

Department of Philosophy

University of Guelph

Fall 2013

PHIL\*4230 Syllabus

Lecturer: Victoria I. Burke

Office Location: MacKinnon 339 (office wing)

Office Hours: 10:00-10:00-11:00 AM MWF

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Course Location: MacKinnon 119A

Course Times: 8:30-9-20 AM MWF

### **Social and Political Philosophy:**

#### **The Category of Civil Society: Privacy, Publicity, Ethics**

The ancient Greek term for “private” was *idios*. As our word with this root implies, it was disparaged by the Greeks. The highest manifestation of human excellence, for the Greeks, was realized in the open of the *polis*, the *agora*. The “private” was relegated to a vastly inferior status. The household, the *oikos*, was occupied with the mundane, low-status activity of maintaining and reproducing material life (activity associated with women and slaves). Our word “idiosyncratic” suggests traits that an individual shares with absolutely no one else at all. The concepts of the private

and the idiotic thus historically have associations with the irreducibly particular, the untranslatable, the unrecognizable. The private has also traditionally been associated with untrustworthiness, deception, and unreliability. The philosophical understanding of the private has undergone significant changes, however (even within the twentieth century alone). Most recently, the category of privacy has attracted significant attention because telecommunications and social media have made possible the instantaneous transfer of and access to digital files. The popular search engine Google collects private information on its users search history, and has come under scrutiny for doing so by government agencies. We are often unaware of the consequences of posting personal information on Facebook, where it becomes accessible to misuse, such as identity theft and exploitation by marketers. *PHIL\*4230 F13 The Category of Civil Society: Publicity, Privacy, Ethics* will explore notions of the private and public. We will examine the philosophical history of thinking on these concepts since the nineteenth century. G.W.F. Hegel developed the private and the public as separate social spheres in the nineteenth century in the *Philosophy of Right* (1821). The idea of “civil society” was central to his understanding of the private sphere of the family. The family was sharply secluded from civil society, but these spheres were mutually dependent. Hegel’s notion of the “private” was different from that of Hobbes and Locke. Civil society was a social institution that emerged with capitalism and the industrial revolution. In addition to selections from nineteenth-century history, we will look at Hegel’s historically specific notions of civil society and the family. We will also look at the twentieth century theories of the public in Arendt, Rawls, Habermas, Fraser, Benhabib, and others. Juergen Habermas’s notion of “the public sphere”, also an early nineteenth-century social institution, is not the same as Hegel’s “civil society” (both of which are said to emerge with capitalism), and we will carefully examine the difference. In the late twentieth century, some feminists argued that the category of the “private” was used in practice by men who wanted to exert unlimited power and domination over women in the household. Yet “privacy” was also the value upon which the legalization of contraception and abortion in the USA rested in the 1960s and early 1970s. The right to privacy is also the basis for the idea of the secret ballot in public elections of government officers. In the twenty-first century, privacy has been defended by ethicists who claim that a right to privacy is necessary to protect weak and unpopular people, who have every right to hold minority views that do not hold wide public currency. In this sense, privacy is opposed to the “tyranny of the majority.” Some claim that the right to privacy is reducible to other more established rights, such as the rights to liberty and property; others claim that the right to privacy is a distinct right that is important cultural and political support for citizens’ exercise of the ideal of autonomy. Most recently, ethicists have confronted the category of “conscience,” a correlate of privacy, and its uses primarily in the field of medicine. Through history, political theory, and recent applied ethics, this seminar in political philosophy will examine history and recent theory of the categories of the “private” and “public”. They are not static categories that have remained unchanged in meaning. Our investigation will intersect with other standard philosophical matters, such as: property, particularity, universality, knowledge, representation, personal identity, recognition, and communication. This seminar is also interdisciplinary and draws on material from philosophy, history, political theory, legal theory, economics, sociology, feminist theory and applied ethics.

**Primary Textbook:** *The Idea of the Public Sphere: A Reader*. Gripsrud, Moe, Molander, Murdock, Editors. (Lanham, MD: Lexington Books, a division of Rowman & Littlefield, 2010). All readings are from this text unless otherwise note on the syllabus.

**Also to be used:**

Photocopy packet (available in the bookstore)

Materials on electronic reserve

**Obtaining Course Texts:** The textbook and the photocopy packet are both available in the campus bookstore. The materials on E-Reserve can be access directly from the library website under E-Reserve.

**Course Requirements:** Students will be assessed on the basis of two Analysis papers (5-6 pages each), Class Participation and a Final Term Paper (12 pages).

**Distribution:**

1<sup>st</sup> Short Paper (5-6 pages): 25%

2<sup>nd</sup> Short Paper (5-6 pages): 25%

Class Participation 15%

Final Term Paper (12 pages): 35%

**Guidelines for submitting written work:** The essays must be submitted on white 8.5 x 11 paper, typed single-sided, and double-spaced. Students must keep a copy of their work for their own files in case the paper should become lost. If the paper becomes lost (by the student or the Instructor), it is the student's responsibility to be able to replace it. Papers may *not* be submitted electronically via e-mail or by fax. Only hard copies are accepted.

**Ecologically friendly writing assignments and Citation Style:** In the interest of maintaining an ecologically sound course, cover sheets are not required on the assignments. Put your name and student number at the top of the first page and start the essay one quarter of the way down the page. Use the MLA, APA, or *Chicago Manual of Style* as a style guide for citations. It is not important which style sheet you use: what is important is that you are consistent and correct. Do not include a separate bibliography page, use footnotes at the bottom of each page. Because this is an advanced course, marks will be subtracted on the writing assignments for sloppy and incorrect citations. I will post a style guide for your convenience on the courselink site. Do not send emails to the instructor inquiring about citation style. A style guide will be posted on the courselink site for your convenience.

**Class Participation Grading:** Participation marks will be awarded on the basis of the level of student engagement with the class sessions. Points will not necessarily be awarded on the basis of attendance alone, and no records of attendance will be kept. In a group of this size, I will become familiar with students by name. Generally, students who make regular class contributions have a good chance of getting full marks. Students who display a capacity to engage with others (students, lectures) dialogically will generally be given greater credit than students whose social orientation is one-sided or aggressive. Other factors include: level of insight into readings, level of currency with present states of affairs, reading comprehension, consideration of others and productive engagement. If you are concerned about your mark, you can ask me at 2/3 point in the term what your expected participation grade will be, and I will give you an estimate at that point.

**Deadlines:** The deadlines for the two short essay assignments are September 30, 2013, and November 1, 2013. 5% will be subtracted from the student's grade for every day that the paper is late. The final term paper is due in class on the last day of class, November 27, 2013. Late papers will not be accepted via email, and university regulations regarding late work during the final exam period will be strictly observed.

**Late Papers:** Late papers may be handed in to me directly or to my department mailbox. Essays are not to be submitted to front office staff at the philosophy department. Write the date and time you drop the paper off on the paper. If the date and time you indicate is inconsistent with what I know about the time I pick the paper up, and the dates and times I check the mailbox, the late penalty will be assessed on the basis of the time I pick the paper up. Put the paper directly into the mailbox without disturbing the office staff.

**Courselink Dropbox:** The courselink site dropbox is for late papers only, for the exclusive purpose of giving them a time and date stamp. I will not grade papers online for this course. In order to receive a grade, you must hand in the

paper in hardcopy. It will be returned to you with detailed comments, and suggestions for improvement, annotated on the paper.

**Email:** Philosophical questions will not be answered on email. Students must avail themselves of class time and office hours in order to have their questions answered. Only short administrative questions will be answered on email. You can expect a response in 48 hours. If the answer to your question can be answered by looking at the courselink site, you will not receive a response.

**Desire2Learn Site:** This class will have a Desire2Learn courselink website, where all handouts (including instructions for the essay assignments) will be posted. Students may access the site through Courselink, and are required to check the site regularly for announcements. Most materials are under the “Content” link.

**Readings, Lectures, Class Meetings:** Students should read the assigned material prior to class. Students’ essays will be assessed on the basis of grammar, style, and the quality of their comprehension and synthesis of the reading material and lectures. Participation points will be awarded on the basis of the extent to which the student actively engages with the subject matter (the readings, lectures, and other students) in class discussions. It is expected that the student will attend the class sessions throughout the semester. It is expected that students will actively engage with other class members in discussing material, and in asking questions and raising objections that have arisen for them in their reading of the material regularly throughout the semester.

**Information on Legal Cases:** The Supreme Courts (both US and Canada) have websites explaining all their decisions. Also, Wikipedeia is generally reliable with regard to sketches of the cases, which will be discussed in much greater detail in class.

### Course Schedule

#### WEEK 1

September 6: Course Introduction; Concealment & Exposure

Reading: Westin, “The Origins of Modern Privacy”, pp. 8-19 (photocopy)

#### WEEK 2

September 9: The Formation of Civil Society and Privacy

Reading: Kant, “What is Enlightenment?”, pp. 3-8

September 11: Hegel, Benhabib

Reading: Hegel, “Excerpt from the *Philosophy of Right*”, pp. 9-14; Benhabib, “Obligation, contract and exchange: on the significance of Hegel’s abstract right”, 159-179 (photocopy); Ciavatta, “The Unreflective Bonds of Intimacy”, 153-181 (in the U of G library collection linked to E-Reserve)

September 13: Hegel's Civil Society and the Idea of Privacy in Historical Context

Reading: Gay, "A Room of One's Own", *Schnitzler's Century*, pp. 253-279 (photocopy)

WEEK 3: The Development of Privacy; The Difference Between The Public Sphere and Civil Society

September 16: Habermas and the "private" agent in the public sphere

Reading: Habermas, "The Public Sphere: An Encyclopedia Article", 114-120; "Excerpt From *Between Facts and Norms*", pp. 184-204

September 18: Hegel, Habermas, Benhabib, (cont'd): different understandings of the public and private compared; the public protection of the private

No new readings

September 20: Hegel, Benhabib, Habermas, History (cont'd)

No new readings

WEEK 4: Arendt, Sennett and the decline of the public into housekeeping; the decline of politics

September 30: Arendt, "Excerpt from *The Human Condition*", pp. 93-113; Jennings, Ann L. "Public or Private? Institutional Economics and Feminism", pp. 111-129 (photocopy)

\*1<sup>st</sup> Essay Due

October 2: The Intolerable Pressures of the Public

Reading: Sennett, *The Fall of Public Man*, pp. 259-268 (photocopy)

October 4: Race, the Public, the Private

Gines, "Arendt, Liberalism, and Racism," pp. 53-75 (in the U of G online collection linked to E-Reserve)

WEEK 5: Liberal Views of the Public

October 7: Rawls

Reading: Rawls, "The Idea of Public Reason Revisited", pp. 205-234

October 9: Positive Liberty vs. Negative Liberty

Reading: Taylor, "Atomism," pp. 726-743 (photocopy)

October 11: Politics, the Public and Economics

Elster, "The Market and the Forum: Three Varieties of Political Theory", pp. 153-172

WEEK 6: Democracy and the Secret Ballot, the “tyranny of the majority”

October 14: Thanksgiving Day (no class)

October 16: Concealment & The Secret Ballot

Readings: Nagel, “Concealment and Exposure”, pp. 3-30; Petit, “Unveiling the Vote,” pp. 311-333 (both in the U of G online collection linked to E-Reserve)

October 18: Thomson, “Rights” & the type of “right” that privacy is

Reading: Thomson, “The Right to Privacy,” 295-314 (in the U of G online collection linked to E-Reserve)

WEEK 7: Feminism & Legal Theory & Democracy: McKinnon & Lever

October 21: Women & Privacy: Abortion and Male Domestic Domination

Reading: MacKinnon, “Privacy and Equality: Beyond *Roe vs. Wade*”, pp. 92-102 (photocopy)

Legal Cases: *Roe v. Wade* (US legalization of abortion 1973)

*R. v Morgentaler* (1988 Canadian Supreme Court case affirming women’s right to not be obstructed in seeking an abortion)

*Griswold v. Connecticut* (1965 privacy rights upheld: US case that is an important precedent for *Roe vs. Wade* legalizing abortion in 1973)

October 23: Privacy and Democracy

Reading: Lever, Privacy Rights and Democracy: A Contradiction in Terms?” pp. 142-162 (in the U of G online collection on E-Reserve)

October 25: Privacy, Feminism, and Democracy (cont’d)

No new readings

WEEK 8: Feminism & Critical Theory: Fraser & Benhabib, women and the public sphere

October 28: Women and the Public Sphere

Reading: Fraser, “Rethinking the Public Sphere”, pp. 127-149

October 30: Women and the Public Sphere

Reading: Benhabib, “excerpt from *The Claims of Culture: Equality and Diversity in the Global Era*”, pp. 279-289

November 1: Fraser & Benhabib (cont’d)

No new readings

\*2<sup>nd</sup> Paper Due:

## WEEK 9: Love and Privacy

### November 4: Love as Exposure

Reading: Butler, “Response: Performative Reflections on Love and Commitment”. pp 236-239 (in the U of G online collection; linked to E-Reserve)

### November 6: Love and Privacy

Legal Cases involving Love and Privacy:

*Lawrence vs Texas* and the end of anti-sodomy legislation (USA Supreme Court 2003, decision based in “privacy”)

Comparison with Canadian [\*Halpern et al. v. Canada\*](#) 95 C.R.R. (2d) 1 (Ontario Superior Court, July 12, 2002) In Canada, 8 provinces legalized gay marriage one-by-one through the courts until Parliament passed a bill in 2005 legalizing it nationwide; in Canada the basis of the decision was “equality”, not “privacy”

*Windsor vs. The United States* (US Supreme Court June 2013 decision that struck down the US Defense of Marriage Act that limited the federal definition of marriage to a union of a man and woman); discussion of why this decision did not rest on “privacy” (it rested on the value of equality); President Bill Clinton had reluctantly agreed to sign the DOMA in the 1990s to avert the threat that Congress would ban gay marriage nationally (which the Republicans were threatening to do)—by comparison, the DOMA was modest)

*Hollingsworth vs. Perry* (June 2013): (US Supreme Court decision that let a lower court ruling stand, affirming the legitimacy of the judicial overturning of a voter approved ban on gay marriage in California, because the voters do not have the right to retract a civil right once it has been established)

November 8: Love, Personhood, and a Zone of Freedom, Hegel & the public protection of the private, revisited, religious freedom

No new readings

## WEEK 10: Information, Intellectual Property & Privacy

### November 11: Changes in the Nature of Private Property, Intellectual Property

Reading: Posner, “Intellectual Property” (on E-Reserve; in the U of G online collection)

Optional (of possible interest—not in photocopy packet or on website): John Locke on “property” in *The Second Treatise of Government* (1689)

### November 13: Intellectual Property, Indigenous Intellectual Property

Reading: Coombe, “Intellectual Property, Human Rights & Indigenous Knowledge” [in the U of G library collection on E-Reserve]

### November 15: Intellectual Property and Privacy, “The Public Domain”

Legal Case on intellectual property and privacy:

*Google vs. Authors' Guild* (still pending US: Google wants to scan and publish excerpts of all of the world's books on the internet where they will be publicly searchable, most of these books are under copyright. In addition to author's rights to intellectual property, a major privacy issue with Google's proposal is that Google would have too much information about what individual private citizens read—too great a threat of a private company's power to control)

WEEK 11: Privacy and Contemporary Issues in Applied Ethics

November 18: Anonymity, Privacy, the Internet

Reading: Wallace, "Anonymity" (in the U of G library collection on E-Reserve); Allen, *Unpopular Privacy: What Must We Hide?* pp. 3-11; 290-194 (photocopy)

Legal Case: *United States v. Antoine Jones* (January 2012 US Supreme Court case hailed as victory for privacy advocates—court rejected the warrantless GPS tracking of drug-dealer suspect's truck)

November 20: Conscience exemptions, Religion and Privacy

Readings: Wicclair, *Conscientious Objection in Health Care*, pp. 208-230; Nussbaum, *Liberty of Conscience*, pp. 346-363 (photocopies)

November 22: Religion and the Public Sphere

Reading: Habermas, "Religion in the Public Sphere", pp. 213-312

WEEK 12:

November 25: First-Person Authority

Reading: Nozick, "The Experience Machine", pp. 42-45 (photocopy)

November 27: First-Person Authority

Readings: Benjamin, "Unpacking My Library", pp. 59-67 (photocopy)

\*Term Paper Due (12 pgs)

No final exam

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### **Bibliography for Photocopy Packet**

Allen, Anita L. *Unpopular Privacy: What Must We Hide?*. (Oxford: Oxford University Press, 2011), 3-11; 290-194. ISBN 978-0-19-514137-5; 259 pp.

Benhabib, Seyla. "Obligation, contract and exchange: on the significance of Hegel's abstract right". *The State and Civil Society: Studies in Hegel's Political Philosophy*. (Cambridge, UK: Cambridge University Press, 1984), 159-177. ISBN0-521-24973-4; 327 pp.

Benjamin, Walter. "Unpacking My Library: A Talk About Book Collecting". *Illuminations*. Ed. Hannah Arendt (New York: Schocken Books, 1969), 59-67. ISBN 0-8052-0241-2; 278pp.

Gay, Peter. "A Room of One's Own". *Schnitzler's Century: The Making of Middle-Class Culture 1815-1914* (New York: W. W. Norton & Company, 2002), 253-279. ISBN 0-393-04893-4; 334 pp.

Jennings, Ann L. "Public or Private? Institutional Economics and Feminism". *Beyond Economic Man: Feminist Theory and Economics*. Edited by Marianne A. Ferber and Julie A. Nelson (Chicago: University of Chicago Press, 1993), 111-129. ISBN 0-226-24200-5; 178 pp.

MacKinnon, Catharine. *Feminism Unmodified: Discourses on Life and Law* (Cambridge, MA: Harvard University Press, 1987), 93-102. ISBN 0-674-29873—X, 315 pp.

Nozick, Robert. "The Experience Machine". *Anarchy, State, and Utopia* (Basic Books, Inc, 1974), 42-45. ISBN: 0-465-09720-0; 367 pp.

Nussbaum, Martha C. *Liberty of Conscience: In Defense of America's Tradition of Religious Equality* (New York: Basic Books, 2008), 346-363. ISBN-13: 978-0-465—05164-9; 406 pp.

Sennett, Richard. *The Fall of Public Man* (New York: W. W. Norton Company, 1974), 259-268 ISBN 0-393-30879-0; 373 pp.

Taylor, Charles. "Atomism." *Political Philosophy: The Essential Texts*. Ed.. Steven M. Cahn (Oxford: Oxford University Press, 2011), 726-743. ISBN 978-0-19-539661-4; 841 pp.

Westin, Allen. *Privacy and Freedom* (London: The Bodly Head, 1967), 8-19. ISBN 370-01325-5; 487 pp.

Wicclair, Mark C. *Conscientious Objection in Health Care: An Ethical Analysis* (Cambridge, UK: Cambridge University Press, 2011), 208-230. ISBN 978-0-521-73543-8; 252 pp.

### **Articles on E-Reserve (these are all in the Guelph online collection):**

Butler, Judith. "Response: Performative Reflections on Love and Commitment. *Women's Studies Quarterly*. Vol. 39, Nos. 1 & 2 (Spring/Summer 2011), pp 236-239.

Ciavatta, David V., "The Unreflective Bonds of Intimacy: Hegel on Familial Ties and the Modern Person," *The Philosophical Forum* 37.2 (June 2006): 113-181.

Coombe, Rosemary J., "Intellectual Property, Human Rights & Sovereignty: New Dilemmas of International Law Posed By The Recognition of Indigenous Knowledge and the Conservation of Biodiversity." *6 Indiana Journal of Global Legal Studies* 59 (1998-1999).

Gines, Catherines. "Hannah Arendt. Liberalism, and Racism: Controversies Concerning Violence, Segregation, and Education." *Southern Journal of Philosophy*. (2009) Vol. XLVII, pp. 53-75.

Lever, Annabelle. "Privacy Rights and Democracy: A Contradiction in Terms?" *Contemporary Political Theory*. (2006) 5 (142-162).

Nagel, Thomas. "Concealment and Exposure." *Philosophy and Public Affairs*. Vol. 27, No. 1 (Winter 1998), pp. 3-30.

Petit, Philip, and Geoffery Brennan. "Unveiling the Vote". *British Journal of Political Science*. Vol 20, No. 3 (July 1990), pp 311-333.

Posner, Richard. "Intellectual Property". *Daedalus* (Spring 2002) Vol 131, No 2.

Thomson, Judith Jarvis. "The Right to Privacy". *Philosophy and Public Affairs*. Vol. 4, No. 4 (Summer 1975), 295-314.

Wallace, Kathleen. "Anonymity". *Ethics and Information Technology* 1 (1999): 23-35.

#### **Of Possible Interest (but too much to be included in the photocopy packet)**

Coontz, Stephanie. "Working Life and Family Life in the Emerging Capitalist Order 1815-1855". *The Social Origins of Private Life: A History of American Families 1600-1900* (Londin, UK: Verso, 1988), 161-209.

Seip, Ludwig. "Constitution, Fundamental Rights and Social Welfare in Hegel's *Philosophy of Right*". *Hegel on Ethics and Politics*. Eds. Robert B. Pippin and Otfried Hoeffe. Trans. Nicholas Walker. (Cambridge, UK: Cambridge University Press, 2004), 276-177.

#### **E-mail Communication**

As per University regulations, all students are required to check their <uoguelph.ca> e-mail account regularly: e-mail is the official route of communication between the university and its students.

#### **When You Cannot Meet a Course Requirement**

When you find yourself unable to meet an in-course requirement because of illness or compassionate reasons, please advise the course instructor (or designated person, such as a teaching assistant) in writing, with your name, id#, and

e-mail contact. See the Undergraduate Calendar for information on regulations and procedures for Academic Consideration:

<http://www.uoguelph.ca/registrar/calendars/undergraduate/current/c08/c08-ac.shtml>

### **Drop Date**

The last date to drop one-semester Fall 2013 courses, without academic penalty, is **Thursday October 31**. For regulations and procedures for Dropping Courses, see the Undergraduate Calendar:

<http://www.uoguelph.ca/registrar/calendars/undergraduate/current/c08/c08-drop.shtml>

### **Copies of out-of-class assignments**

Keep paper and/or other reliable back-up copies of all out-of-class assignments: you may be asked to resubmit work at any time.

### **Student Rights and Responsibilities**

Each student at the University of Guelph has rights which carry commensurate responsibilities that involve, broadly, being a civil and respectful member of the University community. The Rights and Responsibilities are detailed in the Undergraduate Calendar: <http://www.uoguelph.ca/registrar/calendars/undergraduate/current/c14/c14-strightsrespon.shtml>

### **Academic Misconduct**

The University of Guelph is committed to upholding the highest standards of academic integrity and enjoins all members of the University community – faculty, staff, and students – to be aware of what constitutes academic misconduct and to do as much as possible to prevent academic offences from occurring. The Academic Misconduct Policy is detailed in the Undergraduate Calendar:

<http://www.uoguelph.ca/registrar/calendars/undergraduate/current/c08/c08-amisconduct.shtml>

### **Recording of Materials**

Presentations which are made in relation to course work—including lectures—cannot be recorded in any electronic media without the permission of the presenter, whether the instructor, a classmate or guest lecturer.

### **Resources**

The Undergraduate Calendar is the source of information about the University of Guelph's procedures, policies and regulations which apply to undergraduate programs. It can be found at:

<http://www.uoguelph.ca/registrar/calendars/undergraduate/current/>

If you find yourself in difficulty, contact the undergraduate advisor in your program, or the BA Counselling Office:  
<http://www.uoguelph.ca/baco/contact.shtml>