

**Ethics of Public Policy (PPOL 8635/PHIL 6250)**  
**Spring 2014**  
**T 3:00-5:45, Fretwell 290B (PPOL Conference Room)**

**Course Objectives and Description:** In many ways, modern policymaking might appear to be a technical matter, concerned with scientifically or economically provable matters of administration. Aside from local conflict of interest concerns, cases of inappropriate employee conduct, and compliance with statutory law, ethics might appear to be irrelevant. That appearance is an illusion, and the primary goal of this course is to think about how policy decisions, even at a micro level, are deeply value-laden. Even the decision to pursue economic efficiency – the central move in the modern welfare economics that dominates policymaking circles – is itself a decision with moral implications.

In this course, we will use an extended case study – intellectual property (IP) law – to pursue the ways in which public policies both express and advance some sets of values over others. The course combines theoretical reading (some of it classic moral philosophy: Mill, Locke and Kant) with current literature developing that theory as it applies to IP. Why IP? IP turns out to be one of the more complicated areas of national policy, and one with tremendously far-reaching implications: there is a truth to statements like “copyright policy is cultural policy” or “patent policy is science policy” (there’s even a good argument to the effect that current patent policy in particular developed as a trade policy).

The course involves mostly reading and writing, and it is an explicit goal of the course that students improve their analytic reading and writing skills. In addition, at the end of the course, students should be able to:

- Understand how policy decisions have a moral aspect
- Recognize and understand basic concepts from moral theory and how those concepts can be applied in practical situations
- Frame and make appropriate moral arguments about policy decisions
- Understand some broader moral theories in order to use them in policy contexts

As much as possible, I want to conduct this course as a seminar, where much of the discussion is student-driven. The members of the course come from a variety of different backgrounds (and from two very different disciplines), and I view that as a strength: students are encouraged to use course materials in the context of their own individual studies, and to bring their diverse perspectives to class discussion.

**Readings:** on Moodle as PDF’s (complete bibliography at the end of the syllabus)

**Grading:**

Short Assignments: 30% (total)  
Short Paper: 15%  
Prospectus: 15%  
Seminar paper: 40%

**Short Assignments: Eight times over the semester** (i.e., more or less every other week), you should prepare an analytic summary of one of the readings for that class (where you turn it in at the beginning of the class discussing the reading in question – once we’ve talked about a text, you can’t then go back and summarize it). **Four of these need to be done by mid-term grade deficiency day.** The summary should clearly state (a) the basic argument of the text, and (b) the primary supporting arguments/evidence used to defend that argument. This is not a book report, and you should not summarize “he says this, then he goes on to say that...” Your goal should be to extract the important parts of the argument and present them synthetically – in the manner of an extended abstract. Minor points do not go in this summary; the major ones do. You should conclude with (c) an assessment of the greatest strength of the argument – what is most compelling about it, and why; and (d) a criticism of the argument – something you think is wrong with the paper, and why. The entire assignment shouldn’t be much more than 2-3 pages, double-spaced. Try to be both concise and precise. I expect you to find this difficult; it is. But it’s an important skill (IMHO, you do not want to try to summarize the older work – Locke, Mill and Kant).

**Short Paper:** This is a 4-6 page paper on an assigned topic (TBA). You will be graded on the quality of your argument and your development of it. You should have a clear thesis statement: “In this paper I will argue that...” If you can’t finish that sentence with a straight face, you don’t have a thesis.

**Prospectus:** This is a brief statement of where you’re going with your seminar paper. It should include (a) a thesis. Even if you can’t have a thesis ready, you should have a topic, along with a justification/explanation of why that topic is worth looking at and a direction you want to take it; (b) a literature survey – you need to have at least 4 secondary sources listed, with an indication of why each of them is included; (c) if possible, a very rough outline of how you plan to structure the paper. This assignment is for your own benefit, so the more you can put into it, the more it will help you – even if you end up changing a lot of what you are doing between writing the prospectus and the final paper. Ideally, we will dedicate class time to the presentation and workshopping of these.

**Seminar paper (12-15 pages):** This is a 12-15 page (usual format: double-spaced, 12 point, reasonable margins) paper due on the last day of class. You will develop a topic of your own choosing related to the course readings. The paper must be about (in some significant way) ethics and public policy, and I want to help you frame it (this is also what the prospectus is for). If you have a sense of where you are going with a thesis or dissertation, this is a great time to explore a topic that is related to it. More information closer to due-date. *You must submit a passing seminar paper in order to pass the class.*

**Attendance/Participation:** You can’t learn very much in philosophy by just sitting there. You learn even less if you’re not there at all. Attendance is expected. I know that schedules are complicated; if you have extenuating circumstances, try to communicate them with me

**Contact Information/Getting Assistance:** It is important that you not fall behind. I want to help you avoid doing so. To get help from me:

1. Speak to me before or after class; we can set an appointment to meet at a later time if need be.
2. Office hours: by appointment (Winningham 105C, in the Ethics Center). I'm not setting formal office hours, because I started as director of the Ethics Center this fall, and my schedule is pretty unpredictable. However, I'll be on campus quite a bit, and will work with you on meeting times.
3. Email me at [ghull@uncc.edu](mailto:ghull@uncc.edu). This is probably the best way to get in touch outside of class.
4. Call my office 77804 and leave a voicemail (note: this is a new phone number). This is less effective than email because I'm bad about checking my messages.

**Disabilities:** I share UNCC's commitment to provide reasonable accommodations to enable students with disabilities to access course material. Please address any special needs or special accommodations with me at the beginning of the semester or as soon as you become aware of your needs. You'll also need to contact disability services, 704-687-4355 (230 Fretwell).

**Academic Integrity:** This syllabus incorporates university policy on academic integrity as found at <http://legal.uncc.edu/policies/up-407>.

### **Proposed Readings/Schedule (not a contract!)**

<b>Date</b>	<b>Topic/theme</b>	<b>Reading</b>
1/14	First class	Brief intro to IP (Power Point)
1/21	Polices as expressing values	Latour, "Where are the Missing Masses" Gillespie, "Politics of Platforms"
1/28	Policies as influencing value decisions	Lessig, "What Things Regulate," "Appendix" (from <i>Code</i> ) Sunstein, "Social Norms"
2/4	Regulatory Strategies; law versus code	Cheng, "Structural Laws" Add'l reading TBA
2/11	Welfarism	Mill, <i>Utilitarianism</i> (ch 2) Solum, "Efficiency, Pareto and Kaldor-Hicks"
2/18		Posner, "Intellectual Property" Frischmann and Lemley, "Spillovers"
2/25	Critique of Welfarism	Baker, "Ideology" Kapczynski, "Cost of Price"
3/4	Spring Break	
3/11	Deontology: Kant, Locke	Locke, "Property" (ch. 5 of <i>Second Treatise</i> ) Gordon, "Moral Philosophy"
3/18	Locke	O'Neill, "Kantian Ethics"

		Merges, “Kant” (from <i>Justifying</i> )
3/25	Rawls	Rawls, from <i>Theory of Justice</i> (selections)
4/1	Applying Rawls	Merges “Distributive Justice” (from <i>Justifying</i> )
4/8	Capabilities	Nussbaum, <i>Women and Human Development</i> (selections)
4/15	Applying Capabilities	Chon, “IP and Development Divide”
4/22	IP as Cultural Policy	Boyle, “I got a Mashup” (from <i>The Public Domain</i> ) Carpenter, Katyal and Riley, “In Defense...”
4/29	Last class	

### Complete Citations for the Readings

- Baker, C. E. (1975). The Ideology of the Economic Analysis of Law. *Philosophy and Public Affairs*, 5, 3-48.
- Boyle, J. (2008). *The Public Domain: Enclosing the Commons of the Mind*. New Haven, Conn.: Yale University Press.
- Carpenter, K. A., Katyal, S. K., & Riley, A. R. (2009). In Defense of Property. *Yale Law Journal*, 118, 1022-1125.
- Cheng, E. K. (2006). Structural Laws and the Puzzle of Regulating Behavior. *Northwestern University Law Review*, 100, 655-717.
- Chon, M. (2006). Intellectual Property and the Development Divide. *Cardozo Law Review*, 27, 2814-2904.
- Frischmann, B. M., & Lemley, M. A. (2006). Spillovers. *Columbia Law Review*, 100, 101-143.
- Gillespie, T. (2010). The politics of ‘platforms’. *New Media & Society*, 12(3), 347-364. doi: 10.1177/1461444809342738
- Gordon, W. J. (2008). Moral Philosophy, Information Technology, and Copyright: The Grokster Case. In J. v. d. Hoven & J. Weckert (Eds.), *Information Technology and Moral Philosophy* (pp. 270-300). Cambridge: Cambridge University Press.
- Kapczynski, A. (2012). The Cost of Price: Why and How to Get Beyond Intellectual Property Internalism. *UCLA Law Review*, 59, 970-1026.
- Latour, B. (1992). Where are the Missing Masses? The Sociology of a few Mundane Objects. In W. E. Bijker & J. Law (Eds.), *Shaping Technology/Building Society* (pp. 225-258). Cambridge, MA: MIT Press.
- Lessig, L. (2006). *Code and other Laws of Cyberspace, Version 2.0*. New York: Basic Books.
- Merges, R. P. (2011). *Justifying intellectual property*. Cambridge, Mass.: Harvard University Press.
- Nussbaum, M. (2000). *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press.
- Posner, R. A. (2005). Intellectual Property: The Law and Economics Approach. *Journal of Economic Perspectives*, 19(2), 57-73.
- Rawls, J. (1974). *A Theory of Justice*. Cambridge, MA: Harvard University Press.

- Shiffrin, S. (2001). Lockean Arguments for Private Intellectual Property. In S. R. Munzer (Ed.), *New Essays in the Legal and Political Theory of Property* (pp. 138-167). Cambridge: Cambridge University Press.
- Solum, L. (2006). Efficiency, Pareto, and Kaldor-Hicks Retrieved from [http://lsolum.typepad.com/legal\\_theory\\_lexicon/2006/10/legal\\_theory\\_le\\_1.html](http://lsolum.typepad.com/legal_theory_lexicon/2006/10/legal_theory_le_1.html)
- Sunstein, C. R. (1996). Social Norms and Social Roles. *Columbia Law Review*, 96, 903-968.