

Contents

[Abstract](#)
[Introduction](#)
[Law and Popular Culture in General](#)
[The Reasoning in Cricket and the Law](#)
[Developing and Playing Counterstrike](#)
[The Story](#)
[Counterstrike and the Cyberworld: a Socio-Legal Perspective](#)
[Playing Games in Cyberspace and the Concept of Cyberlaw](#)
[The Moral Discourse of Counterstrike and eSport](#)
[Organizing the Game: Is it Future Sport?](#)
[Playing Counterstrike – Right and 'Fair'](#)
[Conclusions](#)
[References](#)

ISSN 1748-944X

Law and Morality in Counterstrike

Jesper Thiborg, PhD-Student, Dep. of Sport Studies, Malmö University

Bo Carlsson, Professor, Dep. of Sport Studies, Malmö University

ABSTRACT

This article uses David Fraser's work on law and cricket as a departure point. His analysis of the relationship between law, popular culture and everyday life is inspiring and contributes to a socio-legal understanding of law and morality as well as society and its cultural development in general. Cricket, no doubt, is closely connected with the British Empire, with parliamentarianism, modernity, cultural identity, heritage, fair play and the sportsmanship of 19th-century ideals and virtues; but it is also closely associated with rule violations, commercialization and commodification, as is modern sport in general. The focus of this article, which departs from Fraser's approach, will be on a computer game; that is, a game that, at least hypothetically, is related to globalization, networks, post-modernity, youth, lifestyles and moral pluralism.

KEYWORDS

Cricket, computer games, popular culture, norm (re)production and legality

INTRODUCTION

Indisputably, within the field of the sociology of law, Eugene Ehrlich's *Fundamental Principles in Sociology of Law* (1907/1936) stands out as one of the most important works, focussing as it does on the living law. Robert Elickson's legal anthropological approach in *Order without Law* (1991) has, however, upgraded Ehrlich's perspective by focusing on order and disputes in everyday life. Furthermore Robert Sherwin's interest in the relation between law and popular culture, in *When Law Goes Pop* (2000), supplies socio-legal studies with a more critical departure. By introducing and drawing attention to the important work of David Fraser, with his text *Cricket and the Law* (2005), we find a useful way to capture the relation between law, popular culture and everyday life.

In spite of the interest and foundation in the reasoning of Ehrlich, Elickson and Sherwin, the approach in this essay is mainly inspired by Fraser and his contribution to the understanding of sport and society. Instead of focusing on cricket, however, our subject will be *Counterstrike*, a popular and – ideologically – a global computer game. *Counterstrike* will be used here as the brand or the archetype of eSport and computer gaming.¹ Consequently, to some extent, this is what we will focus on. Nevertheless, the reasoning developed here relates to computer-gaming in general.

Rather than taking a departure in a game that is closely connected with the British Empire, with parliamentarianism, modernity, cultural identity and heritage, fair play and the sportsmanship of 19th-century ideals and virtues, as well as rule violations, commercialization and commodification, which are closely connected with modern sport, we will focus on a computer game that is, at least hypothetically, related to globalization, networks, post-modernity, youth, lifestyles and moral pluralism. By this focus and change of subject, we can talk of a paradigmatic turn: from cricket, modernity and hegemony to *Counterstrike*, postmodernism and pluralism. Despite this, our aim is similar to Fraser's point of departure. We intend to grasp the legality/morality in modern times by describing the normative structure and impact of *Counterstrike*, in a design that is analogous to Fraser's utilization of cricket as a representation of 'law'. By labelling our reasoning an essay we indicate that our discussion is premature, fragmentary and an on-going process. Before describing *Counterstrike* and analyzing the norms, the 'legality' (Ewick & Silbey, 1998) of the game, we

would like to present a socio-legal discussion of popular culture in general together with Fraser's socio-legal invention because of its inspirational character.

LAW AND POPULAR CULTURE IN GENERAL

The logic of this essay should be regarded as a socio-legal reflection on the normative influence of popular culture. In this respect, the subject will become popular culture as a normative source in the (re)production of legality/morality in society. 4

However, the sociology of law has traditionally been occupied with studies and analyses of the implantation and application of legal rules, and particularly legislation, related to the welfare state (Carlsson, 1998). From that perspective, sport, leisure and popular culture have stood out as rather insignificant and trivial subjects. Despite a strong emphasis on positivism and monism, we have observed in the last ten years a paradigmatic turn and a focus on legal pluralism (Petersen & Zahle, 1995). In addition, the interest in law and popular culture appears to be increasing (Greenfield & Osborn, 1999; Sherwin, 2000) as well as the focus on extra-legal norms as an alternative to formal legislation (Hoff, 2003; Elickson, 1991). 5

In order to understand the legal culture – the normative structure – of popular culture we have to comprehend and conceptualize 'law' as something more than formal nature and logics. In contrast, we have to understand law as an everyday phenomenon, as law and morality are recognized among common people in ordinary life. Undoubtedly, as Patricia Ewick and Susan Silbey state, our society is filled with signs of legal culture: 6

Every package of food, piece of clothing and electrical appliance contains a label warning us about its dangers, instructing us about its uses, and telling us to whom we can complain if something goes wrong. Every time we park a car, dry-cleanclothing, or leave an umbrella in a cloakroom, we are informed about limited liabilities for loss. Newspapers, television, novels, plays, magazines, and movies are saturated with legal images, while these same cultural objects display their claims to copyright. (Ewick & Silbey, 1998, p.xi).

But we rarely notice the presence or the operation of law in our daily lives. On the contrary, the law works on a distant horizon. Nevertheless, we go to law films and read stories about crime, and we watch rule-governed spectator sports. In this respect, we have to conceive legality as an emergent structure of social life 'that manifests itself in diverse places, including but not limited to formal institutional settings' (Ewick & Silbey, 1998, p.23). Thus, law and legality operate in our everyday life as various forms of normative structures: 7

Rather than something outside everyday social relations, legality is a feature of social interaction that exists in those moments when people invoke legal concepts and terminology, associating law with other social phenomena. (Ewick & Silbey, 1998, p. 31-2).

Furthermore: 8

Legality is not inserted into situations; rather, through repeated invocations of the law and legal concepts and terminology, as well as through imaginative and unusual associations between legality and other social structures, legality is constituted through everyday actions and practices. (Ewick & Silbey, 1998, p. 43).

According to this view, legality is embedded in, and emerges out of, daily activities, its meaning and uses echoing and resonating with other common phenomena, such as bureaucracies or games. Law, morality and ethics are, in this light, (re)produced in various social settings, and forming part of social interactions, in which individuals use legal concepts or quasi-legal terms and associate law with other social fields. 9

Accordingly, modern and complex societies rest on legal pluralism, and there exist different normative sources that offer alternative interpretations of right and wrong, fair or unfair, justice and injustice. Sport, leisure and popular culture, in this perspective, present analogical alternatives which have the potential to (re)produce normative patterns and our attitudes towards rules and values. Nevertheless, sociology of law has in general neglected the normative structure of popular culture. Further, due to the seriousness of law studies, they have more or less been limited to academia (Redhead, 2000, p.16). However, there are several exceptions, and Fraser's works on cricket and the law supports the idea of the 'demystification of law' (Handler, 1990). 10

THE REASONING IN CRICKET AND THE LAW

Fraser's lessons in *Cricket and the Law* are, without doubt, interesting, new and original. The 11 analyses increase the importance of popular culture in relation to law and morality and, in that respect, increase the thesis of legal pluralism and, in turn, raise the limits of legal positivism. In a provocative but relevant manner he expresses the problem by stating, 'Much of what passes for legal scholarship these days continues to be, quite simply, boring' (Fraser, 2005, p.15). More importantly, from the perspective of Fraser, the learning is irrelevant, 'because they are of interest only to a small minority of lawyers and judges, who constitute an even smaller minority of the populace' (ibid). In this respect, people learn more about law through the reference point of popular culture. Consequently, in the spirit of Redhead (2000), Fraser claims that it is time to take the normative impact of popular culture seriously; and in this respect, cricket is 'serious'.² First of all, in Fraser's observation of cricket, and echoing Greenfield and Osborn's (1999) reasoning and Foster's (2006) analysis, there is an emphasis on the increasing juridification of cricket, similar to that of sport and popular culture in general, which has begun to be colonized in the face of increasingly legal regulations. Of course, Fraser's ambition is to grasp the juridification of cricket. In spite of this archetypical socio-legal approach to law and society, he has a wider perspective on law. He wants, explicitly, to capture cricket as a normative source per se, equal to formal legislation. Contrary to the ideal of legal positivism, he thereby claims that law has to be conceived of as something more than legislation. Consequently, we have to regard law as a social construction; and importantly, cricket, as well as literature for example, is a social construction with legal, political and moral fundamentals. Cricket and literature, as well as the law, are forums and arenas of legal, moral and ethical interpretations. In this respect, Fraser states, the history of cricket involves numerous cases and situations that illustrate the complexity and interpretive character of law, morality and ethics, exemplified by the need to balance 'the laws of the game' and 'the spirit of the game' (Fraser, 2005, pp.13-16). Accordingly, there is no firm and solid rule application, neither in the legal system nor in cricket. The legal system, precisely like cricket, is (re)produced through compromises, interpretation and uncertainty. In that way, cricket can tell us a great deal about discretion and ambiguity; concepts that seem to shadow the law as well as different games. Consequently, popular culture – like cricket – informs our legal and moral consciousness, analogously with, or alternatively to, the legal system. That is the lesson Fraser teaches us in his analysis of cricket and the law.

Fraser's focus on cricket can be explained, obviously, by the importance of cricket in the 12 British Empire, and the game's impact on British culture and world views. Further, there are numerous books, academic literature as well as biographies, on the topic which describe not only the playing statistics but also the social and political conditions related to the practice and history of cricket, such as apartheid and human rights (James, 2005; Hussain, 2004). Cricket has also been the object of regulation at different levels. Even at the lower levels we find rather complex regulations regarding players and disciplinary actions. Furthermore, the history of cricket is littered with illustrative cases, from William Waterfall in 1775 and issues around the existence of 'village cricket' to commercial issues such as tax and sponsorship contracts. That is important, but even more imperative, according to Fraser, is the fact that cricket offers examples of how rules, dispute settlements and ethical principles have a normative influence on our social life. We can even comprehend the inconsistency of legal complexity by analyzing the cultural history and normative development of cricket, and the play's amalgam of rules, ideals, practice, manipulations and conflicts.

Fraser continues his reasoning by asserting that, 'to know how to win encapsulates and 13 embodies a whole complex web of meaning, yet we understand such a phrase because we belong to the correct interpretive community' (Fraser, 2005, p.17). Contrary to legal positivism, furthermore, it is possible to understand law as a complex and inconsistent system by presenting cricket as an alternative legal order. In this light, Fraser talks about cricket as a mixture of rules, tradition and culture, the ethos of the game, rule violations and interpretations:

Not only is there now, as there has always been, a tension between the letter of the Laws and the spirit of the game, a conflict between rule formalism and appeals to higher ethical normative practice, but there is a growing evidence of a deeper set of troubles...involved in a sort of conspiracy to pervert the course of justice...We know that the spirit of the game exists; we know that there is behaviour which brings the game into disrepute...[and] we know, ultimately, that those involved in playing the game are in fact and in law, participating in a process of rule formation and rule interpretation (Fraser, 2005, pp.52-3).

Consequently, Fraser asks himself (2005, p.53):

14

Is the batter 'out' because the umpire says he is and the result is entered by the scores in the official results at the end of the play? Has justice been perverted or merely law? Are they the same? Again, the questions here are many and complex.

Besides, should rules always be supported and upheld, or is it even possible to encourage adherence to all of the rules? As in the real world, law and customs in sport diverge and contradict each other. In addition, it is more or less expected that the law will be broken in certain situations: 'Violating the rules may be the 'right' thing to do. Even rules are sometimes not rules' (Fraser, 2005, pp.28, 27). The reasoning leads to a reflection on the authority of rules in sport as well as in society in general. For example, what are the reasons that ambiguous and discretionary decisions obtain a certain authority and respect; or as Fraser asks, 'Is the man in white always right?' (2005, p. 84). It is obvious, in this matter, that there exists a common agreement or implicit contract, based on social, functional or 'mythological' reasons. For those involved in playing any sport it is crucial that there is an implicit acceptance of the rules and norms of conduct. In order to play the game, both sides must agree that they are playing 'the same game'. At a utilitarian level, the umpire's final and authoritative decision is required if the game is to proceed to an end:

[A]t some point, the agreement must be found. At the same time, since the game itself imposes obligations and rules, there must be a form of sanction or coercion for breaching them. A batter is out if he is caught, a no-ball penalizes a bowler for over-stepping, etc. Again, what is a fair catch or whether the bowler did overstep are sometimes easily accepted and sometimes deeply contested questions of fact and law. Players may be in the park, the backyard or on a Test match field, accept the consequences of breaching the Laws and coerce themselves. Or they may be coerced by a process of adjudication. The umpire hears appeals, investigates, observes and adjudicates. The players accept that decision, and moreover, for the broader spirit of the game, or the utilitarian benefit of all concerned, they accept even bad or wrong decisions (Fraser, 2005, p.102).

Despite a certain universal pact, the history of cricket, particularly in international Test matches, is permeated by a number of situations where the authority of the umpire has been distrusted. Fraser claims that, 'it seems clear to anyone who has played or watched the game of cricket, that the ideal of the 'man in white is always right', has always been subjected to stresses, strains and outright breaches' (ibid.). Fraser inspects a number of cases of manipulation and rule violation in the history of cricket and presents, ironically in light of the ideal of fair play, practices packed with instrumental actions in order to obtain selfish advances in the game, such as 'ball-tampering'. Essentially, Fraser draws the following conclusion (2005, p.256):

When we celebrate cricket as the greatest game of all, or when we debate and invoke the spirit of the game, we are in fact celebrating and invoking the fundamental uncertainty of life and law...if we are to adhere to the basic ideal of good faith which must inform all juridical and ethical practices, we are bound to admit that there is much more to ball-tampering than meets the judicial eye.

After reading Fraser's account of the legal culture of cricket, it becomes clear that we have to speak about different cultural and normative stories or narratives. The dominating story, however, is a tale of a higher order in the game, the 'true meaning of cricket', that is a legend from the history where 'The Laws of Cricket' only supported, reflected and reproduced the higher order of cricket. However, we will identify a different story and a dissimilar narrative. The foundations of this story are based on a contradiction, telling both of a solid tradition and a culture framed by instrumental manipulations and rule violations in order to obtain individualistic advantages. What we observe in cricket is an internally ambiguous, but nevertheless successful, history of legal formalism, as well as a professional and utilitarian manipulation of rules. The stories are, despite the differences, mutually true narratives of cricket, and both are important normative sources in the (re)production of legal culture, both in cricket and in society in general. In relation to the narratives of cricket, Fraser claims that, 'Each version of cricket is true and false at the same time. Each contains and must contain, in order to remain coherent and consistent, its own interacting contradictions and inconsistencies' (2005, p. 277). In sum, *Cricket and the Law* presents a legal culture that is parallel to imposing traditions and culture, produced by interpretation, complexity and ambiguity. Furthermore, the reasoning focuses on the importance of capturing 'law' and legal consciousness in light of legal pluralism, and of the normative sources of popular culture standing out as important socio-legal subjects in the focus on the (re)production of legal

culture.

DEVELOPING AND PLAYING COUNTERSTRIKE

Before applying Fraser's approach to this new area, we introduce the development, content 18 and character of the game 'Counterstrike'. *Counterstrike* (CS) was launched on 18 June 1999 as a modification of 'Half-Life'. When *Half-Life* was introduced on Halloween of 1998 by Valve Software, it was possible for anyone to expand and adjust the game, and in the wake of that opportunity Minh Lee and Jess Cliffe made up the first version of CS. From that, several versions of CS have appeared, for instance *Half-Life: Counterstrike*, *Counterstrike: Source*, and *Counterstrike: Condition Zero*.

Counterstrike belongs to the action genre and is regarded as a First-Person Shooter game 19 (FPS), which means that the player (the gamer) steers and manoeuvres an individual avatar and in that respect observes the game through the eyes of that particular avatar.³ The game can be played online on the Internet, or on an Xbox, or via a Local Area Network (LAN), where the gamer can play against other gamers or artificial computer-ruled players. Despite the opportunity to play as a solitary gamer against the computer, *Counterstrike* is typically a multiplayer-game, played by teams, referred to as 'clans'. In 2003, the Interactive Software Federation of Europe (ISFE) introduced the concept of an age limit, and today the Pan European Game Information (PEGI) sets an age of sixteen as the minimum for playing this title;⁴ naturally, the age limits recommended by PEGI are very hard to impose (Carlsson, 1998; Loader, 1997). The game can be bought in stores as well as on the Internet, at €19.99, and in several languages. Notwithstanding its accessibility, the game requires a specific standardized hardware.

THE STORY

In the game a clan of counter-terrorists (CT) confronts and tackles a clan of terrorists (T). 20 This is, essentially, the central departure in the competition in this 'phenomenology of sport' (Lindfelt, 1999; Carlsson & Lindfelt, 2010). The games occur in different settings ('playing grounds'), where every clan has an individual mission, and the winning clan is the one who completes the mission or destroys the opposite clan. The settings, or the scenery, might be military buildings, historical ruins or deserted cities. Official missions are, for example, 'Bomb Defuse', in which T has to place a bomb at a specified place and in turn CT has to prevent this from happening or destroy the bomb. In another, 'Hostage Rescue', CT has to release four captured prisoners close to T's base, whilst in 'Assassination', a third official mission, T has to eliminate a fixed CT, and CT, in turn, has to find a way to escape. Normally, the deadline for the missions is settled in advance. Complementary to the official assignments, are further possibilities for the gamers to produce their own missions or settings.

In addition to this, the gamer has the possibility to download additional files in order to 21 improve the tension and the excitement of the game. For instance, gamers may download a certain guarantee against cheats. Before starting the game, the gamers can, in that respect, make adjustments to the game by mutual agreement. The clans have to choose between starting as a T or a CT. The clans differ in their appearance, in that the CTs have a resemblance to American, British, French or German special troops, whereas the fictional terrorists are from the Middle East, Russia and Sweden (!). All of them wear military clothes and masks, except those from the Middle East. The game is played over several periods, the number of periods having to be decided in advance. The clan that wins the majority of the periods will become the winner. Both clans have to take turns being alternatively a T and CT clan. In the beginning the gamer receives a certain amount of equipment, including weapons. During the game, the struggle, the gamers can add to their equipment, as a result of their success or failure in the game.

In order to win and to handle the individual avatar the gamers must have a physical and 22 cognitive ability, as well as a strategy. As a result, there are gamers at different levels, playing against their 'equals': professionals as well as amateurs. The gamer normally acts in a clan, as part of a team, with at least five members. Professionals in *Counterstrike*, the very best players, can provide for themselves and practice their competing full-time, because of the large sums of prize money on offer.⁵ Even though the best gamers cannot earn sums anywhere near those of successful football players, we can observe an increasing commercialization and professionalization process. For example, the prize money given in Dreamhack 2008 was approximately €40,000⁶ and the champion of World Cyber Games 2009

received \$50,000, the second best \$25,000, and the bronze medallist \$12 500.⁷ In addition to prize money, funding from corporate sponsorship from corporation, from within games industry or interrelated organizations, is also available (Jakobsson, 2007). The competition occurs on the Internet or in a LAN. On the Internet the games are organized as 'communities' and played through leagues, cups or 'ladder(s)'. On these Internet communities the gamers, apart from competing, receive news, and discuss and read interviews with, for instance, professionals.

In the league structure, the clans compete against each other according to a predetermined and predictable schedule, with the most successful proceeding to a higher division. By using the ladders structure, a clan can challenge another clan during a specific time, and depending on the result the clan will ascend or fall down the placings on ladder. The most prestigious competitions are held via LAN, and it is also during these games that the gamers earn the big money and the glory. These LAN competitions are conducted according to a rigorous system of rules in order to reduce cheating and manipulation and obtain equal conditions, standardization and predictability in the game. Without doubt, *Counterstrike* stands out (as of June 2008) as the most popular on-line First-Person-Shooter game. There is an indication of 52 million registered gamers in the world; on one single day, 25 March 2009 at 5.20 pm, 41,892 people were playing 'CS: Source' and 31,723 'Half-Life: CS'.⁸ On the 'Electronic Sports League' website, where CS gamers can compete against other gamers, there are close to one million active gamers. In games stores, over 3 million copies of 'CS: Condition Zero' and 2 million of 'CS: Source' have been sold.⁹ Clearly a great number of gamers play *Counterstrike*, and it is an important part of the entertainment industry. 23

COUNTERSTRIKE AND THE CYBERWORLD: A SOCIO-LEGAL PERSPECTIVE

We have put forward *Counterstrike* as an example of computer-gaming and as an important part of the entertainment industry. As part of popular culture, according to our socio-legal approach, *Counterstrike*, like other eSports, will also contribute to the (re)production of normative structures in society, as a supplementary or alternative normative source. First, the obvious link to the Internet and cyberspace will challenge our conception of legality in general. Furthermore and indisputably, *Counterstrike* seems to set moral feelings in motion. An older generation is aware of the 'phenomenon' in light of the moral panic recognized in all generation gaps since the epoch of the Beatles and pop music. Secondly, we will discuss this moral discourse. From this moral angle, computer games could also be regarded as 'narratives', which include moral and ethical choices. In the next step we will put a small spotlight on the organisation of CS and its relation to 'sportification', with a focus on bureaucratization and standardization. We will end up by initiating a discourse on different ways of playing CS rightly and fairly. 24

PLAYING GAMES IN CYBERSPACE AND THE CONCEPT OF CYBERLAW

Computer gaming takes place online, in cyberspace. This arena or space is commonly regarded as a computer-generated public domain that has no territorial boundaries or physical attributes. In this context, cyberspace is seen as a medium through which we can explore concepts of emancipation and empowerment and the transcendence of physical subjugations (Loader, 1997). The concepts of 'virtual selves' and 'digital signatures' point towards a transition from present social relations and interactions. In this respect, the network of the cyberworld is a challenge to the present juridical foundation (ie, in time and space), including the specific frames and restrictions connected with copyright and free speech. The Internet might be regarded as a market and channel for public opinion and discourses. 25

Because the network is hard to control by individual nation states, the question of democracy and freedom will be (or must be) illuminated from a different angle. Different temporary forms of social networks are established locally as well as globally. Obviously, the Internet possesses inherent possibilities for the distribution and circulation of information which might challenge current legislation. Socio-legal discourses have put an emphasis on both the globalization and the decentralization of society, with a stress on the 'community' and the 'local moral milieu' (Nelken, 1995; Handler, 1990; Cotterrell, 1995). No doubt, this discourse will benefit from the discussion, due to the possibilities of a cyberworld, and what the development of a 'cyberlaw' has to capture (Zittrain, 2009; Newman, 2005). The notion of the growing possibilities of the Internet is also connected with the thesis about radical changes in the structure of social integration. Instead of face-to-face relations or binary contacts we 26

have to observe tertiary and even quaternary relationships as indirect relations. This implies that we have to push social theory, as well as socio-legal studies, beyond the simple dichotomy of direct and indirect relationships.

When the form of information changes from tangible to electronic, changes must also occur in legal institutions and the juridical processes which generally surround a particular physical space or zone of privacy. This doubtless puts a stress on the traditional standards of the legal system, which requires predictable means of communicating with the past (ie, originality), including the legal sphere, in a trustworthy and authoritative way. The development of a cyberworld could challenge doctrinal legal reasoning. 27

Even so, a great deal of legal thinking and legal training is about thinking of the present in terms of the past. Nevertheless, mediation is a process, for instance, that has looser ties to the past than more legalistic models, which might be the reason for the increasing emphasis on mediation and the number of attempts at introducing it as an alternative to traditional and formal dispute settlements. The more pragmatic structure of mediation will probably suit the development of a 'cyberlaw' concept. There are few reasons for establishing a predictable system of substantial rules in a cyberspace sociality marked by a mixture of temporary and changeable networks. This, however, is a hard question for the authority of the legal system, because the law is not particularly comfortable with continuous change or with legislation that is of short duration. 28

This section points towards a thesis for the socio-legal conceptualization of the progress of law in cyberspace. This development of law must deal with local standards and a global prospect ('the global village') as well as taking into consideration a mixture of both temporary and changeable information and the variations of social (electronic) networks. 29

Governance and social control have to confront temporary and changeable social relations, due to the possibilities of increasing electronic networks. In this respect, the Internet allows a relatively easy change of jurisdiction, or exit from a given controller, leading to the unprecedented and unpredictable situation of a free market in rule sets. In this light, the Internet is not merely multi-jurisdictional, it is almost a-jurisdictional, which means that in electronic information networks, physical boundaries and self-identity are so irrelevant that traditional monolithic legal concepts become rather empty. In cyberspace we probably have to accept a pluralism of legal rules and dispute settlements. This radical situation for a (practical) legal system has, seriously speaking, no parallel in history. But the law does not change rapidly. Further, legal rules are sustained despite changes in social conditions and their political consequences (cf., Renner, 1949). Nevertheless, the changes in an information society, coupled to the development of multiple temporary and changeable communities of electronic information and communication networks, are challenging traditional legal systems, including working life and public discourses. Through Internet developments ethics and morals are claimed to be the normative foundation in dispute resolutions, instead of formal rules. Once again, more space for flexibility but at the same time, an increasing uncertainty in the light of frail predictability. To sum up, the emphasis on legal pluralism and on ethics is the first normative lesson related to our interest in *Counterstrike* and its arena. 30

THE MORAL DISCOURSE OF COUNTERSTRIKE AND ESPORT

In Norbert Elias's perspective, the development of modern competitive sport is linked to the civilizing process; from rough, vulgar games to civilized modern sport (Elias & Dunning, 1986). Further, the traditional definition of modern sport requires that it is a physical, competitive and institutionalized activity. In addition, sport is characterized by both a scientific horizon (standardized rules, the measurement of time, height and length etc), and an ethos, for instance, including fair play and equal competitive opportunity (Guttman, 1978). 31

Computer gaming is, compared to involvement in organized sports, not a similarly acknowledged leisure activity (Jonasson & Thiborg, 2010). Parents and other adults do not encourage and support the activity in the same manner (Brun, 2005). On the contrary, computer gaming is presented, in newspapers and other media, as an activity which confronts more healthy activities like doing homework, being physically active, and socializing with friends (Jansz & Martens, 2005). Furthermore, researchers have in general paid attention to the negative effects of playing computer games, such as addiction, aggression and social isolation (Salonius-Pasternak & Gelfond, 2005). In Sweden, one study showed that almost 32

three out of four parents consider their children's computer gaming to be problematic and that parents' perceptions of computer games differ from those of their children (Brun, 2005).

In this moral discourse, however, it is mainly the negative outcomes, such as violence, that 33 have been studied (Anderson, Funk & Griffiths, 2007; Lee & Peng, 2006). In contrast, there are also studies indicating a contradictory image of computer gaming. Some experimental studies, for instance, have shown a short-term effect of aggressive behaviour, whereas other studies show no effects (Egenfeldt-Nielsen & Smith, 2003; Kirsh, 2003). There are contradictory results of the relationship between game violence and both aggressive effects and behaviour. One conclusion might be that people get affected but not to the extent that they act out their aggressiveness. In this light, 'simply testing violent and non-violent game situations [in fighting vs. shooter games, our emphasis] underestimates the complexity of contemporary video-game play'; we will, contrary to the simplistic view of violence, find 'differing categories of violent content and competition' (Eastin & Griffiths, 2006).

In recent years, studies have found positive effects of children's and adolescents' computer 34 games playing on spatial skills, reaction time, family relationships, parental obedience, social network, school performance and abstinence from drinking alcohol and using drugs (Durkin & Barber, 2002; Quaiser-Pohl, Geiser & Lehmann, 2006) and 'the stereotype of the nerdy adolescent who games in isolation' has been contradicted (Jansz & Martens, 2005, p.349). The LAN gamers are social (Jansz & Martens, 2005, p.333) and have to be understood in a social and normative context. Interestingly, in contrast to organized sports, children's computer gaming is not as controlled, monitored and regulated by adults (Carlsson, 2004). This situation makes computer gaming more interesting socio-legally in relation to governance, regulation and subcultures as well as to legal and moral pluralism (Carlsson & Lindfelt, 2010). Besides, there are sex differences in 'the communicative nature of video games [computer games]', due to 'interpersonal needs of inclusion, affection and control' (Lucas & Sherry, 2004) affecting the cyber-communities.

In addition, we can observe a moral discourse on different websites arguing against the moral 35 decline of the game and an increasing commercialization of *Counterstrike*. For example, a gamer disappointedly claims that:

The morality in *Counterstrike* could not be lower. I remember earlier days of the game. I was gaming all nights long, when I was a novice, a 'newb', on this gift from God. Time disappeared. People were mutually friendly. Those days are gone. Today the reality of *Counterstrike* entails a lot of conflicts. Losing a game is regarded as a tragedy. Cheating is common. The original morality of *Counterstrike* has apparently vanished. (<http://netesp.wordpress.com/2007/11/07/esportens-stora-forbannelse-del-ett-och-tva/>, Accessed in April 15, 2009)

Surely, the negative attitude is based on the increasing seriousness of the game in the wake 36 of commercial interests. The competitions have grown and different organizations arrange different contests, of different reputations and prestige. Along with the tournaments there exists the opportunity for online-betting on websites such as 'Monkeypal' and 'Gamelio'. The warning against inveterate betting ('ludomania') and a proper regulation of betting on the Internet appear to be developing into a crucial moral discourse. The increasingly commodified development seems to divide the gamers' moral involvement in the game, which can be correlated to the development in sport in general (Morgan, 2006; Walsh & Giulianotti, 2006).

In sum, *Counterstrike* presents discourses on what is to be regarded as right and wrong in 37 society, morally. *Counterstrike* presents an alternative and supplementary moral discourse, and challenges the established concept of legitimized sport, as well as supporting a direction similar to that of commercialized sport.

ORGANIZING THE GAME: IS IT FUTURE SPORT?

eSports, such as *Counterstrike*, have to be regarded as a subject matter in itself. So, how is 38 eSport organized and regulated in general? First, we can trace three directions in the organization and regulation of eSport: eSport as a counterculture or alternative to modern sport; eSport accepted and/or a part of the hegemony of sport; and eSport as the future hegemonic sport (Jonasson & Thiborg, 2010). Secondly, there exist different organizations, subcultures, with different regulations, analogous to the organization of boxing. This

development puts our focus on the organization and the regulation.

Competition is not automatically fair. A contest must, in addition, be governed and regulated 39 in a way which promotes and supports fair conditions. In this respect, *bureaucracy* stands out as a governing unit typical of western modernity. Modern competitive sports are no exception (Guttman, 1978, p.45). Sport bureaucracy works in order to unify local practices and create homogeneity in the regulations. In contrast, eSport is far from on the way to being organized. In Sweden, for example, two different associations (Goodgame and Swedish E-sport Association) have tried to organize all gamers; however, without any particular success. On the international level there is no strong, unified federation which governs competitions and gamers. In its place there exist manifold organizations with different agendas and purposes. In addition, the organization of eSport depends heavily on cooperation with commercial corporations and are therefore not to be considered as autonomous and self-regulated as is the case with modern sport (Jonasson & Thiborg, 2010). This situation is a fertile soil for instability. Despite being regulatorily immature, however, bureaucracy within eSport has progressed rapidly due to the increasing seriousness and commercialization of the game, and it is plausible that this development will continue at the same pace.

The lesson will be the emphasis on legal pluralism and an enhanced need of regulation 40 because of the increasing seriousness and commercialization. The necessity of formal rules is connected with the search for predictability. In this respect, the gamers become aware of different approaches to governance and regulation.

PLAYING COUNTERSTRIKE – RIGHT AND 'FAIR'

Equality is a prerequisite for modern sports (Guttman, 1978). The idea that all participants 41 must abide by the same rules and regulations is imperative to sport. In theory, at least, the individuals should have the same opportunities to participate, compete and succeed. Likewise, rules and regulations within computer games such as Counterstrike and around competitions are the same for everyone and are known before the competitions. Furthermore, the competitions are to be held at special contests. The equipment the gamers should bring for their own use is a mouse, a keyboard and a headset. In eSport the gamers who attend a competition via, for instance, LAN compete in this light under the same conditions, independently of gender, shape, form and/or functionality (Jonasson & Thiborg, 2010). In that perspective, eSport differs greatly from most modern sports, in which most competitions are divided by gender as well as by dysfunctions. The question of equality, or rather inequality, is instead related to the gamers' access to and possibility of competing and practising (Jonasson & Thiborg, 2010). No one is directly excluded from eSport, only in an indirect manner. It is evidently expensive to purchase the relevant equipment and the gamer is dependent on the Internet infrastructure. These factors can prevent individuals from entering eSport or lead to inequalities among gamers during the competitions. In this light, the practice of eSport, analogously to sport, is a discourse on equality and a trial and a test, a 'validity claim' in the words of Habermas, of 'fairness' (Habermas, 1984; 1990). However, in 2006 people's access to a games consoles vary due to age (SCB, 2007). More men than women, and more younger than older people, have a computer at home and access to Internet (SCB, 2007). Further statistics reveal that 38% of children (aged 9-16) have a computer in their own room and that this is more common amongst boys (49%) than girls (31%), (Mediarådet, 2006). Furthermore, the games are usually developed by men and the most prestigious games are 'masculine' in character. The 'governing bodies' are ruled by men; for instance, the United Kingdom eSports Association, the eSport Verband Österreich, the eSport Denmark, and the Deutscher eSport Bond. In all, fairness is related to men in practice, excluding women.

Fraser discusses 'Paki Cricket' as 'a wrong way' to play cricket: successful, but not fair, 42 according to the tradition of cricket. Ball-tempering is regarded as unfair in general, but nevertheless rather common in practice. Importantly, these 'blameful tricks' initiate moral and legal discourse in everyday life, indicating the arbitrariness of regulation and the application of rules. Similar situations occur in Counterstrike, for instance:

In CPL Turkey, in 2005, a legendary incident took place. After being defeated in the semi final, between the Russian 'M19' and the Swedish clan 'mTw.ati', a gamer ('Rwa') destroyed his equipment in anger. 'Rwa' was furious after not receiving enough time for preparation: the 15 minutes that was guaranteed by CPL's regulations. The warming-up is used to direct

those specific guiding principles that the clans are used to playing with. Due to lack of time 'mTw.ati' received only five minutes, in that the Russian clan gained an advantage from the start. After ending their quarter final against the Titans recently, they were already prepared to start the game. 'Rwa' declares: 'I know, of course, that we were crossed by a better time. However, it is not easy to play when you are at a disadvantage from the start. Besides, the graphics were even worse. Still, this is an equal situation for both parts. My frustration was, nevertheless, related to this deprived game situation'. This incident has been discussed on different websites. What 'Rwa' stresses is the need to produce equal conditions. (Danielsson, 2005)

Basically, *Counterstrike* has been a prime target for manipulation and exploitation by cheaters 43 ever since its release. This type of 'in-game cheating' is often regarded as 'hacking' in reference to programs or 'hack' when executed by the user. Typical cheats are, for instance, 'Wallhacks', which allow the gamer to see through walls; 'Speedhacks', which give the gamer increased speed; 'ESP', which shows textual information about the enemy, such as health, name, and distance; 'Barrel hack', which shows a line that depicts where the enemy is looking; 'Anti-flash' and 'Anti-smoke', which remove the flashbang and smoke grenade effect; and 'Grenade Dodger', which moves the gamer farther or closer to a grenade, depending on the settings. As in sport, eSport in general struggles against rule violations and cheating. 'Steam: The Nexus of PC Gaming', for instance, has implemented an anti-cheat system called VAC, Valve Anti-Cheat.¹⁰ Gamers cheating on a VAC-enabled server risk having their account permanently banned from all VAC-secured servers. With the first version of VAC, a ban took force almost instantly after being detected, and the cheater had to wait for two years to have the account unbanned. Still, many cheats have still not been detected by VAC, and, besides, it can be very difficult to differentiate between skill, luck and cheating.

Indeed, in all games there exist inequalities, different manipulations of the rules and a fertile 44 soil for cheating. These crucial situations lead, as mentioned, to discourses on the values and substance of the rules. The discussion on the interpretation and essence of arbitrary rules might occur in the workplace, at the cricket ground, at the Olympics, as well as in cyber-communities (Carlsson, 2009).

CONCLUSIONS

Johan Huizinga noted in 1938 how legal contents are organized in ways that are structurally 45 similar to games (Huizinga, 2000):

Like a game's court, a legal courtroom is a socially set-apart place that provides a spatial arena for the contest. Just as in a game, a legal contest sets aside conventional behaviours and adopts formal rules in their place. (Lastowka, 2006).

In the views of Huizinga and Lastowka, the 'play element' in law and in games is stressed. 46 However, we have to understand the relationship more comprehensively, including the normative impact of popular culture on the (re)production of our society's normative foundations (Carlsson, 2009). Yet, 'those who study games and those who study law have things to learn from another' particularly when it comes to 'proper policy direction for the regulation of the virtual worlds' (Lastowka, 2006, p.26; p.27).

Without doubt, cricket and 'it's not cricket!' stand out as famous normative settlements or 47 statements in the UK, and in the British modern world view. In a global, pluralistic and postmodern society, however, we will find a magnitude of similar normative sources. *Counterstrike*, in this perspective, will take part in the formation of the everyday legal culture.

We have chosen *Counterstrike* for several reasons. The game is popular, it is a global game, 48 and at first glance the game stands very far away from the traditional values of cricket. So it appears! Nevertheless, we can find similar lessons in relation to 'law and morality'. First, the development of different regulations is related to social interactions and social practices. Secondly, the regulation appears to be arbitrarily chosen but becomes authoritative after being settled. Still, the relevance of the regulation is related to a contextual setting. These illustrations concerning 'law' indicate the presence of legal pluralism and stress the importance of studying law and games; not only law as a game, but games as an empirical material in order to understand the (re)production and application of law and norms in society.

Cricket symbolizes and belongs to modernity and the old Empire. *Counterstrike*, conversely, 49

represents post-modernity and the cyberworld. There are, of course, different normative lessons to be drawn, as well as a comparable curriculum in relation to law and morality and the normative (re)production of society.

REFERENCES

Anderson C A, Funk J B and Griffiths M D (2004) 'Editorial: Contemporary Issues in Adolescent Video Game Playing' 27 *Journal of Adolescence* 1-3.

Brun M (2005) *När livet blir ett spel*(Lidingö: Langenskiöld).

Carlsson B (1998) *Social Steerage and Communicative Action* (Lund: Bokbox).

Carlsson B (2004) 'The Image of Reality and Legality in Digital Sport' 4 *Moving Bodies* 1.

Carlsson B (2009) *Idrottens rättskultur* (Malmö: Malmö Series in Sport Studies/idrottsforum förlag).

Carlsson B and Lindfelt, M (2010) 'Legal and Moral Pluralism: Normative Tensions in a Nordic Sports Model in Transition' 13 *Sport in Society* 3.

Cotterrell R (1995) *Law's Community*(Oxford: Clarendon Press).

Durkin K and Barber B 'Not so Doomed: Computer Game Play and Positive Adolescent Development' 23 *Applied Development Psychology*,373-392

Danielsson [Jonasson] K (2005) 'E -sport: Rörelse utan rörelse' [idrottsforum.org,http://www.idrottsforum.org/articles/danielsson/danielsson051214.html](http://www.idrottsforum.org/articles/danielsson/danielsson051214.html)

Eastin M S and Griffiths R P (2006) 'Beyond the Shooter Game' 33 *Communication Research* 6.

Egenfeldt-Nielsen S and Smith JH (2003) 'Datorspel och skadlighet – en forskningsöversikt' (Stockholm: PM/Medierådet för barn och unga).

Ehrlich E (1907/1936) *Fundamental Principles of the Sociology of Law* (Cambridge, Mass., Harvard University Press).

Elias N and Dunning E (1986) *Quest for Excitement*(Oxford, Basil Blackwell).

Elickson R (1991) *Order Without Law*(Cambridge, Mass., Harvard University Press).

Ewick P and Silbey S (1998) *The Commonplace of Law*(Chicago, University of Chicago Press).

Foster K (2006) 'The Juridification of Sport' in Greenfield S and Osborn G (eds) *Readings in Law and Popular Culture* (London, Routledge).

Fraser D (2005) *Cricket and the Law: The Man in White is Always Right*(London, Routledge).

Greenfield S and Osborn G (1999) 'The Legal Colonisation of Cricket' *Soundings* 13

Guttman A (1978) *From Ritual to Record – The Nature of Modern Sport* (New York: Columbia University Press).

Habermas J (1984) *The Theory of Communicative Action. Vol I* (Cambridge: Polity Press).

Habermas J (1990) *Moral Consciousness and Communicative Action* (Cambridge, Mass: MIT Press).

Handler J (1990) *Law and the Search for Community* (Philadelphia: Pennsylvania University Press).

Hoff D (2003) *Varför etiska kommittéer?*(Lund: Lund Series in Sociology of Law, no. 20, Bokbox).

- Huizinga J (2000) *Homo Ludens: A Study of the Play Element in Culture*(London, Routledge).
- Hussain, N (2004) *Playing With Fire: The Autobiography* (London, Michael Joseph).
- Jakobsson P (2007) 'E-sport, cyberatleter och professionalitet' in Lindgren S & Sandgren T (eds) *Ungdomsstyrelsens skrifter nr 12* (Stockholm: Ungdomsstyrelsen).
- James C L R (2005) *Beyond a Boundary*(London: Yellow Jersey Press)
- Jansz J & Martens L (2005) 'Gaming at a LAN event: The Social Context of Playing Video Games' 7 *New Media and Society* 3.
- Jonasson K & Thiborg, J (2010) 'Electronic Sport and its Impact on Future Sport' 13 *Sport in Society* 2.
- Kirsh S J (2003) 'The Effects of Violent Video Games on Adolescents: The Overlooked Influence of Development' 8 *Aggression and Violent Behavior* 377-389.
- Lastowka G (2006) 'Law and Games Studies' 1 *Games and Cultures* 25.
- Lee K M & Peng W (2006) 'What Do We Know about Social and Psychological Effects of Computer Games? A Comprehensive Review of the Current Literature' in Vorderer P & Bryant J (eds) *Playing Video Games: Motives, Responses, and Consequences* (Mahwah, NJ: Lawrence Erlbaum Associates).
- Lindfelt M (1999) *Idrott och moral* (Nora, Doxa)
- Loader B (1997) *The Governance of Cyberspace*(London: Routledge).
- Mediarådet (2006) 'Unga & Medier 2006: Fakta om barns och ungas användning och upplevelser av medier' (Stockholm: Mediarådet)
- Morgan W J (2006) *Why Sports Morally Matter* (London, Routledge).
- Nelken D ed. (1995) 'Legal Culture, Diversity and Globalization' 4 *Social and Legal Studies*.
- Newman J (2005) *Videogames*. London, Routledge,).
- Petersen H & Zahle H (1995) *Legal Polycentricity: Consequences of Pluralism in Law* (Aldershot: Ashgate).
- Quaiser-Pohl C, Geiser C & Lehmann W (2006) 'The Relationship Between Computer-Game Preference, Gender, and Mental-Rotation Ability' 40 *Personality and Individual Differences* 609-619.
- Redhead S (2000) 'Taking Law and Popular Culture Seriously. Theorizing Sport and Law' in Greenfield S & Osborn G (eds) *Law and Sport in Contemporary Society*(London: Frank Cass).
- Renner K (1949) *The Private Institutions and its Social Functions* (London: Routledge)
- SherwinR K (2000) *When Law Goes Pop: The Vanishing Line between Law and Popular* (Chicago: University of Chicago Press).
- Salonius-Pasternak D E & Gelfond H S (2005) 'The Next Level of Research on Electronic Play: Potential Benefits and Contextual Influences for Children and Adolescents' 1 *Human Technology*, 5-22.
- SCB, Statistics Sweden (2007) *Tillgång till dator och Internet. Undersökningar av levnadsförhållanden* (Stockholm: SCB)

Walsh A & Giulianotti R (2006) *Ethics, Money and Sport: This Sporting Mammon* (London: Routledge)

Zittrain J (2009) *Future of the Internet* (London: Penguin Books)

1 In the article we will use eSport, computer gaming and videogame alternatively.

2 Despite the seriousness, we have (as Swedes) unfortunately, no specific experience of cricket or of the British legal system. That said, without having any substantial knowledge of either cricket or the British common law system, Fraser's book offers a different understanding of the relation between 'sport and society', and in that respect, works beneficially for a socio-legal understanding of popular culture and 'living law'.

3 The avatar is the character that represents the gamer in virtual reality.

4 <http://www.pegi.info/en/>

5 See, for example, <http://www.eswc.com>.

6 <http://www.dreamhack.se/dhw08/facts.php?id=82>

7 http://www.wcg.com/6th/2008/tournament/awards_medals.asp

8 <http://store.steampowered.com/stats>

9 http://www.gamasutra.com/php-bin/news_index.php?story=21319

10 https://support.steampowered.com/kb_article.php?ref=7849-RADZ-6869

Thiborg J. & Carlsson, B., "Law and Morality in Counterstrike", [Entertainment and Sports Law Journal](#), ISSN 1748-944X, December 2010,
<http://go.warwick.ac.uk/eslj/issues/volume8/number2/carlsson_thiborg>