# Gotta Catch Em' All…
# But Only in the Appropriate Spaces.
# The Potential for Policy Regulations
# of Pokemon Go

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## Abstract

In this article, I explore whether or not the use of Pokemon Go in public spaces can be regulated through public policy. There is an abundance of scholarly work done on the divide between public and private space and the implications of this divide on the ability of policymakers to enact and enforce policies in such places. I will begin with an overview of this conversation; however, the core of my article will be on the ability of public policies to regulate behaviors in public spaces, an idea that has received little scholarly attention. To do this, I will first look at the divides between different public spaces in terms of the varying levels of expectations of behaviors in these spaces. These different levels of expectations have the potential to be translated into varying levels of policy. In order to look at why people act the way they do in spaces, I analyze how social norms affect individuals' behaviors. This analysis leads into a discussion of the idea that public policies should target social norms as a way to change individuals' behaviors. Through these discussions, I look at the effectiveness of past policies in regulating individuals' behaviors as a basis for how policies can effectively regulate where Pokemon Go is played. I finally offer my proposed policy solution

for how to best combat disruptive Pokemon Go players in public spaces. Throughout this article, given that public spaces are intended to be enjoyed by all, I argue that public policies can and should be used as a way to regulate the use of Pokemon Go within these spaces in order to ensure that the space is being respected for its original intent.

**Keywords**

Private space; Public space; Pokemon Go; Policy regulations; Individual behaviors; Social norms

## 1. Introduction

"There's one right here." Ten kids run past you. "Guys, over here!", another kid shouts from across the memorial. Again, a herd of children barrels right past you. You look around and there must be at least thirty children all throughout the memorial, each encapsulated by their phone screens, all running from one spot to the next without ever looking up. They're shouting to one another and running right around you. You had planned to have a nice family afternoon at the memorial, teaching your young children about the country's past and remembering the thousands of people who gave their lives to support the cause. Instead, the memorial has been overtaken with Pokemon Go players who have no respect or appreciation of the location in which they are playing. This is far from your vision of how the memorial should be used.

The augmented virtual reality game Pokemon Go took the world by storm this past summer. It seemed as if wherever you went, you would witness groups of people of all ages running around while looking at their phones trying to catch virtual Pokemon characters. The game quickly

became one of the most popular videogames in history. Just 10 days after its launch, Pokemon Go became the largest mobile game ever (Doran & Davis, 2016, p. 8). However, it is this widespread popularity that has also caused trouble.

Many public spaces have become overrun with Pokemon Go players utilizing these spaces without awareness and appreciation of the purpose of these spaces as well as the other people in these spaces. After the Holocaust Museum in Washington, DC. became a PokeStop this past summer, director of communications for the museum, Andy Hollinger, released a statement in which he proclaimed, "[p]laying Pokemon Go in a memorial dedicated to the victims of Nazism is extremely inappropriate" (as cited in O'Brien, 2016). Management of Arlington National Cemetery had the same reaction to Pokemon Go when they tweeted, "[w]e do not consider playing Pokemon Go to be appropriate decorum on the grounds of ANC. We ask all visitors to refrain from such activity" (as cited in O'Brien, 2016). Both memorials were being misused by Pokemon Go players.

Not only does playing Pokemon Go in certain public spaces take away from the purpose of the space, such an activity also disrupts the experiences of others. People do not go to historic sites with the goal of being immersed in large crowds of Pokemon Go players. As a result, the issue that arises once again is the misuse of public spaces. Thus, in this article I aim to explore how an individual's behaviors can and should be regulated in these public spaces to ensure that these behaviors do not interfere with the purpose of public spaces.

It perhaps may seem straightforward to say that the distinction between private space and public space is defined in terms of the amount of regulation within each space. However, the distinction has many layers.

Prominent Italian philosopher of law and political science Norberto Bobbio (1989) has called the distinction between private and public one of the "greatest dichotomies" of Western thought in that public and private exist on their own until they meet at a point of mutuality; that is, the terms qualify each other (p. 1). However, Setha Low and Neil Smith (2006), both professors at the City University of New York, add a new idea to this conversation. They propose that even public spaces have different levels of regulations, an idea they term "publicness" (p. 3). That is, even though a national monument and a shopping mall are both deemed public spaces, the regulations and acceptable behaviors differ tremendously between the two spaces. Therefore, Low and Smith see the need for different levels of regulation depending on the space.

While some scholars, including Low and Smith, and policymakers may argue that more regulations are needed in public spaces, one policymaker from New Zealand believes quite the opposite. He believes that these regulations are "socially engineering" our societies (Rouch et al, 2010, p. 6). This policymaker uses the term to demonstrate that enacting and enforcing policies allows policymakers to engineer society to fit their needs rather than allowing society to function naturally. Although I believe I understand the point this policymaker is trying to make, I believe that the idea of "socially engineering" our societies can be a positive thing. I plan to highlight this new idea in my article as no scholarly attention has yet been given to the positive side of "social engineering." Without this ability, policymakers would have little control over what goes on in public spaces, arguably a danger to the public's safety.

Furthermore, in order to enact policies within public spaces, it is crucial to look at why people act the way they do in public spaces. Social

psychologists Robert Cialdini, Raymond Reno, and Carl Kallgren (1990) believe that social norms dictate people's behaviors in that "if everyone else is doing it, it must be a sensible thing to do" (p. 1015). Karine Nyborg, an Economics professor at the University of Oslo, and Mari Rege, an economics professor at Case Western Reserve University (2003) connect the idea of social norms to the idea of regulation. They state that public policy affects social norms and social norms affect an individual's behaviors. Therefore, both economists draw the conclusion that public policies indirectly influence individuals' behaviors (p. 324).

Although Nyborg and Rege find a connection between public policy and an individual's behaviors, little attention has been given to how personal behaviors can be regulated within public space. In this article, I aim to explore whether or not public policy can be used as an effective mechanism for regulating the use of Pokemon Go in different public spaces. To do this, I will explore the distinction between public space and private space from the perspectives of various scholars. These distinctions will lead to conclusions of how effective public policy can be in regulating individuals' behaviors in public spaces. To explore what kinds of public policies will be needed, it will be necessary to look at how social norms influence behavior. In particular, I will examine the social norms surrounding Pokemon Go, especially in terms of where its use has been widely supported and accepted. Furthermore, I will use examples of how policies in the past have been used to change individuals' behaviors, which will then lead to a discussion of the potential of public policy to regulate the use of Pokemon Go in public spaces. I will conclude with my proposed policy solution for how to regulate Pokemon Go. Because public space is meant to be used and enjoyed by all people, it is important that

we explore how the behaviors of individuals can affect the experiences of others.

Ultimately, given that public spaces are intended to be enjoyed by all, I argue that public policies can and should be used as a way to regulate the use of Pokemon Go within these spaces in order to ensure that the space is being respected by all for its original intent. Given ever-changing technologies and evolving social norms, people will begin to use spaces for purposes other than the original purpose. Thus, although little attention has yet been given to this, the ability of policymakers to enact and enforce policies regulating people's behaviors in public spaces will become crucial. Therefore, I will focus on this idea throughout this article. Having a set basis of how public policy can be used as regulation in public spaces will allow policymakers a guide to issues that arise in the future.

## 2. Public vs. Private: Implications on Policy Making

I can only properly and thoroughly examine the ability of public policies to be enacted and enforced with the intention of regulating individuals' behaviors in public spaces by first exploring the distinction between public and private space, and what this distinction means in terms of public policy. Although the distinction between public and private space may appear to be clear-cut, scholars across multiple disciplines have dedicated their careers to examining this divide.

In his book, *Democracy and Dictatorship*, Bobbio (1989) terms the divide between public and private space as one of the "greatest dichotomies" of Western thought (p. 1). Bobbio goes on to explain that public and private space exist on their own until they meet at a point of mutuality. That is, the public domain only extends as far as the private

domain, and vice versa. For this article, I will adopt Bobbio's interpretation of the divide between private and public space to say that a space cannot be both public and private. The spaces qualify each other in that they occur simultaneously, yet they do not overlap.

It is now important that I establish working definitions of what I mean by public and private. Throughout this article, I will use the definitions that Alan Freeman and Elizabeth Mensch, both professors at the University of Buffalo Law School, use in their journal article "The Public-Private Distinction in American Law and Life." Freeman and Mensch (1987) define the private domain as a "protected sphere of autonomy" where individuals are free to make "self-willed individual choices and to feel secure against the encroachment of others" (p. 237). In this sense, in the private domain, people are free to govern themselves as they see appropriate. In private spaces, people set the rules for themselves to follow without much need to acknowledge the good of those around them. On the contrary, Freeman and Mensch (1987) define the public domain as the "world of government institutions, obliged to serve the public interest rather than private aims" (p. 237). That is, public spaces have rules and regulations put in place by the government and its institutions that are intended to serve the need of the public as a whole rather that the needs of each individual. In this way, public spaces are meant for the public as a whole to enjoy.

Just as public and private spaces are distinct from each other, so is the potential for policies in each space. As Freeman and Mensch (1987) defined the term, public space has the potential for governmental rules and regulations (p. 237). On the other hand, Smith and Low (2006) explain that private space is protected by state-regulated rules of private property use (p. 4). The idea of private property revolves around the idea

that the owner of the property, not an outside influence, has the responsibility of creating policies in regards to use of the property. In this sense, the power of the government is extremely limited when it comes to enacting and enforcing policies in private spaces. Simply put, policymakers have the ability to enact and enforce policies in public spaces, but not in private spaces. Of course, there are exceptions to this logic, but for the sake of this article, I am going on the idea that policymakers only have power in public spaces. As a result, this article will focus on the potential for policymakers to enact and enforce policies regulating an individual's behaviors in public spaces.

### 3. Publicness: The Divide Between Various Public Spaces

While Bobbio, Freeman, and Mensch's interpretations will be useful for separating public and private space, Setha Low and Neil Smith, both professors at the City University of New York, add a new idea to the conversation regarding public spaces. They propose that there are divides between different public spaces. Low and Smith (2006) term this idea "publicness" (p. 3). They write, "[l]egally as well as culturally, the suburban mall is a very different place from the national park or the interior of a transcontinental airliner" (Low & Smith, 2016, p. 3). This idea is crucial to my article as even though places such as historical monuments are deemed public spaces, the regulations and appropriate behaviors in such spaces are much different than those in other public spaces, such as a shopping mall. I plan to extend Low and Smith's term "publicness" to say that different public spaces have different levels of appropriate regulations.

I argue that the main difference between the rules in such places is the purpose of the space. It is acceptable to be loud, touch items, eat, drink, and talk and text on your phone in a mall because the mall is meant to be a social venue where people come to buy personal items. However, historic monuments and memorials are far from this social venue. It is clearly stated in the United States Holocaust Memorial Museum's policies that eating, drinking, and cell phone conversations are not permitted in the museum (Reading Room Policies). Although playing Pokemon Go does not involve a cell phone conversation, it is still extremely disrespectful to the purpose of the museum: a memorial dedicated to remembering the lives of millions of people. This sentiment is echoed by Andy Hollinger, director of communications at the museum, in his statement, which reads in part, that Pokemon Go is extremely inappropriate in a memorial dedicated to the victims of Nazism (as cited in O'Brien, 2016).

The idea of using the "publicness" of a public space as an indicator for the level of policies that can be enacted and enforced within the space has received very limited attention by scholars and policymakers. Yet, I am convinced that the "publicness" of a space is the ideal indicator, as it allows policymakers to consider who uses the space, the purpose of the space, and how the space should ultimately be used. I am not completely opposed to Pokemon Go; I simply feel that there are places where the game is better suited to be played than others. I stand by my previous assertion that historic monuments and memorials are far from appropriate places to be playing a virtual video game. These places are meant to be places of remembrance, places that people go to with the expectation that people will not be running around on their phones, as such distracting and disrespectful actions take away from the experiences

of all visitors. On the contrary, places such as a town's local park or the sports fields at the local schools are much more appropriate places for Pokemon Go as these places are intended to be used by community members for various activities. No matter what you are doing in a space, there should always be a level of respect for it. If it is not appropriate to have a phone conversation in a museum, then it probably follows that playing on your phone is also not appropriate.

Even though places, such as the Holocaust Museum, have made their feelings on Pokemon Go known, none of these places have official policies in place that ban visitors from playing Pokemon Go. Throughout this paper, I will explore the potential for policies to be enacted that ban such disruptive activities. After exploring the idea of "publicness," I believe that different public spaces have different levels of expectations when it comes to people's behaviors. To this degree, I believe that different public spaces can enact policies that align with expectations of the space.

### 4. Social Engineering: How Policymakers Regulate Society to Benefit Us All

Understandably, not all people and policymakers agree with government intervention in public spaces. These people see government intervention as an infringement upon their personal rights. In this section, I aim to portray why public policies do not have to be a negative thing.

In their qualitative research study, Rouch, et al. look at policymakers' opinions on smoke-free legislation in public and private spaces. Although most of the surveyed policymakers were more supportive of legislation in public rather than private spaces, the general

consensus was that smoking was viewed as a "personal decision, unlikely to be amenable to regulation" (Rouch et al, 2010, p. 6). Although I acknowledge that any level of regulation is not the complete solution to a problem as no behavior can be perfectly regulated, I find it odd that these policymakers claim personal decisions cannot be regulated. Are not texting and driving, or more importantly drinking and driving, personal decisions that have very strict policies in place against them? Deciding to play Pokemon go is a personal decision just like deciding to drink and drive is. Therefore, I hold that Pokemon Go can and should be regulated through public policy.

Even though I disagree with the claim of these policymakers, I do acknowledge that it has one important implication for policies in regards to playing Pokemon Go. That is, any policy enacted will not have the ability to completely control where Pokemon Go can be played. In reality, a policy will not end the disruptive nature of the game. Therefore, any policy that is put into place will act to regulate the game's use rather than completely eradicate it.

One particular policymaker surveyed in Rouch et al's study believes that policies in public spaces are "socially engineering" our societies. In this policymaker's view, enacting and enforcing policies allows policymakers to engineer society to fit their needs rather than allowing society to function naturally. Although I understand the point this policymaker is trying to make, I hold that enacting and enforcing policies is not a negative thing. After all, as laid out in the Public Service Commission's website, policymakers have an "overarching obligation to act in the public interest" (Acting in the Public Interest). To this extent, policymakers are expected to look at a problem and to create policies that will effectively respond to the particular problem as well as satisfy the

general public. The power to create and enforce policies allows policymakers the ability to socially engineer our societies to better serve the overall needs of the society. Policymakers are in a unique situation in that they are able to make overarching changes in society. Without this ability, societies would become chaotic and uncontrolled as everyone would be self-interested rather than aware of everyone around them. In this way, I view "social engineering" as a way for policymakers to use their power to keep society functioning in a way that is conducive to all citizens.

## 5. Social Norms and Pokemon Go

In order to enact policies within public spaces, it is first crucial that I look at how and why people act the way they do in public spaces. In our increasingly interconnected society, it is easy to observe the behaviors of the people around us. Because humans are a group-living species, we are driven to adapt to the behaviors of those around us (Kameda et al, 2005). In this drive to adapt, we subconsciously begin to mimic the behaviors of others. This mimicking leads to the formation of social norms. For my article, I will use Karine Nyborg's (2016), a professor of economics at the University of Oslo, definition of social norm: that it is a "predominant behavioral pattern within a group, supported by a shared understanding of acceptable actions and sustained through social interactions within that group" (p. 42). In this sense, a social norm is a recurring behavior that is not only widely conformed to, but also seen as the right thing to do.

Many of the social norms that exist within our society are courteous actions that are seen as the right thing to do. Such actions include holding the door open for people behind you, shaking hands with people you are meeting for the first time, and saying "thank you" when

someone does something for you. However, social norms are not always an accurate basis for individual action. As I was told multiple times growing up, "just because everyone else is doing something, does not mean that it is the right thing to do." An ideal example of this is a study performed by Professors Robert B. Cialdini and Raymond R. Reno from the University of Arizona and Professor Carl A. Kallgren (1990) from Pennsylvania State University. These professors found that people are more likely to litter in an already littered environment as compared to a clean environment, because these people perceive that their litter will do less damage to the state of the environment than if it were clean (p. 1016).

The results of this study can be compared back to the Pokemon Go phenomena. If a player sees many other players playing at a location, he is likely to take out his phone to look for Pokemon as well because it appears to be socially acceptable to play Pokemon Go in this location. Thus, when looking to make policies in regards to Pokemon Go, the problem that needs to be addressed is the social norms surrounding the game. Indeed, Nyborg and Rege (2003) connect the idea of social norms to the idea of regulation when they state that public policy affects social norms and social norms affect an individual's behaviors (p. 324). Therefore, both economists draw the conclusion that public policies indirectly influence individual's behaviors. Now that I have determined that public policies should target the social norms of Pokemon Go, I will now explore the potential for policies to regulate Pokemon Go.

## 6. Policy Potential: How Pokemon Go can be Regulated

In order to look at the potential for policies to be enacted and enforced in public spaces, I will now look at how effective past policies

have been at regulating behaviors in public spaces. In this case, I will look at how effective anti-smoking legislation has been at prohibiting smoking in public spaces. This example is parallel to my aim of looking at policy in relation to Pokemon Go as both Pokemon Go and smoking are individuals' behaviors that take place in public space that affect other people in the space. By looking at past policies, I will come to conclusions on how to best regulate Pokemon Go.

In 1988, the Norwegian government amended their smoking laws to prohibit smoking in spaces the public has access to (Nyborg & Rege, 2003, p. 324). As discussed above, Nyborg and Rege believe that public policies indirectly affect an individual's behaviors through changes in social norms. To test their assertion, the professors did a case study in Norway in which they explored how the new smoking regulations affected people's smoking habits. They found that the new regulations prompted a change in the social norms surrounding smoking in public spaces (Nyborg & Rege, 2003, p. 324). Smoking in public was no longer socially accepted. As a result, the social norm shifted from smoking in public to smoking in private. An additional finding of this case study was that smokers became more considerate in unregulated areas (Nyborg & Rege, 2003, p. 324). I believe that this can be seen as a result of the social norms transferring beyond the regulated areas. Policies in one part of a person's life have the potential to have effects on their behaviors in other aspects of their life.

The findings from this case study are crucial for my article. First, the findings show that policies should be addressed at social norms in order to combat individual behaviors. In order to create a policy regarding where it is appropriate to play Pokemon Go, it is necessary to target the social norms of the game. In this sense, policymakers need to

look at how players play the game and where players play the game. As concluded above, although Pokemon Go can physically be played in any public space, it is not appropriate in all of these spaces. To this effect, policymakers need to look at which spaces are not appropriate. In this article, I have suggested that historic monuments and memorials are inappropriate places for Pokemon Go. It commonly only takes observation to see how players play the game. Because the game involves looking through your phone at a virtual world, many players rarely ever look up at the real world around them. Not only is this an obvious safety concern, it also has the potential to ruin the experiences of others trying to enjoy a space. No one likes to be run into or cut off by someone distracted by their phones as they attempt to enjoy a space for its original intent.

Another critical finding of the case study is the idea that considerate smoking habits carried over from the regulated areas into the unregulated areas. Just as this particular social norm changed, I feel that the social norms surrounding Pokemon Go also have the potential to change based on the regulations put into place in a limited number of spaces. In this sense, regulation of Pokemon Go does not need to be all inclusive of every public space. Regulations in one public space may make players more aware of not pulling out their phones to play when they are near other people trying to enjoy a space. This consideration of other people in a space has the potential to carry over into unregulated spaces, such as town parks, where although Pokemon Go should be allowed, there still needs to be a level of respect for others in a space. Therefore, I foresee policy regulations having effects on Pokemon Go players beyond just places where the game becomes prohibited.

## 7. My Proposed Solution

Now that I have found that there is potential for public policies to regulate Pokemon Go in public spaces, I will now offer my proposed solution to how such policies should be implemented.

In thinking of how to create a policy to regulate Pokemon Go, I feel that using the incrementalism theory will be most effective. The incrementalism theory focuses on "small changes to existing policies rather than dramatic fundamental changes" (Sutton, 1999, p. 10). This idea of building on existing policies is crucial in policymaking because, as American political scientist Charles E. Lindblom stated, creating completely new policies is "impossible as people are unlikely to agree on objectives for creating a brand new policy that satisfies everyone" (as cited in Hayes, 2013). I agree with Lindblom; it will be nearly impossible to create a brand new policy in regards to Pokemon Go that would gather enough support to be put into law. But, by using current policies as the basis for new policies, the change the new policies present will not be as dramatic as if the new policies were completely original. A slight change in policy is more likely to be accepted by communities' members because they won't be forced to make as big of a change. Therefore, my proposed solution is to use current policies that deal with cellphone use as a base point for Pokemon Go policy.

As stated at the beginning of this article, the United States Holocaust Memorial Museum already has a policy that prohibits cellphone conversations. Although many places have such a policy, I will use this museum as my example for this discussion. The museum should take its current policy and amend it to say that all cellphone use is prohibited. In consideration of the incrementalism theory, this policy is a

change but not a major one. Such a policy should not be difficult for the museum to implement and for visitors to adhere to, as it is not a drastic change.

However, even though it is not a drastic change, such a policy effectively prohibits Pokemon Go. Even more so, the new policy achieves the goal of respect: it forces people to respect and enjoy the place they are in for what it is rather than as a gaming location. Furthermore, this policy also protects the experiences of others in a space against the disruptive nature of Pokemon Go. As a result, the ultimate goal of this policy is achieved: respect for the space and respect for the other people in the space. Public spaces are meant to be enjoyed by all, an idea this policy aims to uphold.

It is important to note that throughout this article, I have argued for policy regulations to prohibit Pokemon Go in museums and memorials. Of course, many more public spaces have the same ability to enact and enforce similar policies; however, for the consistency of my argument, I chose to focus solely on museums and memorials. Further research should be done into the need for such policies in other public spaces.

Through this article, I have found that it is possible to use public policy to regulate individuals' behaviors in public spaces. As society becomes increasingly complex and interconnected, it will be essential for policymakers to have control over society. This control is not a negative thing or a breach of power; rather, it protects everyone who uses public spaces, as policymakers have the ability to use their power to ensure that public spaces continue to be enjoyed by all citizens.  As a result of the findings of this article, I hope my conclusions will lead to further

examination and ultimately implementation of policies as a way to ensure that spaces are being respected and enjoyed by all people.

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