

# Business Ethics

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# Outline

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- Why ethics?
- Generalization principle
- Utilitarian principle
- Intellectual property
- YouTube
- Other issues
  - Please be ready to raise some issues.

# Ethical theory

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Why we need it



# Why ethics?

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- The purpose of ethics is **not** to convince us to be ethical.
  - Ethics tells us what **is** ethical.
  - The rest is up to us.

# Why ethics?

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- Ethics does not judge whether we are good or bad people.
  - Ethics judges actions, not people.
  - It gives us advice on how to live together.





# Why ethics?

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- Ethics builds **rational consensus** on how we are to live together.
  - We have to **agree** on what we should do.
    - This is the job of ethics.
  - Then we have to do it.
    - This is our job.



# Ethical principles

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- We must have principles for resolving issues in a rational way.
  - Otherwise we talk all day and get nowhere.
  - Two basic principles have developed over time:
    - **Generalization principle**
    - **Utilitarian principle**

# Generalization principle

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# Generalization principle

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- Associated with Immanuel Kant
  - But the ideas have developed over centuries.
  - ...and have moved beyond Kant's thought.





# Generalization principle

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- Basic premise: We always act for a reason.
  - Every action has a rationale.



# Generalization principle

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- Basic premise: We always act for a reason.
  - Every action has a rationale.
- So if the reason justifies the action for me...
  - It justifies the action for **anyone** to whom the reason applies.
  - Otherwise, it's not a reason,

# Example - Theft

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- Suppose I steal a watch from a shop.
- I have 2 reasons:
  - I want a new watch.
  - I won't get caught.
    - Security at the shop is relaxed.



# Example - Theft

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- So I am making a decision for everyone:
  - All who want a watch and think they won't get caught should steal one.



# Example - Theft

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- So I am making a decision for everyone:
  - All who want a watch and think they won't get caught should steal one.
- But if all do this, they will get caught.
  - The shop will install security.
  - My reasons will no longer apply.



# Example - Theft

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- I am not saying that all these people actually **will** steal watches.
  - Only that if they did, my reasons would no longer apply.



# Example - Theft

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- My reasons are **inconsistent** with the assumption that people will act on them.
- I am caught in a contradiction.
  - My reasons imply that these people **should** steal.
  - These same reasons presuppose that they will **not** steal.





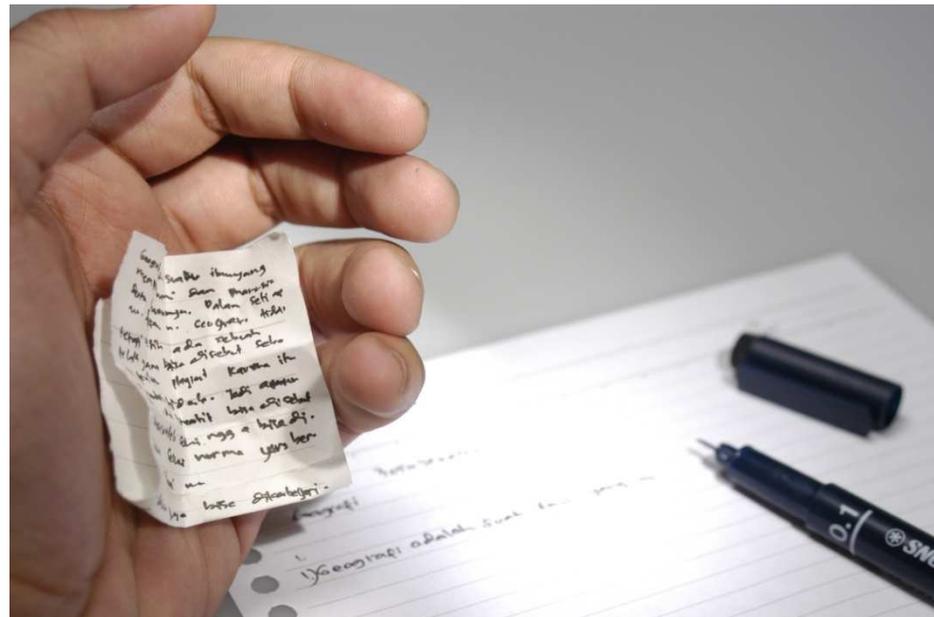
# Generalization principle

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- The principle is:
  - The reasons for an action should be consistent with the assumption that everyone with the same reasons acts the same way.

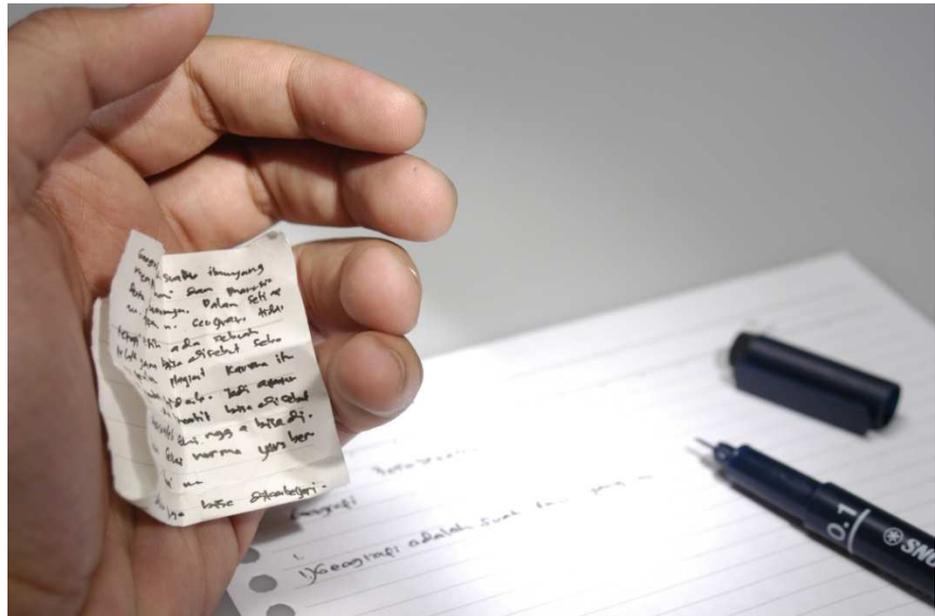
# Example - Cheating

- ❑ What is wrong with cheating on an exam?
- ❑ My reasons:
  - I will get a better grade.
  - Which means I will get a better job.



# Example - Cheating

- Nearly all students have these reasons.
- If they all cheat...
  - Everyone will have a top grade.
  - Good grades won't get me a better job.



# Free rider principle

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- **Free rider principle** is a special case.
  - Unethical to ride the bus without paying.
  - The cheater is a free rider on a system supported by the honesty of others.



# Laura's job

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- While interviewing for jobs, university student Laura learns about an attractive opening at Facebook.
  - The job is perfect for her.
  - The company loves her.



# Laura's job

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- While interviewing for jobs, university student Laura learns about an attractive opening.
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  - Shortly after her interview, there is a global credit freeze.



# Laura's job

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- While interviewing for jobs, university student Laura learns about an attractive opening.
  - The job is perfect for her.
  - The company loves her.
  - Shortly after her interview, there is a global credit freeze.
  - There is no job offer.





# Laura's job

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- Meanwhile Laura receives other, less attractive openings.
  - Her classmates are bragging about their jobs.
  - Her parents are asking questions.



# Laura's job

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- Meanwhile Laura receives other, less attractive openings.
  - Her classmates are bragging about their jobs.
  - Her parents are asking questions.
  - She finally accepts a job she likes less.

# Laura's job

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- Several weeks later, Facebook resumes hiring and offers her a job.
  - How should she respond?
  - Should she break her contract?



# Laura's job

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- Laura's reason for breaking the contract is to get a **better contract**.
  - If everyone broke job contracts to get a better one, contracts would be pointless.
  - She wouldn't be able to get the contract **she** wants.
  - Her reason for breaking the contract would no longer apply.



# Laura's job

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- Laura's reason for breaking the contract is to get a **better contract**.
  - If everyone broke job contracts to get a better one, contracts would be pointless.
  - She wouldn't be able to get the contract **she** wants.
  - Her reason for breaking the contract would no longer apply.
  - **Violates generalization principle.**



# Laura's job

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- A possible escape?
  - The employment contract contains an escape clause.
  - Or the contract doesn't actually promise employment, only a salary **if** employed.





# Laura's job

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- There is more involved than a legal contract.
  - Laura's purpose is to participate in a **job market.**

# Laura's job

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- There is more involved than a legal contract.
  - Laura's purpose is to participate in a **job market**.
- A market won't work if we never know when a job is offered or accepted.
  - Like an auction that never ends.



# Fiduciary duty

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- Fiduciary duty is based on a **promise** to stockholders (owners).
  - I am an **agent** for the owners.
  - I act on their behalf.
  - I promise to make their investment **profitable** in exchange for my salary.



# Fiduciary duty

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- Breaking a promise violates the generalization principle.
  - If everyone broke promises whenever it is convenient, there would be no promises to break.



# Fiduciary duty

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- But some people say that the **only** duty of business people is to **maximize profit** for the owners.



# Fiduciary duty

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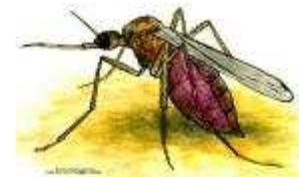
- The prior question is:
  - Would my action be ethical for the **owners**?
  - If not, the owners can't ethically ask me to do it for them.



# Moral agency

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- Why must actions have reasons?
  - Utilitarian, Kantian
- To distinguish action from mere behavior.
  - An insect's **behavior** is explained only by chemistry and so is not **free action**.
  - Humans are **moral agents** when their behavior can also be explained as based on reasons.





# Moral agency

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- Fundamental obligation: **respect agency**
  - My reasons for action presuppose agency, no matter what they are.
  - This rules out murder, coercion, slavery, etc.
  - Except for purpose of preserving the agency of others.

# Moral agency

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- Can a robot have rights and duties?



# Moral agency

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- Can a robot have rights and duties?
  - Yes, if we explain its actions as based on reasons (as well as an algorithm).



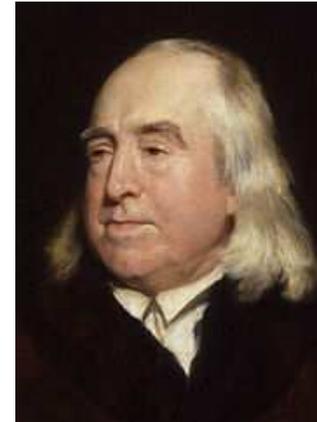
# Utilitarian principle

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# Utilitarian principle

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- Associated with Jeremy Bentham.
  - He thought actions should maximize “utility,” which he defined as pleasure and absence of pain.
  - He applied this to the criminal justice system.





# Utility

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- Action is a means to an end.
  - You want to achieve some goal.
  - Maybe your ultimate goal is happiness.
  - Whatever it is, let's call it **utility**.



# Utility

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- Action is a means to an end.
  - You want to achieve some goal.
  - Maybe your ultimate goal is happiness.
  - Whatever it is, let's call it **utility**.
- Then you should try to create as much utility as you can.
  - The “greatest good for the greatest number.”



# Utilitarian principle

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- An act is ethical only if there is no clear reason to believe that another act...
  - ...creates more total net utility.
  - ...and satisfies the generalization principle.
  - Counts **everyone's** utility.



# The underlying argument

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- Why is it wrong to cause people (unnecessary) pain?



# The underlying argument

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- Why is it wrong to cause people (unnecessary) pain?
  - Perhaps because I think pain is inherently bad.
  - I should minimize the pain I cause.
  - It is the same with positive utility.

# A company's contribution

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- A company should create positive utility for people in general.
  - Not just profit for the owners.





# A company's contribution

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- How to do this?
  - By making a level of profit that is generalizable.

# A company's contribution

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- How to do this?
  - By making a level of profit that is generalizable.
  - And by responsibly creating **valuable goods and services.**
  - This is what business does best.



# Choice of career

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- One of our most important decisions.
  - First point: Ethics doesn't make all of our choices.
  - It only provides the basic rules for how we live together.
  - So ethics alone can't make a career choice.



# Choice of career

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- Must I choose the career that makes the greatest positive impact?
  - ...due to the utilitarian principle.
  - Must I be a heart surgeon?



# Choice of career

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- Not generalizable.
  - If the reason for becoming a surgeon is simply to maximize utility.
  - If generalized, it would no longer maximize utility.
  - Everyone would be a heart surgeon.



# Choice of career

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- Not generalizable.
  - If the reason for becoming a surgeon is simply to maximize utility.
  - If generalized, it would no longer maximize utility.
  - Everyone would be a heart surgeon.
  - Reasons must be more specific.



# Choice of career

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- What kind of choice is ethical?
  - I should choose a career that I can reasonably believe maximizes overall utility, given who I am...
  - ...given my interests, abilities, and dreams.



# Intellectual property

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Legal aspects





# Intellectual property law

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- The primary international treaty is the **TRIPS agreement**.
  - Trade-Related Aspects of Intellectual Property Rights.
  - Added to GATT (General Agreement on Tariffs and Trade) at the Uruguay Round of trade negotiations in 1994.
  - Amended at 2001 WTO Ministerial Conference in Doha.



# Intellectual property law

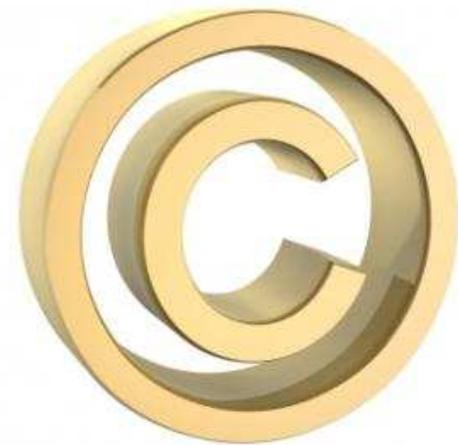
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- Types of intellectual property:
  - **Copyright.**
  - **Patent.**
  - **Trade secret.**

# Copyright

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- A **copyright** limits the number of copies others can make of a document or work of art without permission.



# Copyright

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- A **copyright** limits the number of copies others can make of a document or work of art without permission.
- **Ideas** cannot be copyrighted.
  - Only a particular expression of ideas.
  - Such as a literary work or musical composition.



# Copyright

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- ❑ Can one copyright **software**?
- ❑ Generally, **yes**.
  - The TRIPS agreement explicitly says yes.
  - But one **cannot** copyright the underlying idea or algorithm.

```
#include <stdio.h>
int main(void)
{
    printf("Hello World!\n");
    return 0;
}
```

**C/C++**

# Patent

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- Designed to encourage **disclosure** of ideas in exchange for limited period of exclusive use.
- Can patent:
  - A new method, device, or material.





# Patent

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- Cannot patent:
  - A pure idea, such as a theorem.
  - Anything that occurs in nature.
  - A “way of doing business,” even if automated by computer.
  - “Look and feel,” e.g. spreadsheet.



# Patent

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- Can software or an algorithm be patented?
  - Controversial, varies by country.
  - TRIPS agreement is vague.



# Patent

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- A patent is *registered* in the name of the inventor.
- The *owner* may be someone else, or a company.
  - An employer normally **owns** any idea conceived by someone working *for hire*.



# Patent

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- Who works “for hire”?
  - Normally, full-time employees work for hire and do not retain IP rights.
  - Normally, consultants do not work for hire, depending on contract.

# Trade secret

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- A **trade secret** is a secret formula or device that provides a commercial advantage.
  - It can be bought, sold and licensed.
- It remains intellectual property forever, or until the secret gets out.
  - For example, the formula for Coca-Cola.





# Trade secret

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- The law does not prohibit **use** of a trade secret.
  - It only prohibits others from **stealing** a trade secret.
- It is normally legal for another company to conceive the idea independently and use it.
  - Reverse engineering is not theft (the idea was not really secret).

# Intellectual property

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Ethical aspects



# Property

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- Violating property rights is inconsistent with generalization principle.
  - The thief takes someone's property because he wants it to be **his property**.
  - But if no one respects property rights, there will be **no property at all** – not even for the thief.



# Intellectual property

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- But does the concept of **intellectual property** make sense?
  - Is there an ethical basis for it?



# Intellectual property

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- The concept of **intellectual property** is relatively recent.
  - Can leave the impression that IP is **like other property**.



# Intellectual property

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- The concept of **intellectual property** is relatively recent.
  - Can leave the impression that IP is **like other property**.
  - But one can use IP without denying others the use of it.
  - So it is unclear that IP rights are “natural” property rights analogous to the right to own a car or land.



# Lockean defense of property

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- There is no property in a state of nature.
- But when humans improve or transform natural resources, they can **take possession** of the fruits of their labor.
  - Natural ownership of one's body extends to creations of one's body.
  - One can sell possessions once acquired.
  - So one can acquire property without creating it.



# Lockean defense of IP?

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- But this is an argument for the right to **take possession** of something.
  - As opposed to leaving it available for common use.
  - But one cannot take possession if IP in this sense.
  - Lockean argument doesn't seem relevant to IP.



# Agency defense of property

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- One can act only if one has to freedom to choose one's actions.
  - This presupposes some degree of control over one's immediate surroundings.
  - To deny this kind of freedom is to deny agency and therefore immoral.



# Agency defense of property

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- One mechanism for ensuring control is the right to exclusive or at least uninterrupted use of artifacts one needs to carry out one's purposes.
  - So a right to a reasonable amount of property can be grounded in the right to agency.



# Agency defense for IP?

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- But one doesn't need exclusive use of IP, since others can use it simultaneously.
  - One can have full access to IP no matter how many other people use it.
  - So agency argument does not apply to IP.



# Utilitarian defense for IP

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- None of the previous says that there is no right to IP.
  - Only that there is no **natural** right.



# Utilitarian defense for IP

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- None of the previous says that there is no right to IP.
  - Only that there is no **natural** right.
- There may be a **utilitarian** obligation to respect IP rights.
  - This is a weaker right, as reflected in the law.
    - Limit on how long one can own IP.
    - Fewer limits on who can use it (trade secrets).



# Utilitarian defense for IP

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- Utilitarian argument for IP
  - IP rights provide incentive to develop new ideas.
    - This increases overall utility.
  - Patent law allows free discussion and exchange of ideas, despite IP rights.
    - Original intent of patent law.
    - Also increases utility.
      - But trade secrets, nondisclosure agreements restrict discussion.



# Utilitarian defense for IP

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- So IP rights are not rights to exclusive use of IP, but rights to make a profit from it.
- Unlike natural human rights, all IP rights must be justified in terms of consequences to society.
  - There can be no “balancing” of IP and human rights.

# Back to TRIPS Agreement

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- Some have criticized TRIPS agreement for trying to balance human and IP rights rather than giving human rights priority.
  - Particularly when companies patent **life-saving** or **indigenous** drugs and charge **high prices**.



# Back to TRIPS agreement

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- A state (e.g. India) may issue a **compulsory license** to a pharmaceutical patent.
  - Companies lose patent rights.
  - ...but receive royalties set by the state.
  - Original TRIPS agreement limited grounds for compulsory licenses to national emergencies.



# Back to TRIPS agreement

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- Doha amendments give countries the right to determine the grounds on which they grant compulsory licenses.
  - GATT signatories have taken little action to implement Doha reforms.





# Conclusion

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- Intellectual property is ethically different than other kinds of property.
  - IP rights must be justified on utilitarian grounds.
  - They can never override other property rights or natural human rights.



# Future of IP

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- We are seeing a trend away from universal property rights.
  - Illegality of prostitution.
  - Abolition of chattel slavery.
  - Removal of medical care from marketplace in some countries.



# Future of IP

---

- We are seeing a trend away from universal property rights.
  - Illegality of prostitution.
  - Abolition of chattel slavery.
  - Removal of medical care from marketplace in some countries.
  - Strengthening of IP rights goes against this trend.

# YouTube

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What should be posted?

# YouTube

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- On 26 September, Fabio Coelho was arrested in Sao Paulo.
  - He is Director General of Google Brasil
  - Google owns YouTube.
  - The charge:  
Refusal to obey a court order to take down a video critical of a political candidate.



# YouTube

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- On 26 September, Fabio Coelho was arrested in Sao Paulo.
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# YouTube

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- Coelho was released the same day.
  - After agreeing to take down the video.



# YouTube

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- Google's position:
  - "We are not responsible for material posted to our site."
  - This is clearly **false**.
  - Google **chooses** to post uploaded material.
    - Unlike Wikipedia.
  - It is the right choice?





# YouTube

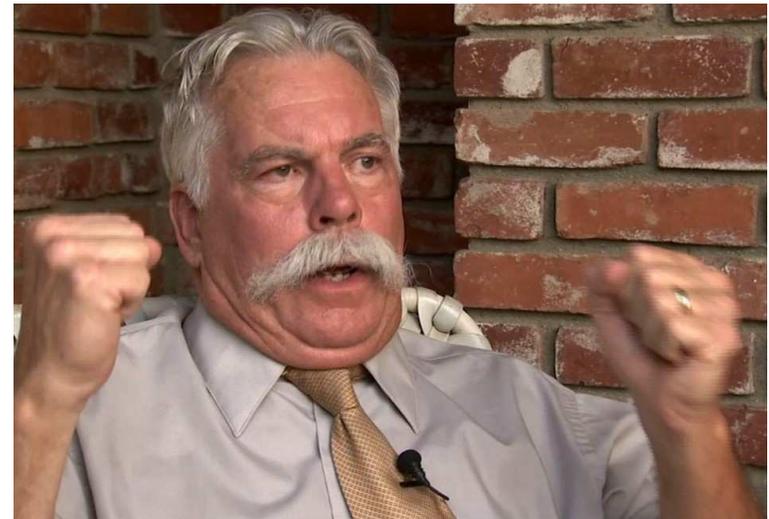
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- Two issues that must be distinguished:
  - Should the **government** regulate what appears on YouTube?
  - Should **YouTube** regulate what appears on YouTube?
- Let's look at the second issue.
  - Some people here may later work for Google.

# YouTube

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- On 1 July 2012, the film *Innocence of Muslims* was uploaded on YouTube.
  - Filmmaker is Nakoula Basseley Nakoula, a Coptic Christian from Egypt now living in the U.S.
  - The film is very offensive to Muslims due to its negative portrayal of the Prophet Muhammad.



# YouTube

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## □ Protests...

- In recent days, there have been protests against the film at U.S. embassies worldwide.
- 19 deaths so far in Pakistan alone.
- U.S. ambassador to Libya murdered.



# YouTube

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- U.S. president Barack Obama asked Google to consider taking down the film.
  - But this is not required by U.S. law.
  - Google refused.





# YouTube

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- Google's position:
  - We will keep the film online unless forced to remove it by the local situation or laws.
    - Voluntarily removed it in Egypt, Libya, and Jordan.
    - Forced by law to remove it Indonesia, Saudi Arabia, Malaysia, India, and Singapore.
    - Afghanistan, Bangladesh, Sudan, and Pakistan shut down YouTube when it refused to remove the film.
    - Turkey, Russia and **Brazil** have initiated proceedings to have the film removed.



# YouTube

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- Google's position:
  - In general, Google has an absolutist view.
  - Complete freedom of expression is best.



# Utilitarian principle

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- Posting the film creates much negative utility, very little positive.
  - Deaths, injuries, political instability.
  - Violates utilitarian principle.



# Utilitarian principle

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- Objection: People shouldn't get so upset.
  - Maybe, but this is a different issue.
  - The deaths and injuries nonetheless result from posting the video.

# Utilitarian principle

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- Objection: The **protestors** are killing people, not Google.
  - True, but the utilitarian principle counts **all** consequences of an action, including those that depend on the choices of other people.



# Utilitarian principle

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- Suppose a company has a choice of marketing two products:
  - A miracle cure for cancer that will relieve death and suffering for millions.
  - A new shampoo.
  - They are equally profitable.



# Utilitarian principle

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- The utilitarian principle considers the positive impact of the cancer drug.
  - Even though its effect depends on the **free choices** of patients and doctors.
  - The company should market the drug.





# Generalization principle

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- We must check whether removing the film would violate the generalization principle.
  - If so, the utilitarian principle says Google can keep it online,
- The **reasons** for removing the film:
  - The controversial material in the film causes deaths and injuries.
  - The film has little or no positive effect.



# Generalization principle

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- One might argue:
  - If all information outlets removed controversial material, we would not be able to expose government activities.
  - Governments would become more despotic and cause more deaths and injuries than a few protests.
  - So removing the film violates the generalization test.



# Generalization principle

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- But this omits one of the reasons.
  - Suppose all information outlets removed controversial material that causes death and injury **and** has no positive effect.
  - ...such as exposing government activities.
  - Would this defeat the purpose of reducing death and injury?

Other issues?

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# Internet privacy

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- Is it ethical for a company (e.g. Facebook) to share information about you with other companies?
  - The company discloses this practice in fine print.
  - Most users are not aware of it.



# Internet privacy

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- Is it ethical for a company to track your browsing habits with cookies?
  - And share the information with other companies?
  - Most users are not aware of it.