived as harmless (Ivory & Kalvanaraman 2009). After an American court case ruled to protect the freedom of speech for videogames (Hakimi 2019), the discussion of harm has increasingly focused on addiction, exemplified by World Health Organisation's decision to define gaming disorder and include it in the 11th Revision of the International Classification of Diseases (ICD-11) (World Health Organisation 2018).

The debate about videogames and the freedom of expression has been grounded in understanding videogames as a representational medium. As previously mentioned, the US Supreme Court concluded in 2011 that games are to be understood as a cultural expressive form that holds full protection rights as a medium of expression (Ferguson 2013, 61; Hakimi 2019, 2-3). While the interactive properties of games were acknowledged, the court concluded that interaction simply is to be understood as a more intense form of involvement compared to traditional media, and that videogames for this reason are not in essence different from other media of representation (Hakimi 2019, 2; Petersen 2014, 171). Thus, the question of whether videogames should be restricted have centered on whether the situations they present may cause the same kind of potential moral or psychological harm as other media only with an amplified effect. We question this assumption through two lines of argumentation. We will discuss how interaction can be understood as a form of representation in videogames and whether it

corresponds to traditional media. Then we will discuss what characterizes the specific kind of interaction that players engage in when playing games. In the discussions we will pay particular attention to what this means for the potential harm and offense of videogames

Videogames as a representational medium

Viewed as the most recent advancement on an evolutionary cultural timeline of representational media, we can start the discussion of videogames as an expressive medium by addressing the arguments used for judging other artistic expressions such as visual art, literature, and film (Hakimi 2019, 7). While research has not been able to determine that violent game representations are in themselves directly harmful (Elson & Ferguson 2014; Ferguson 2018), game scholar Marcus Schulzke argues that games that incite violence or deliver threats indeed may have the potential to cause psychological harm. An example is the first-person shooter game *Ethnic Cleansing* (Resistance Records 2002), in which players take the role of white supremacists violently attacking minority groups. The game, produced by a white nationalist organization, was perceived as an actual threat due to the developer's long-term promotion of racial violence, and thus as a harmful expression (Schulzke 2020, 168). Comparatively, a game such as the *Super Columbine Massacre RPG!* (Ledonne 2005) in which players take the role of the mass shooters of the Columbine High School massacre in 1999, is typically defended when viewed against the principle of harm because it does not incite violence, but aims to provide social commentary (Borchard 2015; Sci & Ott 2017). Viewed against the principle of offense, however, we see that the judgment of the two games may be reversed: Although there is little doubt that *Ethnic Cleansing* has a high potential to be experienced as offensive, its marginal appeal and low distribution may protect it from legal restrictions despite its content. On the other hand, despite its intentions to create reflection, *Super Columbine Massacre RPG!* may be subject to restrictions because of its general ability to create offense and its perceived attempt

to make a political point from a tragedy (Schulzke 2020, 182). Both of these arguments are controversial and complex, even while solely focused on the representational aspect of the games.

However, judging videogames as representational media in the classical sense only is limited and has not been without controversy (Hakimi 2019; Petersen 2014), and while the above reasoning works on the level of the theme of a game, there is nothing in the argumentation that addresses whether interactivity is at all relevant. The question of whether representation or interaction is the most central aspect for meaning-making in games reflects a central debate in game studies relating to the phenomenology of games, but in game studies there is today agreement that both aspects must be considered if we are to fully understand videogames. The debate about interactivity first and foremost concerns the systemic and algorithmic properties of videogames – or what we will call *procedurality* (Murray 1997). While media scholar Jennifer Petersen stresses that videogames are code and software, other scholars have been focusing on how the digital properties of videogames make them cybertexts (Aarseth 1997) or procedural media (Bogost 2007) characterized by how they dynamically respond to player input. In this debate, game scholar Ian Bogost's term *procedural rhetorics* has a particular relevance. Procedural rhetorics is “the practice of using processes persuasively” (Bogost 2007, 28-29). As systems that operate according to computational procedures, videogames use rules and game mechanics to model processes and it is the meaning-making that takes place through these processes that is unique to games. Importantly, however, we stress that these processes do not carry meaning alone: the procedures themselves are only abstract algorithms expressed in the code of the game, and it is not until they are combined with audiovisual representations that they gain rhetorical power. This unique combination is one of the characteristics that gives videogames a different expressive power compared to other media (Mortensen & Jørgensen

2020, 45), and focusing on either one runs the risk of ignoring the other. By understanding videogames as simultaneously representative and procedural, we consider them a distinct media form at the same time as we acknowledge that they are also a part of a cultural evolutionary timeline. Videogames borrow heavily from earlier cultural forms such as analogue games and narrative media, but are at the same time using digital procedurality in a way that has enabled them to evolve into a new medium. We stress that it is not simply the presence of both that matters, but how they are integrated into a specific whole that together communicate a meaning or a message.

Thus, while we agree with Petersen and Hakimi that ignoring the procedural or interactive features of videogames is a mistake in the debate about games and freedom of expression, we also believe that US Supreme Court was partially right in claiming that videogames are an example of a new development of representational media. What the US Supreme Court failed to do was to understand the *implications* of what the procedural aspects mean for videogames as a medium of expression.

In order to exemplify how procedurality and representation work together in creating meaning in videogames, let us look at a specific case. The art game *Easy Level Life* (DE Team 2016) is designed to frustrate, both due to its game mechanics and the social reality that it presents. The game is a sidescrolling game featuring a minimalist pixelart style that gives the immediate impression of an indie adventure game. It is short and can be played through in a matter of minutes. Here the actions are extremely limited, but this limitation is what makes the game frustrating and meaningful. The player takes the role as a black American teenager, and the goal is to get safely to school. On the way the player sees a group of police officers beating a person, and at this point the player is presented with a list of options: “Eat breakfast”, “cross the street”,

“quickly go past”, “stand there quietly”, and “this is so scary!”. All alternatives will however lead to the same, tragic outcome, and after a gunshot and a black and red blood spatter image, there is a newspaper article describing the death of the avatar, with small variations depending on what option the player chose. The message of the game is that once a black person has come to the attention of worked up, excited police, there are no good outcomes.

One can ask whether this simple piece of interactive storytelling is a game at all, but even so it is a story that can be told very evocatively and effectively through the integration of procedurality and representation. It is in this combination we find this illustrating example of how videogames is a medium of expression. *Easy Level Life* leans on representation, through the skin color of the avatar, the city they walk through, the uniforms of the police and the design of the newspapers that present the outcome of the story. But it also relies on procedurality. Regardless of what option the player selects, the game ends in a news report of the avatar’s death. The apparent freedom to choose direction in the game, which after a couple of tries is revealed to be nonexistent, is a clever use of procedurality to express limited choice. Further, it is the combination of procedurality and representation – of simple game mechanics and a particular setting and theme – that creates the message. Each new option carries with it the promise that there is a way past this obstacle, only to reveal that there is no way to avoid systemic racism. It plays with the game medium, and by crushing all hope of a happy ending, it exposes the rules not only of the game, but also of society.

While procedurality and representation work together as one in making games an expressive medium, for analytical purposes we believe that it is important to maintain a distinction between the two, because it is in the relationship between the two that we find room for *play*. Play is a process of meaning-making in games that both takes advantage of and defies representation and

procedure. Play is another defining characteristic that positions videogames differently as an expressive medium compared to traditional media, and is also a characteristic that tends to be ignored in discussions on videogames and the freedom of expression.

The importance of play

As the discussions above has shown, procedurality is a formal property of videogames that may be understood as tightly interwoven with the audiovisual representations of videogames. Procedurality is the systemic property that enables or affords interaction and gameplay, but procedurality is not in itself interaction. This point is often missed in debates about the expressive power of games. Game scholar Miguel Sicart argues that that there is a tendency among procedurality-oriented game researchers to erroneously stress that meaning lies in the rules of a game, thereby implying that play is not central to the meaning-making of videogames (2011). We support Sicart's viewpoint that play is essential for the meaning-making process in games. We will argue for the importance of *play* and *playfulness* in the meaning-making process, and thus expand Sicart's argument and stress that in order to understand videogames as an expressive medium, we must also consider the role of play. While the integration of procedurality and representation offers a way for the game designers to express themselves, play offers a mode of expression for the player. Thus, to play the game is, in our understanding, an integral, vital part of understanding games as a medium of expression.. The activity of play and the playful mindset that players bring to the game is not an external factor, nor a form of "noise" isolated from the game itself. Thus, we have to consider the context of play when evaluating whether or not it counts as an expression in need of restriction.

In game contexts, *play* tends to be associated with the activity that we do when engaging with games. Game designers and scholars Katie Salen and Eric Zimmerman state that play is "free

movement within a more rigid structure” (2004, 304). This free movement can be exploratory and navigational, but it can also be in opposition to the rigid structure. From the perspective of performance theory, Richard Schechner describes play as ambiguous and flexible, as it is sometimes rulebound and sometimes free, oscillating between the serious and fun and for this reason not entirely “real” (Schechner 2017, 89-91). Play often involves jokes, subverted meanings, and other creative ways of framing expressions and actions, which is at the core of why playfulness is so important for understanding free speech in relation to games. One of the reasons why this tends to be ignored in such debates is that play is extremely difficult to pin down. It holds a status as a liminal activity (Sutton-Smith 1997, Turner 1974), existing in between spaces and creating room for the crossing of boundaries. Play opens up a space where choices are made, and while this space is by definition beyond judgement, what is done with the choices afterwards has consequences. While *play* is the activity that characterizes a specific form of engagement with the world, *playfulness* is the mindset that invites this form of engagement. This mindset is oriented towards here-and-now with its emphasis on immediate gratification and passion, spontaneity and exploration, make-believe and an interest in maintaining the present mindset, but can also be goal-oriented and focused on strategic thinking related to overcoming specific challenges (Apter 2007; Stenros 2016, 66-67). Thus, to play games is characterized by a playful attitude that invites players to understand game actions in terms of challenge and competition, but it also allows players to experience offensive game content as non-serious. This means that when the player is engaged in play, the actions they take in the game receives a particular status.

A characteristic of play and playfulness is that they work to frame actions and utterances. Carried out in the context of play, game actions therefore often mean something other than what they represent. Such communicative actions are what social-anthropologist Gregory Bateson

calls *metacommunication*, exemplified by how a playful dog's nip signifies a bite, but does not signify what a bite means (1972, 180). Our ability for metacommunication may complicate many situations because it may not always be clear whether an action or expression really means what it appears to mean, and adds the importance of context to most communicative situations, including play. Game literacy is for this reason an important factor when interpreting the meaning of videogames. This explains why players may carry out what appears to be excessive actions and use an abusive language, because for them this is part of play and may for this reason mean something different than what it appears to mean for an outsider or external bystander. It also explains how that which is depicted as violence in a videogame may not be experienced as an act of violence for those playing the game.

Game scholar Anders Frank provides an example when he observes how military cadets using wargames as part of their training sometimes chose to ignore the historical setting represented in the wargame for the purpose of winning the game, thereby making tactical choices that would harm civilians in the historical scenario. Importantly, these players do this not because they are insensitive to the realities of war, but because they approach the wargame not as the historical simulation it was intended to be, but as a game to be played with. When players approach games as a playground for exploration and a challenge that can be overcome, they may choose to ignore the representation (Frank 2012, 125-127). This example also shows the importance of framing in game contexts. In Goffmanian terms, *framing* is how we make sense of the social world around us and what enables us to interpret communicative actions correctly and distinguish between contexts. However, as is the case with metacommunicative situations, people may experience that the meaning of that situation can change based on context, interpretation, and – importantly – the mindset of the player. Goffman describes such changes as upkeying and downkeying (Goffman 1974, 362-366): *Upkeying* means to add another layer

of meaning to an action in order to move it further away from its basic, literal meaning, while *downkeying* means to move the interpretation of the situation closer to its literal meaning. It is an example of *upkeying* when the military cadets in the example above choose to ignore the historical setting of the wargame and play to win. Game scholar Jonas Linderoth has described how upkeying is used among *World of Warcraft* players to increase their enjoyment of the game, adding a level of performance and play on top of the game interactions and representations of these actions (Linderoth 2012:483), as the players perform their interpretations of the game actions such as the random number generator used to decide on loot distribution. It is a case of *downkeying*, on the other hand, when critics and scholars see hypersexualized or victimizing representations of women in videogames not as an ironic play with gender characteristics, but an expression of misogyny (Nieborg and Foxman 2018; Fox and Tang 2017). While upkeying here indicates that the player looks beyond what is immediately seen to engage with the game on another level, downkeying indicates that the player no longer engages with the game in a playful manner.

[The case of killing a suffragette in *Red Dead Redemption 2*](#)

As we have seen, when debates about videogames and freedom of expression take into consideration the medium-specific aspects of videogames, they tend to focus on procedural affordances of the games themselves, but they rarely consider *how* players interact with and make sense of games as an expressive medium. In other words, there is a focus on what the games allow players to do through its systemic or procedural features, but not on the impact that play and playfulness have on how players interpret games as an expressive medium. While a focus on representation and procedurality only leads to a description of the formal characteristics of the game, to include play and playfulness into the formula will allow us to

consider how a playful mindset may transform how the player interprets an expression, as well as how play in itself may be considered a form of expression on part of the player.

Let us illustrate by an example of the freedom offered by the sandbox game *Red Dead Redemption 2* (Rockstar North 2018). This open-world game is set in the antebellum American West where the player takes the role of a member of an outlaw group. Focusing on the protagonist's considerations of the consequences of the actions their leader brings the group into, the game's narrative allows the player to decide whether to play the game as a ruthless criminal, a conscientious man who realizes the recklessness of his boss' decisions, or something in between. Combined with the genre's characteristics that give the players great freedom to explore the game in any way they see fit, the game system does not discriminate between whether the player is killing their fictional allies or opponents. One of the much debated controversies in the game community over this videogame is the killing of a suffragette character in the game, published in a series of YouTube videos (Shirako 2018; Fogel 2018). A Youtube user documented several videos showing inventive and cruel killings of this one female non-player character, accompanied by misogynist video titles and comments from other users. The user was temporarily suspended for violating YouTube's regulations relating to violence and hate speech, as the videos were interpreted as a political statement that incited violence against feminists – a conclusion that we can argue was not unreasonable, given the deliberation expressed in the repetition, recording and publications of these videos. It is important to note that the controversy concerns the distribution of a collection of videos of this particular instance of gameplay on a major platform, an act that doubtlessly illustrate misogynistic acts that are offensive and potentially also harmful. While this may indeed be an argument for restricting the distribution of such videos, we must separate these user-created videos from the game as it is played in order to understand videogames as media of expression. In this case, the player in question was using the game as a platform on which to create his own

misogynist content in a strictly representative form – which must be understood as something different from the game itself. Our question, then, concerns whether the players' gameplay acts also are political statements, and whether or not the game affordances that allow for such gameplay acts are of a kind that could and should be regulated?

To address the second part of the question first: Of course, the designers of *Red Dead Redemption 2* could have made it impossible to kill this suffragette character to avoid potential offense and controversy. This would protect players from potentially being exposed to the mere possibility that a suffragette may be killed in the game, either accidentally or on purpose. Similar design decisions have been made in other videogames, thus protecting certain game characters by the game code. An example is how the designers of *The Elder Scrolls 5: Skyrim* (Bethesda 2011) have made it impossible to kill children. An argument for not restricting actions in this way is consistent game design: In an open world, free roaming game, players expect a high degree of agency. If the designers decide to restrict the possibility of killing a particular character or character type when all other characters can be killed, this may in itself be interpreted as an attempt of making an ethical or normative point. While the developer may have wanted to make such a point in restricting the killing of children in *Skyrim*, the inconsistency also led the modding community to create a mod that indeed allowed the killing of children based in the idea that this inconsistency made the game “broken” as a free roaming open world (Good 2011). If the designers of *Red Dead Redemption 2* had done the same in the case of the suffragette, this could have been interpreted by some players as an attempt to push the boundaries of political controversy in an already polarized gaming discourse, in which the mere inclusion of a suffragette in the game may be interpreted as a political statement by the designers.

However, the above reasoning assumes that a videogame should be considered the expression of the game designers and that they by way of their design are responsible for how the players decide to act in the game, regardless of whether they follow or act against the intended design. This argument is the game equivalent of the intentional fallacy of literary theory that assumes that the author's intention determines the interpretation of a text (Wimsatt & Beardsley 1946). Although the idea of procedural rhetorics demonstrates that game design may indeed be based in a value system, it is important to stress that the use of a game is not only determined by its design, but also by the player's motivations and choice of actions –in terms of the mindset that informs their gameplay. Thus, while the inclusion of the possibility to abuse and kill a suffragette in *Red Dead Redemption 2* may be seen as statement on the designers' part and potentially offensive, the more interesting question is whether this act also can be considered a statement on part of the player (Sicart 2011).

In such contexts, restricting the player agency would indicate restricting the players' freedom of expression. Whether this restriction would be defensible depends on whether the actions taken by players in a game will harm or offend. Acted out in isolation in a single-player game, violating a fictional suffragette in *Red Dead Redemption 2* would not harm or offend anybody, apart from potentially the player themselves. Note that the fact that it is possible kill a suffragette in a game does not mean that all players consider taking such actions in games, or that they encounter situations where this appears to be the reasonable action. For many players, executing violence against an NPC such as the suffragette in *Red Dead Redemption 2* could be an exploratory act, carried out as to tests the boundaries of the simulation and motivated by a playful mindset where gameplay is prioritized over the fictive context. We can find several similar videos on YouTube, describing complex killings of specific characters, such as the mass-murderer and incestuous pig farmer Bray (cad5150 2020), where the aim is clearly to find

the most inventive ways to use the affordances of the game to kill this NPC. It can also be an act of role-play, and it can also be associated with a particular player's specific playstyle or general approach to the specific genre (e.g. Aarseth 2007; Frank 2012; Mortensen & Jørgensen 2020, 124, 157). In other situations, carrying out violence against the suffragette could be an unintended act, based on videogame competency, unfamiliarity with the genre, the controllers, or general clumsiness where the player presses the wrong button and ends up shooting the suffragette when the intention is to talk. The question that remains is thus whether the mere possibility of killing the suffragette, or any other game character, is offensive enough for excusing a ban on such videogame actions. If we consider the principle of offense in such situations, for many players, open world gameplay that allows an exploratory style of gameplay is an important and valuable form of entertainment, and it is easy to avoid these offenses both for players and society at large. While the intensity of the offense may be high for those who accidentally encounter such events in the videogame, it seems that the extent and duration is generally low.

Now it is important for us to state that while we personally find the misogyny expressed by the above player's acts reprehensible, we do not find that this makes the game itself a candidate for censorship unless we also call for the censorship of much of modern mainstream entertainment. While we can and should criticize such acts and the player who conducts them, we must also acknowledge that since modern videogames generally and the open world genre in particular are complex software constructs, it is virtually impossible to predict what players may do to during the course of gameplay. In order to be characterized as a hateful expression against feminists or women in general and thus be a candidate for restriction, the gameplay must be explicitly used for promoting such statements in a deliberate fashion, like the previously mentioned player distributing videos showing a repeated interest in carrying out such acts

accompanied by misogynist statements. However, even in such cases, it may be difficult to decide the severity of the hateful expression because the playful context so often also includes a level of joking, exaggeration and the intention of provoking for the sake of provocation. Thus, attention to different keyings – including the fact that different keys may operate at the same time as part of the playful situation – is important for interpreting the potential meanings of gameplay as expression.

[Towards an understanding of play as expression](#)

The argument that keying is central in videogame play may appear as another defense for the claim that games are of no moral consequence (Schulzke 2020, 23) and that representation does not matter. This is not the point we want to make. Our argument is that when understanding videogames as expressive media it is not enough to consider their designed procedural and representative aspects, we must also understand the context and meaning of play. There is a dialogical relation between the player and the game that cannot be reduced to simple interaction, but which must be understood in terms of play. Players encounter videogames as an expressive medium in which representational and procedural elements work together to form a complex experiential whole, which again is filtered through that player's playful frame. When engaging with videogames, players acknowledge the combined representational and procedural aspects of the game, but also know that the meaning of the game is actualized through play. Players may move in and out of the playful mindset as they play, and in this process they may also go through different situations in which their attention may be directed either towards the representational or the procedural features. This moving back and forth has an impact upon how the player interprets and experiences the representational and procedural features of the game (Mortensen & Jørgensen 2020, 111, 153). Moreover, this also creates a situation where there is a potential for discrepancy between what goes on in the player's mind during gameplay, and

what other players who become subject or witness to that play experiences. Thus, even though a player playfully explores the affordances of the game or role-play as a violent misogynist, this can be experienced as hurtful and also threatening for people who watch them play. Importantly, the playful frame also means that a player can claim that their actions are play and thus not to be taken seriously when they execute misogynist actions during gameplay, thereby giving themselves an alibi behind which they can continue carry out misogynist actions. Thus, play becomes somewhat of a double-edged sword of expression.

Metacommunication and framing are central for understanding why play matters in a debate about games and freedom of expression. While play matters, it is important to stress that we do not argue that all expressions in videogames are harmless because they should be understood as play. What we do argue is that the play situation complicates games as an expressive medium not only because of the combination of representational and procedural elements, but because videogames invite players to take on a playful mindset. This means that context matters and that simply observing gameplay will not be enough to decide whether playing the game is problematic or not. This complicates the discussion about games as expressive media, because whether or not a game is offensive may come down to the specific mindset with which a player engages with a game, which may or may not correspond with what an observing party may find offensive. In any case, it is difficult to judge whether a game is offensive or harmful based on observation alone; while a certain isolated video of a game may appear provocative, it is not given that this is experienced as problematic from a player perspective.

Conclusions

The acknowledgement that there is indeed something unique and medium-specific to videogames may lead to claims that they need a special kind of treatment. Our argument has

rested on the idea that the medium-specificity of videogames is twofold: first, videogames are different from other expressive media because they combine representation and procedurality. At the same time, this combination makes them into a powerful medium of expression able to communicate values and meanings. Procedurality here only offers an addition tool for expression compared to representational media. Thus, procedurality in itself does not change the status of the expressions from a regulatory point of departure. From this point of departure, there is no reason to treat videogames differently than other expressive media. Thus, they should enjoy freedom from censorship – but not from criticism.

At the same time, we must acknowledge the fact that videogames are not only the expression of the designers, but also of the players, and that their expression is realized through play. The fact that we talk about *play* and not *interaction* is here of importance. While some argue that the interactivity of videogames positions them closer to the real world than traditional representative media, this argument can be refuted by stressing that the activities carried out in games are carefully limited by the rules and mechanics of the game and that rather than appearing real, game actions are more clearly marked as removed from reality and thus fictional. Thus, game actions do not have the same status as the actions they represent. Instead, they must be considered a form of meta-communication. Further, introducing *play* also means that it is not the simulated activities in themselves that matter, but the mindset with which the player approaches the game. This mindset is characterized by a form of communication that moves in many directions: It can be both playful and serious at the same time and is typically oscillating between the two in a way that may appear ambiguous.

Of course, as play can be understood as a form of metacommunication, the actions that players take during the course of gameplay can vary and change in status, and this is where it becomes

more difficult to draw a clear conclusion. What players do in single-player games should be considered personal exploration and is of nobody's concern since it does not cause neither harm nor offense. But if players use gameplay to actively attack or harass others, this can be treated as illegal expressions under current legislation. However, even here it may be difficult to decide, due to the keying of the expression and the lack of information about its intent. In such situations, it may be relevant to take legal inspiration from how humor and satire has been treated. This, while an interesting angle for consideration, opens for a very different discussion, beyond the scope of this article.

Acknowledgments:

The authors want to thank the anonymous reviewers and Mia Consalvo for their insightful comments. We would also like to thank Hajo Backe and the Work in Progress group at the Center for Computer Games Research at the IT University of Copenhagen and Holger Pötzsch and the Computer Games Working Group at the Norwegian Conference for Media Research for input on early drafts of the essay.

Literature:

Aarseth, E (1997). *Cybertext*. Johns Hopkins University Press.

Aarseth, E (2007). "I Fought the Law: Transgressive Play and The Implied Player". *Situated Play: Proceedings of the DiGRA 2007 Conference*. Available: <http://www.digra.org/wp-content/uploads/digital-library/07313.03489.pdf> (accessed May 25, 2021)

Apter, M J (2007). *Reversal Theory: The Dynamics of Motivation, Emotion and Personality*. 2nd Edition. Oxford: Oneworld Publications.

Bastos, A S, R F Gomes, C C dos Santos and J G R Maia (2018). "Synesthesia: A Study of Immersive Features of Electronic Games". *SBC Journal on Interactive Systems* 9 (2), pp. 38-51. Available: <https://www.seer.ufrgs.br/jis/article/view/80043> (accessed Jun 6, 2021).

- Bateson, G (1972). *Steps to an Ecology of Mind*. Chicago: University of Chicago Press.
- Bicchieri, C (2017). *Norms in the Wild: How to Diagnose, Measure, and Change Social Norms*. Oxford: Oxford University Press. Kindle Edition.
- Bjørkelo, K A (2020). "“Elves are Jews with Pointy Ears and Gay Magic”: White Nationalist Readings of The Elder Scrolls 5: Skyrim.” *Game Studies* 20 (3). Available at: <http://gamestudies.org/2003/articles/bjorkelo> (accessed May 25, 2021)
- Bogost, I (2006). *Unit Operations. An approach to videogame criticism*. Cambridge, Mass; MIT Press.
- Bogost, I (2007). *Persuasive Games*. Cambridge, Mass.: MIT Press.
- Borchard, K (2015). “Super Columbine Massacre RPG! and Grand Theft Autoethnography”. *Cultural Studies – Critical Methodologies* 15 (6). Doi: 10.1177/1532708615614018
- Boudreau, K (2019). “Beyond Fun: Transgressive Gameplay—Toxic and Problematic Player Behavior as Boundary Keeping”. In: Jørgensen K and F Karlsen (eds.). *Transgression in Games and Play*. Cambridge, Mass: MIT Press, pp. 257-271.
- Cad5150 (2020). *Satisfying ways to kill incest pig farmer Bray Red Dead Redemption 2*. YouTube. Available at: <https://www.youtube.com/watch?v=S2915aQsOIQ> (accessed November 2021.)
- DE Team (2020). *Easy Level Life*. PC. DE Team. Available at: <https://timecube.itch.io/easy-level-life> (accessed Jun 17, 2020)
- Elson, M & C Ferguson (2014). “Twenty-Five Years of Research on Violence in Digital Games and Aggression. Empirical Evidence, Perspectives, and a Debate Gone Astray”. *European Psychologist* 19 (1). Doi: [10.1027/1016-9040/a000147](https://doi.org/10.1027/1016-9040/a000147)
- Feinberg, J (1985). *Offense to Others: The Moral Limits of the Criminal Law*. Oxford: Oxford University Press.

- Ferguson, C (2018). “Violent Video Games, Sexist Video Games, and the Law: Why Can't We Find Effects?” *Annual Review of Law and Social Science* Vol. 14: 411-426. Doi: 10.1146/annurev-lawsocsci-101317-031036
- Ferguson, C, A Copenhaver & P Markey (2020). “Reexamining the Findings of the American Psychological Association’s 2015 Task Force on Violent Media: A Meta-Analysis”. *Perspectives on Psychological Science* 15 (6): 1423-1443.
Doi:10.1177/1745691620927666
- Fogel, S (2018). “YouTuber Temporarily Suspended For Video of Suffragette Killing in ‘Red Dead 2’”. *Variety*, Nov 8th 2018. Available at: <https://variety.com/2018/gaming/news/youtuber-suspended-for-red-dead-redemption-2-video-1203023452/> (accessed May 25, 2021)
- Fox, J and W Y Tang (2017). “Sexism in Video Games and the Gaming Community.” In: Kowert, R and T Quandt (eds.) *New Perspectives on the Social Aspects of Digital Gaming: Multiplayer 2*. New York and London: Routledge.
- Frank, A (2012). “Gaming the Game: A Study of the Gamer Mode in Educational Wargaming”. *Simulation & Gaming* 43 (1). Doi: [10.1177/1046878111408796](https://doi.org/10.1177/1046878111408796)
- Garrelts, N (ed.) (2006). *The Meaning and Culture of Grand Theft Auto*. Jefferson, NC and London: MacFarland.
- Gentile, D A and C A Anderson (2003). “Violent Video Games: The Newest Media Violence Hazard.” In: D A Gentile (ed.) *Media Violence and Children: A Complete Guide for Parents and Professionals*, Westport, Connecticut and London: Praeger
- Goffman, E (1974). *Frame Analysis: An Essay on the Organization of Experience*. Boston: Northeastern University Press.

- Good, O (2011). “Hooray, Now You Can Kill Kids in Skyrim.” *Kotaku* Nov 20, 2011.
Available at: <https://kotaku.com/hooray-now-you-can-kill-kids-in-skyrim-5861221>
(accessed May 25, 2021)
- Hakimi, J (2019). ““Why Are Video Games So Special?”: The Supreme Court and the Case Against Medium Specificity”. *Games and Culture* online first June 27. Doi: [10.1177/1555412019857982](https://doi.org/10.1177/1555412019857982)
- Hargrave, A M and S Livingstone (2009). *Harm and Offence in Media Content: A Review of the Evidence*. Bristol: Intellect Books Ltd. Kindle Edition.
- Hartmann, T and P Vorderer (2010). “It’s Okay to Shoot a Character: Moral Disengagement in Violent Video Games”. *Journal of Communication* 60 (1), pp. 94–119.
Doi: [10.1111/j.1460-2466.2009.01459.x](https://doi.org/10.1111/j.1460-2466.2009.01459.x)
- Ivory, J D. & S Kalyanaraman (2009). “Video Games Make People Violent—Well, Maybe Not That Game: Effects of Content and Person Abstraction on Perceptions of Violent Video Games”. *Effects and Support of Censorship, Communication Reports*, 22:1, pp. 1-12, DOI: [10.1080/08934210902798536](https://doi.org/10.1080/08934210902798536)
- Keipi, T, M Näsi, A Oksanen & P Räsänen (2017). *Online Hate and Harmful Content. Cross-national perspectives*. London & New York: Routledge
- Kocurek, C (2012). “The Agony and the Exidy: A History of Video Game Violence and the Legacy of Death Race.” *Game Studies* 12 (1). Available at: http://gamestudies.org/1201/articles/carly_kocurek (accessed June 22, 2020)
- Linderoth, J (2012). “The Effort of Being in a Fictional World: Upkeyings and Laminated Frames in MMORPGs”. *Symbolic Interaction* 35 (4): 474–492. DOI: [10.1002/SYMB.39](https://doi.org/10.1002/SYMB.39)
- Mortensen, T E and K Jørgensen (2020). *The Paradox of Transgression in Games*. London: Routledge.
- Murray, J (1997). *Hamlet on the Holodeck*. Cambridge, Mass.: MIT Press.

- Nieborg, D and M Foxman (2018). "Mainstreaming Misogyny: The Beginning of the End and the End of the Beginning in Gamergate Coverage." In: Vickery J R and T Everbach (eds.). *Mediating Misogyny; Gender, Technology and Harassment*, Basingstoke, UK: Palgrave Macmillan, pp. 111-130.
- Peterson, J (2015). "Behind the Screen: Visuality, Law, and New Media". *Popular Communication* 12 (3). Doi: [10.1080/15405702.2014.926012](https://doi.org/10.1080/15405702.2014.926012)
- Pfister, E (2020): "'Man Spielt Nicht Mit Hakenkreuzen!' Imaginations of the Holocaust and Crimes Against Humanity During World War II in Digital Games. In: von Lünen, A, K J Lewis, B Litherland and P. H. Cullum (eds.): *Historia ludens. The playing historian*. New York: Routledge.
- Salen, K and Zimmerman E (2004). *Rules of Play*. Cambridge, Mass.: MIT Press.
- Schechner, R (2017). *Performance Studies: An Introduction*. 3rd Ed. London, New York: Routledge.
- Sci, S A and B L Ott (2017). "Super Columbine Massacre RPG!: The Procedural Rhetoric of Critical (Gun) Play". *Cultural Studies – Critical Methodologies* 17 (2). Doi: [10.1177/1532708616636071](https://doi.org/10.1177/1532708616636071)
- Schulzke, M (2020). *Simulating Good and Evil: The Morality and Politics of Videogames*. New Brunswick: Rutgers University Press.
- Sicart, M (2011). "Against Procedurality". *Game Studies; the international journal of computer game research* 11 (3). Available at: http://gamestudies.org/1103/articles/sicart_ap (accessed May 25, 2021)
- Shirako (2018). @Shirakogaming Nov. 7th 2018. Twitter. <https://twitter.com/ShirakoGaming/status/1060191013803905025?s=20>

- Stenros, J (2019). “Guided by Transgression: Defying Norms as an Integral Part of Play”. In: Jørgensen K and F Karlsen (eds.). *Transgression in Games and Play*. Cambridge, Mass: MIT Press, pp. 13-25.
- Stenros, J (2015). *Playfulness, Play, and Games: A Constructionist Ludology Approach*. PhD thesis, University of Tampere. Available at: <https://trepo.tuni.fi/handle/10024/96986> (accessed Jun 25, 2020)
- Sutton-Smith, B (1997). *The Ambiguity of Play*. Cambridge, Mass.: Harvard University Press.
- Turner, V (1974). *Liminal to liminoid in play, flow, and ritual: An essay in comparative symbology*. Houston, TX: Rice University Studies.
- Trammell, A (2020). “Torture, Play, and the Black Experience”. *G|M|E: The Italian Journal of Game Studies 9: The Taboos of Game Studies*. Available at: <https://www.gamejournal.it/torture-play/> (accessed Jan 3, 2022)
- United Nations (1948). *Universal Declaration of Human Rights*. United Nations General Assembly. Available at: <https://www.un.org/en/universal-declaration-human-rights/> (accessed June 22, 2020)
- Van Mill, D (2018). “Freedom of Speech”. Zalta, E N. (ed.). *The Stanford Encyclopedia of Philosophy* (Summer 2018 Edition). Available at: <https://plato.stanford.edu/archives/sum2018/entries/freedom-speech/> (accessed June 22, 2020)
- Warburton, N (2009). *Free Speech. A Very Short Introduction*. Oxford: Oxford University Press
- Wimsatt Jr, J K and Beardsley M (1946) “The Intentional Fallacy”. *The Sewanee Review* Vol. 54, No. 3: 468-488. Available at: <http://www.jstor.org/stable/27537676> (accessed May 25, 2021)

World Health Organisation (2018) “What is Gaming Disorder”, last visited 18th of February
at <https://www.who.int/news-room/q-a-detail/addictive-behaviours-gaming-disorder>